No. _____

In The
Supreme Court of the United States

MELANIE PELCHA,

Petitioner,

v.

WATCH HILL BANK,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the Age Discrimination in Employment Act (ADEA) require the plaintiff to prove that age was the sole reason for her termination?

2. Is the employer liable under the ADEA if there are multiple but-for reasons for an employee's termination and age was one of those reasons?

3. Is the evidence in this case sufficient to satisfy the proper causal standard on summary judgment?

LIST OF PARTIES

Petitioner (appellant below) is Melanie Pelcha.

Respondent (appellee below) is Watch Hill Bank (joint employer with MW Bancorp, Inc.).

The Equal Employment Opportunity Commission filed *amicus curiae* briefs in support of the petitioner.

AARP, AARP Foundation and the National Employment Lawyers Association filed an *amicus curiae* brief in support of the petitioner.

RELATED CASES

Pelcha v. MW Bancorp, Inc. et al., No. 1:17-cv- 497, U.S. District Court for Southern District of Ohio, Western Division, Judgment entered April 17, 2020.

Pelcha v. MW Bancorp, Inc.; Watch Hill Bank, No. 20-3511, U.S. Court of Appeals for the Sixth Circuit. Judgment entered January 12, 2021.

Pelcha v. MW Bancorp, Inc.; Watch Hill Bank, No. 20-3511, U.S. Court of Appeals for the Sixth Circuit. Judgment entered January 12, 2021.

Pelcha v. MW Bancorp, Inc.; Watch Hill Bank, No. 20-3511, U.S. Court of Appeals for the Sixth Circuit. Amended Judgment entered February 19, 2021.

Pelcha v. MW Bancorp, Inc.; Watch Hill Bank, No. 20-3511, U.S. Court of Appeals for the Sixth Circuit. Order Denying Petition for Rehearing En Banc entered April 29, 2021.

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The initial opinion of the United States Court of Appeals for the Sixth Circuit, handed down on January 12, 2021, is reported at *Pelcha v. MW Bancorp, Inc.*, 984 F.3d 1199 (6th Cir. 2021). The opinion was amended on February 19, 2021. *Pelcha v. MW Bancorp, Inc.*, 988 F.3d 318 (6th Cir. 2021). The Sixth Circuit affirmed the decision of the United States District Court for the Southern District of Ohio, reported at 455 F. Supp. 3d 481 (S.D. Ohio 2020).

STATEMENT OF JURISDICTION

This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

The Sixth Circuit's amended opinion was rendered on February 19, 2021. The Petition for Panel Rehearing was denied on April 29, 2021. 2021 U.S. App. LEXIS 12929 (6th Cir. 2021).

STATUTORY PROVISION INVOLVED

29 U.S.C. § 623(a)(1)

It shall be unlawful for an employer—

(a) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms

conditions, or privileges of employment, because of such individual's age.

STATEMENT OF THE CASE

The petitioner, Melanie Pelcha (Pelcha), began working as a bank teller for Respondent Watch Hill Bank, and its holding company MW Bancorp in August 2005. On several occasions within a year of her termination, Watch Hill Bank's then-President and Chief Executive Officer, Greg Niesen, stated that he would like to "hire younger tellers"—which was Pelcha's job classification—because *inter alia*, they would relate better to the younger customers. Niesen also stated that another older employee had a "limited shelf life," had reached her "expiration date," and that the older employee's hours should be cut until she quit.

In May 2016, Pelcha's supervisor, Brenda Sonderman, instituted a new policy requiring her subordinates to submit written requests for time off. In early July 2016, Pelcha successfully obtained oral permission from Sonderman to take two hours off to take her son to the dentist (while making up the time by working through lunch). While Pelcha was initially reluctant to make a written request, she eventually submitted one on July 7, 2016, the day before she was to be out of work.

Despite Pelcha's compliance with the policy, on July 12, 2016, Watch Hill Bank dismissed Pelcha, purportedly due to her allegedly insubordinate reluctance

to comply with the policy. At the time of discharge, Pelcha was forty-seven years old and had eleven years of exemplary service at Watch Hill Bank.

