10/4/19

No. 21-165

In The
Supreme Court of the United States

In re Gracie E. McBroom in Pro Se
Petitioner,

v.

HR DIRECTOR FRANKLIN COUNTY BOARD OF ELECTIONS,
Respondent.

On Petition for a Corrected Petition for An Extraordinary Writ/and Writ Mandamus to the United States Court of Appeals for the Sixth Circuit

EMERGENCY PETITION FOR WRIT OF MANDAMUS

In re Gracie E. McBroom,
Counsel of Record
636 Koebel Avenue
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Counsel for Petitioner

QUESTIONS PRESENTED

1.Was this a reasonable question in the mind of the State Franklin County Court of Appeal on June 20, 1996 in the Memorandum Decision in their agreement with the trial court, stating, "since [Appellant], McBroom, had no legal entitlement to appointment as a presiding judge, or even a judge, under R.C. 3501.22, she had failed to set forth an actionable claim against the Board of Elections, and the complaint must be dismissed. 'Yet, in the same Memorandum Decision, on my hiring date being hired as an employee on 1981, the trial court stated, "we agree with the conclusion of the trial court that the broad latitude provided to the FCBE, in making appointments of precinct judges precludes any claim by [Appellant] that she was in any way entitled to re-appointment to another annual term as presiding judge; **moreover, at the time in question, R.C. 3501.22 made no mention at all of any distinct appointment procedure for the position of presiding judge, although the 1995 amendment to this statute does provide for this position.' "Could it be true that in 1981 there was no such criteria as a distinct appointment according to R.C. 3501.22? Does this set [Appellant] apart from an employee as opposed to an independent contractor?**

2. Has Title VII of the Civil Rights Act of 1964 been abolished from the law? If not, was it indicated in the Petitioner's case in the United States District Court and the United States Court of Appeals for the Sixth Circuit in their judgment in the case of McBroom?

3. Has the United States Court of Appeals decided an important question of Federal law wrongfully that should have been settled rightfully by that Court in favor of McBroom?

4. Has the Court of Appeals decided an important federal question of law in a way that conflicts with relevant decision(s) of the U.S. Supreme Court?

LIST OF PARTIES

Applicant, Gracie McBroom was the Plaintiff-Appellant in the Court below. Respondents HR Director Franklin County Board of Elections was the Defendant-Appellee in the Court below. The Parties representing the Appellee in the Court below were Attorneys Jeffrey C. Rogers and Scott J. Gaugler.

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STATUTES AND OTHERS

PETITION FOR EXTRAORDINARY WRIT/WRIT OF MANDAMUS

Applicant, Gracie McBroom, respectfully petitions this Court for an extraordinary writ/writ of mandamus to review the judgment of the United States Court of Appeals for the Sixth Circuit in this case.

OPINION BELOW

The unpublished opinion of the Tenth District State Court of Appeals was not reported but has been reproduced in appendix hereto in opinion at app. C.

The unpublished opinion of the Sixth Circuit was not reported but has been reproduced in the appendix hereto in the opinion at App. C. Court of Appeals of the Sixth Circuit denied a timely Motion for Rehearing in an unpublished Order April 14, 2015. A copy of the order is attached hereto in the Appendix at App. A. The opinion of the District Court for the Southern District of Ohio was reported January 10, 2014, was issued in McBroom v. HR Director Franklin County Board of Elections, but has been reproduced at App. 25 thru App. 41. Reconsideration denied on April 4, 2015. On December 4, 2018, Applicant asked the United States Court of Appeals for rehearing. They stated that this Court affirmed the grant of summary judgment for the [Defendant] in an order dated January 21, 2015, panel judges denied rehearing April 22, 2015. Also, on January 28, 2019, Appellant requested a new appeal to reopen the case based on new evidence The U.S. Court of Appeals stated, "the case is now closed, and you should generally expect that no further correspondence will be accepted. As such, please find your letter returned unfiled and without ruling. "

JURISDICTION

This Court has jurisdiction to consider this case pursuant to 28 U. S. C. 1257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Cont. art. I § 4.

