

No. 21-315

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

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JACQUELYN BOUAZIZI,

*Petitioner,*

v.

HILLSBOROUGH COUNTY CIVIL SERVICE  
BOARD, and HILLSBOROUGH COUNTY,

*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 CIVIL SERVICE BOARD IN OPPOSITION  
TO PETITION FOR WRIT OF CERTIORARI**

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**PARTIES TO PROCEEDING**

The caption of the case contains the names of all the parties. Pursuant to Rule 19.6, Respondent states that there are no nongovernmental corporations who are parties to this proceeding.

**DIRECTLY RELATED PROCEEDINGS**

*Jacquelyn Bouazizi v. Hillsborough County, Florida and Hillsborough County Civil Service Board*, No. 15-CA-01520, Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, Civil Division. Case removed March 18, 2019.

*Jacquelyn Bouazizi v. Hillsborough County, Florida and Hillsborough County Civil Service Board*, No. 8:19-cv-657-T-33TGW, United States District Court, Middle District of Florida, Tampa Division. Judgement entered June 24, 2019

*Jacquelyn Bouazizi v. Hillsborough County, Florida and Hillsborough County Civil Service Board*, No. 20-10429, United States Court of Appeals for the Eleventh Circuit. Judgment entered January 29, 2021

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

Hillsborough County Civil Service Board (“the Civil Service Board”) respectfully opposes Petitioner Jacquelyn Bouazizi’s Petition for Writ of Certiorari to review the judgment in this case of the United States Court of Appeals for the Eleventh Circuit (the “Petition” or “Pet.”).

**INTRODUCTION**

The Petition should be denied because it fails to present any compelling reason for this Court’s review. Ms. Bouazizi seeks to have this Court review the decision of the Eleventh Circuit affirming the District Court’s dismissal of her Complaint as time-barred. While Ms. Bouazizi offered four Questions for review before this Court, the first three questions presented appear to be restatements of her quest to have the principles of Equitable Tolling applied to excuse the delinquency of her claims asserted in the District Court, and to review the dismissal of her appeal of several orders to Eleventh Circuit. The fourth and final question appears to be an attempt to seek a decision on the merits of her case, which was not reached by the District Court (nor considered by the Eleventh Circuit) because of the untimeliness of her claims. Moreover, Ms. Bouazizi has not identified any actual conflict between the Eleventh Circuit’s decision in this case and the decisions of any state court of last resort, any other Circuit Court, or this Court.



Therefore, pursuant to the Rules of the Supreme Court, Ms. Bouazizi's Petition should be denied. *See* Sup. Ct. R. 10.

### **STATEMENT OF THE CASE AND FACTS**

Ms. Bouazizi is a long-time employee of co-Respondent Hillsborough County ("the County"). *Bouazizi v. Hillsborough County Civil Service Board*, 844 Fed. Appx. 135, 138 (11th Cir. 2021). She has never been an employee of the Civil Service Board, which was a separate entity. Ms. Bouazizi initiated the underlying litigation in 2015 in Florida state court alleging only state law claims. *Id.* After she amended her lawsuit to add federal claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, and the Equal Pay Act, 29 U.S.C. § 206, the case was removed to the United States District Court for the Middle District of Florida, where both Respondents filed Motions to Dismiss. Both motions were granted as unopposed. *Id.* After Ms. Bouazizi filed two motions to reconsider the dismissal, the District Court granted the second one and reopened the case. *Id.* She subsequently filed a Third Amended Complaint, alleging violations of 42 U.S.C. § 1983 and the Equal Pay Act in May 2019. *Id.* On June 24, 2019, the District Court dismissed Ms. Bouazizi's amended pleading with prejudice as time-barred. *Id.*

Ms. Bouazizi then filed a Fed. R. Civ. P. 60 motion for relief from judgment on December 5, 2019,<sup>1</sup>