No one claimed responsibility for the dismissal. Niesen testified that, as of the morning of Pelcha's dismissal, he had *no* intention of firing her. According to him, he decided to fire Pelcha only after Sonderman recommended *sua sponte* that she be dismissed. Sonderman, however, contradicted Niesen and claimed that he approached *her*, and coerced her into making the recommendation to fire Pelcha.

When Pelcha was fired, Watch Hill Bank retained a younger comparator, also a teller, who had failed repeatedly to file written time-off requests.

Pelcha filed a timely complaint in District Court, alleging that Watch Hill Bank violated the ADEA, the federal statute that formed the basis for subject matter jurisdiction in federal court. The District Court dismissed the case on summary judgment and the Sixth Circuit affirmed.

The Sixth Circuit held that to prove a violation of the ADEA, plaintiffs must show that age "was the only cause of the termination." *Pelcha*, 988 F.3d at 324. The Sixth Circuit stressed that plaintiffs are required to show,

> [t]hat age was **the** determinative reason they were terminated; that is, they must show that age was the reason that the employer decided to act.

Id. (emphasis in original and internal quotations omitted). The panel then examined the evidence and found that it failed to establish liability under this strict, sole-cause standard. *Id.* at 327-29. Pelcha's petition for *en banc* review was denied.

REASONS FOR ALLOWANCE OF THE WRIT

I. THIS COURT SHOULD RESOLVE THE SPLIT AMONG THE CIRCUITS AS TO WHETHER THE SOLE-CAUSE STANDARD APPLIES TO THE ADEA

Under both the ADEA and Title VII, liability is established if the plaintiff-employees would not have been fired "but-for" their protected status (age or race, sex, etc. respectively). *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167, 176-77 (2009) (ADEA); *Bostock v. Clayton County*, ___ U.S. ___, 140 S. Ct. 1731, 1739 (2020) (Title VII). Recently, this Court in *Bostock* explained that for purposes of Title VII, there may be multiple but-for reasons for a discharge. *Bostock*, 140 S. Ct. at 1739. Title VII is violated when just one of those but-for causes is an unlawful reason, such as race. *Id*. Thus, Title VII protections apply even if race is not the sole or primary reason for discharge, and, legitimate factors also played a role in the challenged action. *Id.* at 1744.

In so holding, the Supreme Court stated that it was applying the "traditional" notion of but-for causation to Title VII, thereby demonstrating that the

standard has general application beyond that particular statute. *Id*. at 1739. Almost contemporaneously with *Bostock*, this Court explained that the but-for analysis applicable to Title VII reflects the "ancient" and "simple" common law test, which supplies the "default" standard for federal antidiscrimination laws, **including the ADEA**. *Comcast Corp. v. Nat'l Ass'n of African American-Owned Media*, 140 S. Ct. 1009, 1014 (2020).

The Sixth Circuit held, however, that the but-for standard applicable to the ADEA is different than the one attaching to Title VII. *Pelcha*, 988 F.3d at 324. The Sixth Circuit expressly rejected *Bostock*'s discussion of but-for with respect to cases arising under the ADEA, asserting that *Bostock* is "limited only to Title VII itself." *Id*. In doing so, *Pelcha* adopted the sole-cause standard. According to the Sixth Circuit:

> In *Bostock v. Clayton County*, the Supreme Court interpreted Title VII's "because of" language and concluded that it included termination with multiple motivations, and that **plaintiffs need not prove that sex was the only cause of the termination**. Pelcha claims that because of similar language in the ADEA and Title VII, the reasoning in *Bostock* should be extended to change the meaning of "because of" under the ADEA. **Two reasons compel us to disagree**.

Pelcha, 988 F.3d at 324 (emphasis added and internal citation omitted). By eschewing *Bostock*'s rejection of the sole-cause standard, the Sixth Circuit necessarily

adopted the sole-cause standard for purposes of the ADEA.[1]

The Sixth Circuit's rejection of *Bostock*'s definition of but-for causation, and *Pelcha*'s requirement that age must be "the only cause of the termination," conflicts with the law in other Circuits. *Compare Pelcha*, 988 F.3d at 324, *with Arthur v. Pet Dairy*, 593 F. Appx. 211, 220 (4th Cir. 2015) ("But, pursuant to *Gross*, for an event to be the 'but-for cause,' it need not be the sole cause of the adverse employment action"); *Leal v. McHugh*, 731 F.3d 405, 415 (5th Cir. 2013) (under the ADEA, "'but-for cause' does not mean 'sole cause'"); *Jones v. Oklahoma City Public Schools*, 617 F.3d 1273, 1277-78 (10th Cir. 2010) (ADEA plaintiffs are not required "to show that age was the sole motivating factor").