The Supreme Court and all courts established by act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

The writ of mandamus is a common law writ that is preserved for the Supreme Court by the All Writs Act, 28 U.S.C. § 1651 (a). (The Supreme Court . . . may issue all writs necessary or appropriate in aid of . . . [its] jurisdiction and agreeable to the usage and principles of law.")

The Fourteenth Amendment to the United States Constitution provides in relevant part: "No State shall deprive any person of life, liberty, or property without due process of law. " 28 U.S.C. § 1391 (B) (2).

Section 1391 (B) (2) of Title 28 of the United States Code governing venue, provides that a civil action may be brought in "a judicial district in which a substantial part of the events of omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated."

STATUTES AND RULES

Section 4112.02 of the Revised Code – Prohibits discriminatory practices by reason of race and color (Ohio Civil Rights Laws & Rules Annotated, (1989).

OTHER 710 (ND Ohio 1989), Reeves v. Digital Equipment.

710 FSupp 675 (ND Ohio 1989) Reeves v. Digital Equipment Corp. A prima facie case of racial Discrimination outlawed by 42 USC 1981 and 2000e5(B) is made by proof the Applicant belongs to a minority race, the Applicant was treated differently than a similarly situated white person in the Court system, and the reason for the difference in treatment was the Applicant's race and color.

PRELIMINARY STATEMENT

The writ of mandamus has come before this Court infrequently. When it has however, the Court has uniformly upheld its availability under the All Writs Act to remedy "errors of the most fundamental character. Morgan, 345 United States at 512, quoting United States v. Mayer 235 U.S. 55, 68 (1914); *Korematsu v. United States*, 584 F. Supp. 1406, 1419-20 (N.D. Ca. 1984).

All federal lower courts turned Applicant Case down. The Case is good and lower federal courts made errors. Petitioner do have grounds for Relief and all the other courts were wrong in not seeing that this case is good and they were wrong in not seeing that they were wrong. The Ground for Relief is that this Court oversee this Case.

(A) This Petition will show how the writ of mandamus will be in aid of the Court's appellate jurisdiction in terms of the reason why I deserve relief in this Court with granting the writ of mandamus. The refusal by the United States District Court and the United States Court of Appeals shall cause this Court to grant relief. This caused Petitioner to ask this court for exceptional circumstances because there is no other way to get relief and this is the reason why I am turning to this court in using Rule 20, extraordinary writ/ writ of mandamus for help. If not, I will suffered irreparable damages if I do not get the writ of mandamus granted by this Court. Exceptional circumstances pertaining to time, if I do not get this relief now there is no way to make up for it. The United States District Court and the Court of Appeals had the ability to exercise Jurisdiction but they did not exercise Jurisdiction correctly.

Adequate relief cannot be obtained in any other form or from any other court because any other court will not accept a motion to reconsider according to the Opinion and Order of Judge algenon L. Marbley.

Alternatively, as the Applicant notes, the Court may treat the Petition as a Petition or motion for equitable relief filed with the Court in the McBroom case itself. The Court like other federal courts, has the inherent equitable power "to set aside **fraudulently begotten judgments**" and restore the parties to the position they would have enjoyed in absence of the fraud. Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 245, 250 (1944). See also Chambers v. NASCO, Inc., 501 U.S. 32, 44-45 (1991); Universal Oil Products Co. v. Root Refining Co., 328 U.S. 575, 580 (1946). The Petition details the bases upon which the Court has jurisdiction to act and the reasons it should act.

A Petition for a writ of mandamus is surely a very rare occurrence in the life of the Supreme Court Clerk's Office. Petitioner have, moreover, advanced a substantial and good faith basis for invoking this Court's jurisdiction. The United States Court of Appeals on January 28, 2019 when Appellate requested a review from Judge Guy Cole who he in turned gave the request to Susan Roger, Chief Deputy Clerk for review she had Applicant resort back to April 2015 stating the case is now closed and a copy of the order is attached. No other court will accept a motion to reconsider and that is why I request an extraordinary writ/writ of mandamus to this Court for help.