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<sup>1</sup> In the time between the dismissal of this case and Ms. Bouazizi's Rule 60 Motion, the Civil Service Board closed all

which was denied by the District Court on December 27, 2019. She filed a second Rule 60 motion on January 30, 2020, which was denied on January 31, 2020. She also filed a flurry of other motions, including: (a) a January 10, 2020 motion to reconsider the December 27 order denying her first Rule 60 motion, which was denied on January 13, 2020; (b) a January 13, 2020 amended motion for reconsideration of the December 27 and January 13 orders, which was denied on January 14, 2020; (c) a January 21, 2020 motion for sanctions against both her own and respondents' attorneys, as well as a motion for reconsideration of the December 27, January 13, and January 14 orders, which was denied on January 23, 2020; (d) a January 23 amended motion for sanctions, denied on January 23; and (e) a January 23, 2020 motion for clarification of the orders dismissing her third amended complaint, to which the Court responded by explaining that Ms. Bouazizi had no claims pending before it. *Id.* at 138-39.

Following the denials of her multiple motions, Ms. Bouazizi finally filed a Notice of Appeal with the Eleventh Circuit Court of Appeals on February 3, 2020. On appeal, Ms. Bouazizi argued that the District Court had erred in ruling that her claims were time-barred, alleging that the "negligent" acts of her attorneys and alleged misrepresentations by Respondents' attorneys justified equitable tolling. In a January 29, 2021 decision, the Eleventh Circuit held that Ms. Bouazizi's appeal of the District Court's June 24, 2019 final decision on the merits was time-barred

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operations, effective October 1, 2019, following legislative action abolishing the Board.

pursuant to Fed. R. App. P. 4(a)(7). The Eleventh Circuit further held that the Rule 60 motions had been properly denied by the District Court. Ms. Bouazizi subsequently filed a Petition for Panel Rehearing, which was denied by the Eleventh Circuit on April 9, 2021. (Pet. App'x, Ex. 1).

**CORRECTION OF POTENTIAL  
MISSTATEMENTS IN THE PETITION FOR  
WRIT OF CERTIORARI**

**A. Supreme Court Rule 15.2 Obliges A Respondent To Correct Any Perceived Misstatement In The Petition For Writ Of Certiorari.**

Although a respondent is not required to file a brief in opposition to a petition for writ of certiorari, Sup. Ct. R. 15.2 requires a respondent to report any perceived misstatement in a petition of writ of certiorari:

Counsel are admonished that they have an obligation to the Court to point out in the brief in opposition, and not later, any perceived misstatement made in the petition. Any objection to consideration of a question presented based on what occurred in the proceedings below, if the objection does not go to jurisdiction, may be deemed waived unless called to the Court's attention in the brief in opposition.

Sup. Ct. R. 15.2. The Petition is replete with misstatements, including those regarding the alleged wrongdoings by Respondents' counsel, but many of the misstatements have no bearing on and no relevance to

the Eleventh Circuit decision at issue in this case. Accordingly, the Civil Service Board addresses only the pertinent misstatements in the Petition, and reserves its substantive arguments for later briefing, if ordered.

**B. Ms. Bouazizi’s Petition for Writ of Certiorari Contains Several Misstatements.**

**1. Ms. Bouazizi Incorrectly States That the Instant Appeal Was Timely Filed**

In her “Statement of Jurisdiction,” Ms. Bouazizi invokes the Court’s jurisdiction under 28 U.S.C. § 1257 “for having timely filed this petition for a writ of certiorari within 150 days of the Court of Appeals judgment, denial of discretionary review of order denying a timely petition for rehearing, which on this case is the 9<sup>th</sup> of April, 2021.” (Pet. 2). While the Eleventh Circuit’s denial of her petition for rehearing was entered on April 9, 2021 (App’x, Ex. 1), the deadline for a timely appeal is ninety days, not 150 days, as asserted by Ms. Bouazizi. Indeed, she cites to Rule 13.1 of the Rules of the Supreme Court setting forth the ninety-day time period to appeal in both her Constitutional and Statutory Provisions as well as in the Statement of Jurisdiction. Sup. Ct. R. 13.1. Accordingly, Ms. Bouazizi’s deadline to file the instant Petition fell on July 8, 2021, ninety days after the April 9, 2021 denial of her request for rehearing, and more than a month before she actually filed her Petition for Writ of Certiorari. As it does not appear from the docket or from any documents served on

Respondents that Ms. Bouazizi sought and obtained an extension of time pursuant to Sup. Ct. R. 13.5, her Petition should be denied as untimely.