This petition involves an important issue arising under an important statute. Litigants, their attorneys, the presiding courts, and the public need to know the plaintiff's ultimate burden of proof under the ADEA.

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[1] While Respondent may argue that *Pelcha* fails to embrace the sole-cause standard clearly, there really is no other way to interpret the Sixth Circuit's rejection of *Bostock*'s definition of but-for. By failing to accept *Bostock*'s rejection of sole-cause, the Panel necessarily ruled that sole-cause applies to the ADEA. *Pelcha*, 988 F.3d at 324. One thing is clear—*Pelcha* rejects the notion that *Bostock*'s description of but-for analysis applies to the ADEA. That ruling contradicts this Courts assertion that both Title VII and the ADEA are governed by the same "ancient" causation standard. *Comcast*, 140 S. Ct. at 1014. Thus, the *Pelcha* ruling presents a clear issue of law, for which this Court's review is ripe.

The Circuits are split on this matter, justifying this Court's attention. Rule 10(a).

II. REVIEW IS WARRANTED AS THE INCONSISTENCY IN THE CIRCUITS MAY BE TRACED TO MIXED MESSAGES IN PRECEDENT FROM THE HIGHEST COURT

The Circuit split is understandable, given the tension in the language contained in various decisions from this Court. The failure to resolve ambiguities in this area will only lead to continued inconsistencies across the Circuits and in the District Courts, as well as ongoing confusion within the bar. *Compare Douglas v. Banta Homes Corp.*, 2012 U.S. Dist. Lexis 138442 (S.D.N.Y.), at 12-13 (interpreting *Gross* as requiring proof that age was sole cause); *U.S. ex rel. Barrick v. Parker-Migliori Int'l LLC*, 2021 U.S. Dist. Lexis 123830 (D. Utah 2021), at 5-6 (interpreting *Pelcha* as embracing "sole cause" but declining to adopt that interpretation for purposes of the False Claims Act); *with Keller v. Hyundai Motor Mfg.*, 2021 U.S. Dist. Lexis 9126 (M.D. Ala.), at 11-13 (*Bostock*'s multiple but-for factor analysis applies to the ADEA, and the sole standard is rejected); *Knapp v. Evgeros, Inc.*, 205 F. Supp. 3d 946, 959 (N.D. Ill. 2016) (ADEA permits liability where there are multiple but-for causes for a termination, and age need not be a sole cause). As will be shown, previous Supreme Court decisions have sent mixed messages about the plaintiff's burden of proof in ADEA cases.

Hazen Paper Co. v. Biggins

The Supreme Court initially indicated that age need only be "a" cause and not the only cause. In *Hazen Paper Co. v. Biggins*, 507 U.S. 604, 615 (1993), this Court held that the plaintiff need only prove that age was "a determinative [] factor" in order to prove that a job action violates the ADEA. The use of the word "a" is highly significant. It indicates that age need only be one of a number of determinative factors.

Hazen Paper also recognized "the possibility of dual liability for multiple determinative factors, under ERISA and the ADEA where the decision to fire the employee was motivated both by the employee's age and by his pension status." 507 U.S. at 613.

That case went further in examining the circumstances in which a plaintiff is entitled to liquidated damages for violations of the ADEA. 507 U.S. at 614-15. In awarding liquidated damages, some circuits had "insisted that age be the 'predominant,' rather than simply a determinative, factor." *Id*. at 615. Those circuits adopting the "predominant" standard did so, because they believed that the failure to adopt a strict standard would improperly permit liquidated damages for garden variety violations. *Id*. at 615-16. This Court rejected the "predominant factor" standard suggested by those circuits, insisting that courts hew to the statutory test, with no additional court-created burdens. *Id.* at 616.