STATEMENT OF THE CASE

This petition is filed pursuant to the authority to issue an extraordinary writ/writ of mandamus vested in this court provisions of 28 U.S.C.A. § 1651(a) and Rule 20 of this court, in order to prevent enforcement by the United States Court of Appeals, Respondent(s) Circuit Judges Batchelder, Gibbons, and Rogers Respondent of Rehearing denied of April 22, 2015 and the Respondent, of denied Motion of April 4, 2014 Honorable Algenon L. Marbley, a Judge of the United States District Court for the Southern District of Ohio, Eastern Division, Respondent of April 4, 2014 in the case of In re Petitioner v. HR Director Franklin County Board of Elections, being Civil Action No. 14-3176 of such district and compel Respondent to vacate the order for the reason that Respondent had no power to enter the same, as is more fully alleged and argued below. A copy of the order of January 10, 2014 in the United States District Court and the denial for reconsideration denied and closed on April 4, 2014, as well as the order dated January 21, 2015 from the United States Court of Appeals and the rehearing denied April 22, 2015. A copy of the orders are included in the Appendix to this petition. The new evidence Applicant requested to the United States Court of Appeals and the U.S. District Court to reopen the case in their Order(s) rendered by Respondent in connection therewith.

There are also included in the Appendixes the following papers which are essential to an understanding of the instant petition.

STATEMENT OF THE FACTS

I. THE OHIO STATE COURT ACTION

A. The Commencement of the Ohio Action

In the Memorandum Decision rendered on June 20, 1996, Applicant filed an Appeal in the State Court of Appeals of Ohio, Tenth Appellate District from the Decision of the Ohio Franklin County Court of Common Pleas. In which this Court dismissed Applicant case, for failure to state a claim under Civ.R. 12 (B) (6). This Court affirmed the Judgment of the lower trial court. On the one hand, in the Memorandum Decision stated, "the trial court granted the Board of Elections' motion, pointing out that precinct judges are appointed by the Board of Elections on an annual basis under R.C. 3501.22, which places no obligation upon the Board of Election to re-appoint prior year appointees to these position. Yet, Appellant being hired by the Franklin County Board of Election on November 1981, as an Employee and not as an Independent Contractor in which Title VII does not cover. The Memorandum Decision further goes on to state that, 'We agree with the conclusion of the trial court that the broad latitude provided to the Board of Elections in making appointments of precinct judges precludes any claim by appellant that she was in any way entitled to re-appointment to another annual term as presiding judge; **moreover, at the time in question, R.C. 3501.22 made no mention at all of any distinct appointment procedure for the position of presiding judge, although the 1995 amendment to this statute does provide for this position.**

Appellant was employed for many years by the Board of Elections as a poll-worker. For some thirteen years prior to the November election of 1994, appellant worked as a presiding judge at a polling place . . . See Appendix "C. "

When Applicant was hired by the HR Franklin County Board of Elections on November, 1981, McBroom was issued an IRS form as an Employee as follows:

November 21, 1994

"On behalf of the board members Deputy Director, staff and myself I would like to thank you for a splendid job with respect to the November 8, 1994 General Elections.

As you may be aware beginning January 1, 1995 there will no longer be any tax deductions from precinct worker pay checks . . .

Franklin County Board of Elections
"s/"

Jack M. McKitrick, Director

This present case is quite similar to the case that was filed in 19[illegible].
Applicant was given a right to sue from the Equal Employment Opportunity Commission and this lawsuit commenced. The Petitioner filed the above-styled action against HR Franklin Board of Elections for claims of illegal discriminatory practice relating to employment based on McBroom's race and color prior to November, 2011 and continuing therefrom. This is a civil case governed under federal law Title VII United States Code, Section 42 U.S.C. § 2000 5(f) (1).

