

No. 21-315

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In the  
**Supreme Court of the United States**

JACQUELYN BOUAZIZI,  
*Petitioner,*

v.

HILLSBOROUGH COUNTY BOARD OF COUNTY  
COMMISSIONERS, AND HILLSBOROUGH COUNTY  
CIVIL SERVICE BOARD,  
*Respondents.*

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**On Petition for Writ of Certiorari to the  
United States Court of Appeals  
for the Eleventh Circuit**

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**BRIEF OF RESPONDENT  
HILLSBOROUGH COUNTY**

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**RESPONDENT HILLSBOROUGH COUNTY'S  
BRIEF IN OPPOSITION TO THE PETITION  
FOR CERTIORARI**

**STATEMENT OF ISSUES**

Petitioner has presented no “compelling reasons” for the exercise of this Court’s jurisdiction. Petitioner’s “Questions Presented” may be summarized as follows:

1. Petitioner argues the district court erred by dismissing her discrimination, Equal Pay Act and retaliation claims as time-barred.
2. In order to justify the late filing of her time-barred appeal, Petitioner seeks to invoke this Court’s jurisdiction to establish new equitable bases for tolling the filing of a notice of appeal.

In support of her second argument, Petitioner has wrongly accused her trial court attorneys of “misrepresentation, fraud and incompetence”. Moreover, Petitioner has falsely accused counsel for Respondents of committing “fraud” by allegedly working with her then-attorney to “add a disability [claim] to Petitioner’s EEOC charge.” As the appellate decision noted, Petitioner presented no evidence below in support of these claims.

**STATEMENT OF FACTS**

Petitioner was employed by Respondent Hillsborough County from 1978 to 2014, when she retired. Bouazizi v. Hillsborough County Civil

Service Board, 844 Fed.Appx. 135, 137 (11<sup>th</sup> Cir. 2021). In 2015, Petitioner filed suit in state court, initially alleging only state law causes of action. In February 2019, Petitioner amended her state court lawsuit to add federal claims under Title VII and the Equal Pay Act. The amended pleading was promptly removed to federal court by Respondent Hillsborough County. Respondents filed motions to dismiss, which were granted, but the District Court gave Petitioner an opportunity to amend her pleading, which she did in May 2019. On June 24, 2019, the District Court then dismissed Petitioner's amended pleading with prejudice as time-barred. Petitioner then filed a post-judgment Rule 60 motion on December 5, 2019, alleging that her attorneys committed excusable neglect and that her opponents' attorneys committed fraud. After the Court denied her Rule 60 motion on December 27, 2019, on February 3, 2020, Petitioner finally filed a Notice of Appeal.

On appeal, Petitioner argued that her federal claims were not time-barred or that her late filings were excusably late because (among other arguments) her attorneys were "negligent" and Respondents' attorneys made "misrepresentations".

The 11<sup>th</sup> Circuit held that Petitioner's appeal of the District Court's June 24, 2019 final decision on the merits, was time-barred pursuant to Rule 4(a)(7), Fed.R.App.P. Separately, the Appellate Court also held that Petitioner's Rule 60 motions had been properly denied by the District Court. The Court described Petitioner's allegations of negligence by her attorneys and of fraud by Respondents' attorneys as "nothing more than conclusory."

## **ARGUMENT**

### **I. Petitioner Presents No Basis for this Court's Jurisdiction**

None of Petitioner's "Questions Presented" suggests the existence of a conflict between the Circuits. None of the "Questions Presented" raises an important federal question. As Supreme Court Rule 10 states, certiorari may be granted only for "compelling reasons" and is "rarely granted when asserted error consists of erroneous factual findings." By contrast, Petitioner's appeal, summarized, asserts that (1) the District Court erred by dismissing her lawsuit as time-barred, and (2) that the Appellate Court erred by noting, in part, that her appeal on the merits was time-barred and, in part, by denying her request for Rule 60 relief.

Thus, the Petitioner has raised no "compelling reasons" for this Court to exercise its jurisdiction.

### **II. Equitable Tolling Does Not Apply**

Petitioner alleges that her time to appeal should have been tolled by the filing of her Rule 60 motion due to (1) her attorneys' alleged neglect and (2) her opponents' attorneys' alleged fraud. This argument has been raised and rejected in Irwin v. Dept. of Veteran Affairs, 498 U.S. 89, 111 S.Ct. 453 (1990). Irwin involved an employment discrimination claim against the Veteran's Administration. The EEOC issued a right-to-sue letter and Irwin filed suit, shortly out of time, because Irwin's attorney had been late picking up his mail, which had included the EEOC right-to-sue

letter. The Court, denying Irwin's equitable tolling argument, reasoned as follows:

Irwin's failure to file may not be excused under equitable tolling principles. Federal courts have typically extended equitable relief only sparingly in suits against private litigants, allowing tolling where the claimant has actively pursued his judicial remedies by filing a defective pleading or where he has been induced or tricked by his adversary's misconduct into allowing the filing deadline to pass. Such equitable tolling principles do not extend to Irwin's claim that his untimely filing should be excused because his attorney was out of the office when the notice was received and he filed within 30 days of the date he personally received notice, which is at best a garden variety claim of excusable neglect.

Irwin, 498 U.S. at 90.

Similar to the facts at bar, Petitioner's argument is "at best a garden variety claim of excusable neglect." The Appellate Court below noted that there was no evidence in the record to support Petitioner's conclusory allegations. Beyond the absence of evidence, Petitioner's claim is notable for what it omits: evidence supporting equitable tolling should, as the Court put it in Irwin, involve facts "where [s]he has been induced or tricked by [her]

adversary's misconduct into allowing the filing deadline to pass." Even within her unsupported allegations of negligence (by her attorneys) and fraud (by her opponents' attorneys), Petitioner does not allege that either her attorneys' negligence or Respondents' attorneys' actions in any way caused her to miss a filing deadline.

Finally, Petitioner failed to demonstrate that she "actively pursued her judicial remedies". This fact is made self-evident by the reason that, after her District Court and Appellate Court lawsuits were dismissed for being time-barred, Petitioner now seeks her last-resort remedy before this Court. Suffice it to say that the record does not portray a Petitioner who actively pursued her judicial remedies.

Upon closer reading, Petitioner notably does not seek *application* of the equitable tolling doctrine. Petitioner seeks *expansion* of the equitable tolling doctrine. This request for "expansion" of the doctrine constitutes a tacit admission that the existing doctrine does not support Petitioner's claims. Yet Petitioner suggests no justification for expansion of the equitable tolling doctrine, other than to allow her to resurrect her claims.

In sum, a clear reading of Irwin must result in a denial of her request for expansion of the equitable tolling doctrine.



**CONCLUSION**

Because Petitioner presents no compelling reason suggesting this Court should grant certiorari jurisdiction, and because Petitioner's own actions undermine her argument that the equitable tolling doctrine should be expanded to resurrect her claims, certiorari should be denied.

Respectfully submitted,

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