If the lower courts were too strict when they required proof that age was a "predominant" factor when

awarding liquidated damages, then it cannot be that age must be the "sole" cause for establishing baseline liability. Even the overly strict "predominant" factor test would permit recognition that other factors were present—indeed, the very concept of a predominant factor must mean that at least one other is present. Thus, when this Court struck down the requirement that age be a predominant factor for purposes of liquidated damages, it necessarily held that liability is properly assessed when age is only one of a number of but-for considerations, even if it was not the primary motive. *Id*. at 615.

Reeves v. Sanderson Plumbing Prods.

In *Reeves v. Sanderson Plumbing Prods.*, 530 U.S. 133, 141 (2000), the Court reiterated that age need only be "a determinative influence" in an ADEA claim. Again, the use of the word "a" implies that age need only be one of the employer's motives, and that it need not be the employer's only motive.

Gross v. FBL

This clarity took a tumble in *Gross v. FBL Fin. Servs., Inc.*, 557 U.S. 167 (2009). In *Gross*, the plaintiff sought to apply a burden-shifting framework to the ADEA, whereby he would be permitted to prove that age was a motivating factor in his termination, so that the employer would be required to prove that it would have fired him even if his age had not been considered. *Gross*, 557 U.S. at 171. In this scenario, "a motivating

factor" reflects a potentially non-determinative or non-consequential consideration. *Id.* Put another way, *Gross* considered whether a plaintiff could benefit from a burden-shifting approach, and ultimately win, based merely on proof that age was "a motivating factor," which might include a motive that did not rise to the level of but-for cause. *Id.*

The Supreme Court rejected the burden-shifting approach in ADEA cases. In doing so, the court employed the word "the" in a way that could be interpreted as accepting a "sole" standard. The court wrote, "the ordinary meaning of the ADEA's requirement that an employer took adverse action 'because of' age is that age was the 'reason' that the employer decided to act." *Gross*, 557 U.S. at 176. The court further wrote, "[t]o establish a disparate-treatment claim under the plain language of the ADEA, therefore, a plaintiff must prove that age was the 'but-for" cause of the employer's adverse decision." *Gross*, 557 U.S. at 176.

In *Pelcha*, the Sixth Circuit adopted the sole-cause standard precisely based on *Gross*' use of the word "the": that the plaintiff must prove "that age was *the 'but-for' cause* of the challenged employer decision." *Pelcha*, 988 F.3d at 323 (emphasis added), *quoting Gross*, 557 U.S. at 177-78.

However, *Gross* never overtly addressed or adopted the sole-cause standard. *Gross*, 557 U.S. at 177 ("The burden of persuasion necessary to establish employer liability is the same in alleged mixed-motives cases as in any other ADEA disparate-treatment action."). For

example, *Gross* relies on *Hazen Paper* to state that age need only play "a role" in the job action, or have "a determinative influence on the outcome." *Gross*, 557 U.S. at 176, *quoting Hazen Paper*, 507 U.S. at 610.

If the Sixth Circuit's reasoning in *Pelcha* were valid, one would think that *Gross* would have contained language highly critical of *Hazan Paper*'s and *Reeves*' acceptance of multiple-determinative factors, and gone to great lengths to limit, if not altogether overrule, their holdings. It did not.

Nevertheless, *Gross*' repeated use of the word "the" to describe an unlawful motive under the ADEA has led some courts to apply a sole-cause standard where none previously existed.

Burrage v. United States

After *Gross*, this Court's analysis took another turn in *Burrage v. United States*, 571 U.S. 204, 211-12 (2014), which considered the but-for standard as applied to a criminal sentencing statute. *Burrage* held that but-for causation is established where multiple causes contribute to an adverse action, such as where the cause at issue is the "straw that breaks the camel's back." *Id*. at 211. *Burrage*'s definition of the "but-for" standard cannot be consistent with the sole-cause standard. *Id.*

Burrage cited to *Gross* as an example of caselaw supporting its expansive, understanding of multiple factor but-for analysis. As if to drive home its point,

when purporting to quote *Gross*, the *Burrage* decision changed *Gross*' phrase "**the** but-for cause" to "**a** but for cause":

> [In *Gross*] we held that "[t]o establish a disparate-treatment claim under the plain language of [§ 623(a)(1)] . . . a plaintiff must prove that age was **[a]** 'but for' cause of the employer's adverse decision." *Gross v. FBL Financial Services, Inc.*, 557 U.S. 167, 176 (2009).