Under consideration for this Court to review is that the United States Court of Appeals affirmed the District Court's judgment without giving any regards for the filing of Applicant's default judgment. On November 21, 2012, Applicant through the district court filed a subpoena to the Respondent's Counsel stating that a Summons in a Civil Action had been filed against the Director Franklin County Board of Election.

The subpoena stated: "A lawsuit has been filed against you. Within 21 days after service of this summons on you (not counting the day you received it - . . .)
You must serve on the [Plaintiff] an answer to the attached

. . . If you fail to respond, judgment by default will be entered against you for the relief demanded in the Complaint. " App. A 7, 8.

Norah McCann King, United States Magistrate Judge, stated her Order in Appendix B, "this [Defendant] was granted 45 days after service of process to respond to the Complaint. Order, Doc. No. 7, p2. The time for responding has passed with no appearance on behalf of response to the Complaint by the remaining [Defendant].

[Defendant HR Director Franklin County Board of Elections is therefore ORDERED to report on the status of this case within fourteen (14) days.

Then the Magistrate Norah McCann King not only gave the Respondent 45 days plus an additional 14 days to respond she untruthfully stated, "Service of Process was apparently effected on [Defendant] HR Director Franklin County Board of Elections on **December 7, 2012.**

The Service of Process was effected on the Defendant on November 26, 2012 and the date of filing was November 21, 2012. The date of filing of the summons was not effective on December 7, 2012, as she stated.

Look how many days was given by the U.S. Court of Appeals and Judge Algenon L. Marbley for the Respondent to file an Answer to the Applicant Complaint agreement.

When [Defendant] H.R. Director failed to answer in the allotted 45 days, the Magistrate Judge, On February 14, 2013, ordered [Defendant] to report on the status of the case. (Doc. 12, and Appendix B). [Defendant] did so, on February 28, 2013 (Doc. 13) and moved the next day for an extension of time to file his Answer (Doc. 14). The Court granted this Answer on March 4, 2013.

Nevertheless [Plaintiff] moved for default judgment on March 13, 2013 (Doc. 19).

On May 15, 2013 [Plaintiff] filed for "Motion for Summary Judgment (Doc. 33). That Motion anticipated that [Defendant] filed a motion for summary judgment, and argues that it should be denied. It does not argue for judgment on the pleadings, nor does it argue for summary judgment in [Plaintiff's] favor. On June 6, 2013, [Defendant] responded, and moved for summary judgment (Doc. 41). The case was dismissed on June 10, 2013 in favor of the [Defendant]. The Court agreed with the [Defendant] stating [Plaintiff] was an Independent contractor.

A copy of Judge Algenon L. Marbley's Opinion and Order for Review in the Ohio Action is attached as Appendix B.

B. **Applicant Seek Relief in the United** State **Supreme Court.**

II. THE FEDERAL ACTION

C. Applicant Herein Commence A substantively Identical Actions in the U.S. Court of Appeals Months after Petitioner filed the Ohio Action

This appeal had been journalize and docket as case number 14-3176. This is an action instituted under the provision of 42 U.S.C. § 2000e – (a) (1), 42 U.S.C. §2000e2 (a) through (d), Title VII of the Civil Rights act of 1964, which incorporates 42 U.S.C. §2000e-5 (f) 1, for review of the unlawful deceptive final decision of Judge Algenon L. Marbley and Magistrate Judge King denying a fair outcome for [Appellant] Gracie E. McBroom because this Court concludes that there is no substantial support for [Appellee's] decision, [Appellant's] decision must be reverse and recover damages resulting from Discrimination of Employment as to the specifications of the Equal Employment Opportunity Commission.

It is well established in the court and elsewhere that

Petitioner claiming disparate treatment on account of race must prove "by a preponderance of the evidence that the Respondent intentionally discriminated against [her]. *Grano v. Department* 637 F 2d 1073 U.S. 32, 335-36 15 (1977); *Carter v. Petry.* No. C-2-7-89, Opinion and Order (S.D. Ohio June 29, 1982.

REASONS FOR GRANTING THE WRIT(S)

In the present case, Robena Hawkins, who is Caucasians was put in the location where McBroom was working as a Paper Judge by Mary Hackett, Manager, Precinct Election Official and DeborahCotner, Precinct Election Coordinator, both Caucasians required McBroom to train Robena Hawkins. Petitioner was unaware that McBroom was training Hawkins for the position that McBroom held. Mary Hackett and Deborah Cotner stated that McBroom had failed Respondent's test and they wanted someone with better skill sets than McBroom. Prior to Petitioner removal from the position, McBroom was never made aware that there was a problem with my performance or my skills. [Plaintiff passed Respondents test and was allowed to work the 2010 and 2011 elections as a presiding judge.

'Work History of Robena Hawkins: Last worked on 11/8/2011. Robena Hawkins had only one session of training as a Presiding Judge as well one term as a Presiding Judge.

2012/03/06 DEM-PJ-VOTING LOCATION MANAGER
2011/11/08 PAPER BALLOT JUDGE
2010/05/04 VOTING MACHINE JUDGE
2009/08/0 VOTING MACHINE JUDGE
2008/03/05 ZREPUBLIAN – NEW ROSTER JUDGE

Also, the Franklin County Board of Elections mailed to the Ohio Civil Right Commission the work history of Robena Hawkin, McBroom's replacement.

According to her record the Board of Elections gave Hawkins years of class Work that does not correspond With the years that the Election Board said she worked. Below is listed the years of employment of classes that the Franklin County Board of Elections stated that Hawkins attended which are not included in the Work History:
(1)2007/10/16; (2) 2006/10/25; (3) 2006/05/01; (4) 2006/04/25; (5) 2005/11/03; (6) 2005/04/28; (7) 2004/10/14; (8) 2004/102/26; (9) 2002/10/17; (10) 2002/05/06; (11) 2001/11/05; (12) 2000/10/19; (13) 2000/03/06. ' "

Applicant have a Bachelors in Sociology, a Master's of Science in Business and Industrial Counseling am certified as a Presiding Judge and have been awarded a Certificate of Appreciation for my good work as a Voting Location Manager. Applicant was hired by the Franklin County Board of Election November, 1981 as an Employee. The Franklin County Board of Election has sent Applicant through many years of extensive management training and given Applicant a Presiding Judge Certified Card in which Applicant have earned. As well as the HR Director Franklin County Board of Elections put two poll workers to work in Applicant's precinct that had absolutely no experience nor training as Voting Location Manager and have Applicant train those persons to know the procedure of the job of one to take Applicant place.
While, HR Director Franklin County Board of Elections told all those lies about [Plaintiff] even to the point of saying, ["Charging Party] based on her performance, it is standard practice to place her in a position of less responsibility. Of further note, [Charging Party] was placed at a different location to avoid any potential embarrassment.

The issues involved in the present proceedings are of exceptional character and of great public importance in that in the Ohio Action, the Ohio Appellate Courts' Decision

on important questions of Ohio Constitutional law will have significant impact on the scoop of discoverable and admissible evidence when the stay is lifted by this Court and the case proceeds.

STANDARD OF REVIEW

The Supreme Court has the power to "issue writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). To obtain a writ of mandamus, the applicant must demonstrate that he has "no other adequate means attain the relief he desires." *Cheney v. United States Dist. Court*, 542 U.S. 367, 380 (2004).

The Applicant must demonstrate that the Applicant' right to the writ is "clear and indisputable," *Id* at 381. Finally, the Applicant must demonstrate that the writ is otherwise appropriate under the circumstances.