Burrage, 571 U.S. at 213 (emphasis added). The Court's substitution of "**a**" for "**the**" in quoting *Gross* cannot be ignored as meaningless. The change was intentional, and must have been a recognition that using the word "the" could be misleading. However, in this way, the Supreme Court indicated that *Gross* was consistent with a but-for analysis embracing multiple but-for factors.

Bostock v. Clayton County

Most recently, the Supreme Court in *Bostock v. Clayton County* applied a "sweeping" version of the but-for standard to Title VII, recognizing that sex discrimination need only be one of "multiple but-for causes." *Bostock*, 140 S. Ct. at 1739. *Bostock* specifically interpreted *Gross* as supporting its "sweeping" notions of but-for.

> In the language of law, this means that Title VII's "because of" test incorporates the "'simple'" and "traditional" standard of

> but-for causation. *Nassar*, 570 U.S. at 346, 360, 133 S.Ct. 2517. That form of causation is established whenever a particular outcome would not have happened "but for" the purported cause. See *Gross*, 557 U.S. at 176, 129 S.Ct. 2343. In other words, a but-for test directs us to change one thing at a time and see if the outcome changes. If it does, we have found a but-for cause.
>
> **This can be a sweeping standard. Often, events have multiple but-for causes.**

Id. (emphasis added).

Bostock ties together the "because of" language of the ADEA and Title VII and *Gross*' analysis, to explain that there is one " 'simple' and 'traditional' standard of but-for causation." *Id.* That standard permits multiple but-for causes and is inconsistent with a sole-cause standard. *Id*.

Importantly, *Bostock* recognizes that its conception of "but-for" is not peculiar to Title VII, but instead applies "the adoption of the traditional but-for causation standard." *Bostock*, 140 S. Ct. at 1739. Also in 2020, this Court held that the "ancient" common law but-for test that is applicable to Title VII represents a default standard to be applied across federal anti-discrimination laws, including the ADEA. *Comcast*, 140 S. Ct. at 1014. By specifying that multiple but-for analysis is the "traditional" rubric, the Court demonstrates that multiple but-for factors is the default standard, and that applies to cases and statutes beyond Title VII.

Resolving the Tension

While the decisions before and after *Gross* all point the way towards recognizing that there can be multiple but-for causes in an ADEA claim, the fact remains that *Gross* is the most recent case directly ruling on an ADEA claim. The Sixth Circuit in *Pelcha* believed that it could not deviate from the sole-cause standard that it erroneously perceived *Gross* to have prescribed, despite the fact that *Gross* and other Supreme Court cases, both prior and subsequent to *Gross*, supported a multiple cause standard. In so doing, the Sixth Circuit wrongfully regarded *Bostock* (and by necessary implication *Burrage*) as being at odds with *Gross*. The Sixth Circuit wrote:

> If a precedent of the Supreme Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, we should follow the case which directly controls, leaving to the Supreme Court the prerogative of overruling its own decisions.

Pelcha, 988 F.3d at 324 (internal quotation marks and brackets omitted).

Petitioner, however, respectfully submits that *Bostock* has in no way "rejected" *Gross*. Rather, *Gross*, read in its contextual entirety, adopts a but-for standard consistent with the one described in *Bostock*. *Comcast*, 140 S. Ct. at 1014. However, imprecision in the language of *Gross* has led to the conflicting circuit and district courts' decisions identified above. These conflicts are especially troubling, as they relate to the

fundamental burden of proof in one of our most important civil rights statutes.

The situation is all the more troublesome as it is extremely difficult to prove a case using the sole standard. *Knapp*, 205 F. Supp. 3d at 959. Indeed, jury instructions founded upon *Gross*' language could very easily lead a jury to conclude that the sole-cause standard applies. *See Zampierollo-Rheinfeldt v. Ingersoll-Rand De P.R., Inc.*, 999 F.3d 37, 2021 U.S. App. Lexis 16146, at 20-21 (1st Cir. 2021) (under ADEA, age must be considered "the determinative factor" and "the but-for cause"). Thus, application of sole-cause has the effect of limiting the remedial power of ADEA substantially, at odds with the policy expressed in the statute.