A writ is appropriate in matters where the Applicant can demonstrate a "judicial usurpation of power" or clear abuse of discretion. *See id.* At 380 (citations and quotations omitted); see also *Roche v. Evaporated Milk Ass'n*, 319 U.S. 21, 22 (1943). ("The traditional use of the writ in aid of Appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so.") This Court has issued writs to restrain federal district courts from intruding into areas involving delicate federal-state relations. Id. At 381; see also *Maryland v. Soper*, 270 U.S. C. (1926). Applicant is asking this court for an extraordinary writ/writ of mandamus as a Remedy for "Fraud on the Court." As well as to vacate the decision and mandate of the lower federal court

Petitioner's Complaint was filed by **U.S. Marshal** as stated on November 20, 2012, Defendant's did not answer until March 4, 2013 and only by **Ordered** from the **Magistrate**

stricken by **Magistrate King.** Defendant filed the Memorandum Contra and Motion to Dismiss Plaintiff's Complaint on June 10, 2013, which was Granted by the Court. **How can the District Court and the Court of Appeals Dismiss Plaintiff's Complaint when the Complaint was filed on November 21, 2012, and received on November 26, 2012.** The **Defendant did not answer until four months later and was granted the Motion to Dismiss on June 10, 2013. Then Magistrate Judge King stated in the Order of 02/14/ 2013, "Service of process was apparently effected on [defendant] on December 4, 2012." App. B15.**

THERE ARE NO OTHER ADEQUATE MEANS TO OBTAIN THE RELIEF APPLICANT SEEK

Applicant do not have any adequate alternative means to obtain the relief from judgment she seek because adequate relief cannot be obtained in any other form or from any other court because any other court will not accept a motion to reconsider.
There is another reason for this Court to Grant Applicant relief from judgment.
The United States Court of Appeals did not allowed Applicant to file a response to [Defendant's] Answer. This is a manifestation of injustice.

The United States Court of Appeals did not addressed the unlawful employment practice in this case; (2) the Appellee had lost all rights in defending this case because they did not respond to Applicant's Complaint in timely manner. The Complaint was filed on November 21, 2012 and appellee did not answer the Complaint until March 4, 2013 which was four months later; (3) the [Appellee] Answer was invalid because the Answer was not served by proof of service to Applicant; (4) the motion signed by Judge Marbley on January 10, 2014, as well as the United States Court of Appeal Orders were as well of nullity for granting all this mess of [Defendant].

Not knowing whether the [Defendant] had answer [Plaintiff's] Complaint or not, [Plaintiff] called the Court and spoke with the Clerk. [Plaintiff] asked if the [Defendant] had answered [Plaintiff's] Complaint. [Plaintiff] was told by the Clerk that [Defendant] had responded with the Answer. On March 4, 2013, the [Defendant] filed an answer. [Plaintiff] was not notified by the [Defendant] with a Proof of Service regarding receiving the Answer. [Plaintiff] requested the Clerk of the United States District Court to please send me a copy of the [Defendant's] Answer. Appendix "B".

Where service of process was not made pursuant to Statute and the Supreme Court Rules, *Janove v. Bacon* 6 Ill.2d 245, 249, 218 N.E. 2d 706, 708 (1953) is not given to all parties by the movant that Answer is of nullity. *Wilson v. Moore,* 13 Ill. App.3d 632, 301 N.E.2d 39 (1st Dist. (1973)).

[Plaintiff] filed a default judgment for the untimeliness of [Defendant's] Answer to [Plaintiff's] Complaint. The federal courts ignored the motion for [Plaintiff's] default judgment for [Defendant] to pay the amount [Plaintiff] requested in the Complaint of November 21, 2012. [Plaintiff] filed a response to the [Defendant's] Answer. [Plaintiff] response was stricken from the record because the Judge stated the Fed.R.C.P. do not permit a response to an answer.

The record shows that there additional inconsistencies between the [Defendant], the United States District Court and the United States Court of Appeals between submitted testimonies and who signed those testimonies. It is the Applicant's position that where a Respondent's assertions are inconsistent in themselves and as to the evidence, McBroom must infer that the inconsistencies are the result of an attempt by Respondent to cover up a violation of Title VII. Further an inference of discrimination must be drawn from the totality of circumstances. Whereas one factor standing alone might not warrant, or nullify, an inference of discrimination, a

CONCLUSION

For the foregoing reasons, stated above the petition for extraordinary writ/ writ of mandamus should be granted.

Respectfully submitted,

S/Gracie E. McBroom
Counsel of Record
636 Koebel Avenue
Columbus, Ohio 43207

Counsel for the Applicant

Date: 9-27-2019

APPENDIX A

No. 14-3176

FILED JUN 23, 2014

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

GRACIE E. MCBROOM,

Plaintiff-Appellant,

v.

HR DIRECTOR, FRANKLIN COUNTY BOARD OF ELECTIONS,

ORDER

Defendant-Appellee.

Before: BATCHELDER, Chief Judge; GILMAN and GRIFFIN, Circuit Judges.

This matter is before the court upon consideration of motion of the appellee to dismiss this appeal for lack of jurisdiction. The appellee argues that the notice of appeal was untimely filed.

The judgment of the district court was entered on January 10, 2014. The motion for Reconsideration file on January 15, 2014, tolled the appeal period because it was filed within twenty-eight days of entry of judgment. See Fed. R. Civ. P. 59(e) and Fed. R. App. P. 4(a)(4). The notice of appeal filed on February 21, 2014, became effective on April 4, 2014, when the district court denied the motion for reconsideration. See Fed. R. App. P. 4(a)(4)(B) (i).

Accordingly, the motion to dismiss is denied.

ENTERED BY ORDER OF THE COURT

"s/"
Deborah S. Hunt, Clerk

No. 14-3176

FILED, JAN. 21, 2015
DEBORAH S. HUNT, Clerk

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

GRACIE E. MCBROOM,

Plaintiff-Appellant
v.
HR DIRECTOR, FRANKLIN COUNTY BOARD OF ELECTIONS

Defendant-Appellee.

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

ORDER

Before: BATCHELDER, GIBBONS, and ROGERS, Circuit Judges.

Gracie E. McBroom, an Ohio citizen, appeals pro se the summary judgment for defendant in an employment discrimination action she filed under Title VII of the Civil Rights Act of 1964. This case has been referred to a panel of the court pursuant to Federal Rule of Appellate Procedure 34(a)(2)(C). Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

McBroom's complaint indicated that she had worked as a precinct official since 1981 and had been demoted in 2011 based on her race and in retaliation for a similar suit she had filed in 1995. The district court denied McBroom's motion for a default judgment and granted summary judgment to defendant on the ground that McBroom was not an employee protected by Title VII. In her brief

answer the complaint and that she was entitled to a default judgment.

An order denying a motion for default judgment is reviewed for an abuse of discretion. Lincoln v. Comm'r of Soc. Sec. 62 F. App'x 93, 94 (6th Cir. 2003). In this case, the Magistrate Judge ordered on November 21, 2012, that defendant files a response to the complaint within forty-five days. When that time passed without a response, the magistrate judge ordered on February 14, 2013, that defendant responded within fourteen days. Defendant did respond and, on March 1, filed a motion for an extension of time and an answer. The magistrate judge granted the motion for an extension and filed the answer on March 4. On March 13, McBroom filed a motion for default Judgment, which the district court denied. Because the defendant answered the complaint within the extension of time granted by the magistrate judge, there was no abuse of discretion by the district court in denying the motion for default judgment. Id. at 95.

McBroom fails to raise any argument as to why defendant was not entitled to summary judgment on the ground that she was not an employee protected by Title VII. See Sah v. Deaconess Hosp. 355 F.3d 496, 499 (6th Cir. 2004).

Accordingly, the district court's judgment is affirmed. Fed. R. App. P. 34(a)(2)(C).

ENTERED BY ORDER OF THE COURT

"s/_____

Deborah S. Hunt, Clerk