The legal system needs clarity about whether *Bostock*'s understanding of but-for cause also applies to sister statutes such as the ADEA, especially where the ADEA and Title VII contain identical "because of" language as part of their respective prohibitions of work place discrimination. *Compare* 29 U.S.C. § 623(a)(1) (ADEA), *with* 42 U.S.C. § 2000e-2(a)(1) (Title VII). The but-for rule has been appropriately described with respect to Title VII, but the rule of law regarding the sole standard and multiple but-for factors applicable to the ADEA has never been stated explicitly. Courts, litigators and the public are faced, instead, with varying and inconsistent decisions. We have oscillating statements of dictum that toggle between the words "a" and "the." A writ of *certiorari* is warranted to resolve ongoing confusion and

conflicting statements of law regarding a vital civil rights statute that protects an increasingly large portion of our working population.

III. THE FACTS OF THIS CASE SHOULD BE REVIEWED UNDER THE MULTIPLE BUT-FOR STANDARD

After recognizing that multiple, but-for causation analysis should apply to the ADEA, the next step should be to determine whether summary judgment in this case was proper under the correct analysis. *E.g.*, *Reeves*, 530 U.S. at 149-51 (reviewing JNOV decision based on sufficiency of the evidence, after deciding issue of law). In this case, a reasonable jury could find that age discrimination was "a" determinative influence upon the decision to dismiss the plaintiff, based in part on this evidence:

- Niesen, the defendant's CEO and ultimate decision-maker, stated that he wanted to "hire younger tellers"—the very same job classification from which Pelcha was terminated. *Reeves*, 530 U.S. at 151 (ageist statements can indicate bias).
- Niesen also stated that another older employee had a "limited shelf life," had reached her "expiration date," and that this older employee's hours should be cut until she quit. *Sprint/United Mgmt. Co. v. Mendelsohn*, 552 U.S. 379, 388 (2008) ("me-too" evidence may be admissible in age discrimination case).

- Niesen and Pelcha's supervisor, Sonderman, each blamed the other for the termination, and thus, no one provided evidence based on personal knowledge as to why Pelcha was fired. *Reeves*, 530 U.S. at 152 (contradictory testimony regarding whether superior recommended termination supports age discrimination claim); *see also Christensen v. Titan Distrib., Inc.*, 481 F.3d 1085, 1095 (8th Cir. 2007); *Tinker v. Sears*, 127 F.3d 519, 523 (6th Cir. 1997) (inability to identify decision-maker creates material issue of disputed fact).

- Watch Hill Bank fired Pelcha, a high performing, eleven-year veteran, for filing a late **written** request for time-off (after successfully securing permission in the wake of an **oral** request), on a single occasion, and the incident involved only two hours for a child's medical appointment, part of which she had made up by working through lunch. *Reeves*, 530 U.S. at 147 ("[p]roof that the defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination, and it may be quite persuasive"); *Young v. UPS*, 575 U.S. 206, 233 (2015) (Alito, J., concurring) ("Of course, when an employer claims to have made a decision for a reason that does not seem to make sense, a factfinder *may* infer that the employer's asserted reason for its action is a pretext for unlawful discrimination"); *Kelley v. Corr. Med. Servs.*, 707 F.3d 108, 117 (1st Cir. 2013) (terminating plaintiff due to failure to obey an instruction may been deemed a calculated "overreaction").

- Watch Hill Bank retained a similarly-situated younger comparator (a teller) who failed on numerous occasions to file such forms at all. *Reeves*, 530 U.S. at 146 (comparator evidence would support age discrimination claim).
- Pelcha's termination dovetails with Neisen's stereotyped notion that older workers could not successfully promote the bank to younger customers. *Hazen Paper*, 507 U.S. at 610 (ADEA was enacted to counteract "stigmatizing stereotypes").

Thus, Pelcha requests that the Court review, in its entirety, the Sixth Circuit's decision to enter summary judgment.

CONCLUSION

For all the foregoing reasons, petitioner respectfully requests that the Supreme Court grant her petition for writ of certiorari.

Respectfully submitted,

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