**2. Many of the Questions Raised in Ms. Bouazizi's Petition Were Not Addressed by the Lower Courts.**

While Ms. Bouazizi offered four Questions for review before this Court, the first three questions presented appear to be restatements of her quest to have the principles of Equitable Tolling applied to excuse both the tardiness of her claims asserted in the District Court, and her appeal of several orders to Eleventh Circuit. With respect to her request for equitable tolling of the statutes of limitations for her substantive claims, such arguments were not properly before the Eleventh Circuit because she did not timely appeal the District Court's dismissal on those grounds. The fourth and final question appears to be an attempt to seek a decision on the merits of her case, which was not reached by the District Court (nor considered by the Eleventh Circuit), again, because of the untimeliness of her claims.

Furthermore, Ms. Bouazizi's Petition is replete with references to an alleged claim under the Family and Medical Leave Act that she asserts is not time-barred. Ms. Bouzizi has never had any claims pending under the FMLA in any of the lawsuits before the lower courts. Furthermore, this misstates the FMLA statute of limitations, which, like her time-barred Equal Pay Act claim, is also two or three years. 29 U.S.C. § 2617(c).

To the extent that the Eleventh Circuit did not consider the Questions raised by Ms. Bouazizi in the Petition, such Questions presented for review should be rejected as improperly included in the Petition.

**THE PETITION FOR WRIT OF CERTIORARI  
SHOULD BE DENIED**

Supreme Court Rule 10 provides that “[a] petition for a writ of certiorari will be granted only for compelling reasons.” Sup.Ct.R. 10. Rule 10 lists the following examples of the types of cases in which the Court may grant certiorari:

- (a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power;
- (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
- (c) a state court or United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question

in a way that conflicts with relevant decisions of this Court.

*Id.* Rule 10 expressly states, “[a] petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.” *Id.*

The Petition should be denied because it presents no “compelling reasons” for granting certiorari in this case. *See Id.* As set forth above, the crux of Petitioner’s arguments appears to be that the District Court erred in dismissing her lawsuit as time-barred. However, that argument was not properly before the Eleventh Circuit, as Ms. Bouazizi failed to file a timely appeal with respect to the June 24, 2019 final dismissal by the District Court, and accordingly the Eleventh Circuit lacked jurisdiction over the disposition of her Complaint. *Bouazizi v. Hillsborough County Civil Service Board*, 844 Fed. Appx. 135, 139 (11th Cir. 2021)(finding that “even if [Ms. Bouazizi] is [requesting review of the district court’s dismissal of her claims], we lack jurisdiction to review those orders”).

Indeed, the Eleventh Circuit’s review was limited to its consideration of the orders disposing of Ms. Bouazizi’s post-judgment motions. *Id.* at 139-40. However, of the forty-six “errors” that Ms. Bouazizi attributes to the State Court, the Middle District of Florida, the Eleventh Circuit, her attorneys, and Respondents’ Attorneys, these errors largely pertain to the dismissal of her Complaint or to minor (and largely immaterial or irrelevant) procedural issues, not to the post-judgment motions. Ms. Bouazizi has

raised no “compelling reasons” for this Court to exercise its jurisdiction.

Moreover, this case does not involve: (1) a conflict among United States courts of appeals; (2) a conflict between a United States court of appeals and a state court of last resort; or (3) a conflict on an important federal question among state courts of last resort. Therefore, in the absence of any compelling reasons for granting certiorari, the Petition should be denied.

#### **EQUITABLE TOLLING DOES NOT APPLY**

Ms. Bouazizi alleges that the doctrine of equitable tolling should be “expanded” to excuse her untimely filing of both her claims in the District Court, as well as (apparently) her failure to timely appeal the dismissal of those claims. (Pet. 22). First, this tacitly admits that the existing doctrine does not support her claims, because otherwise the equitable tolling doctrine would not need to be expanded. Second, while the former tolling argument was not properly before the Eleventh Circuit, Ms. Bouazizi does not offer any justification under either argument for her expansion of the equitable tolling doctrine other than to allow her yet another untimely bite at the apple.

Petitioner’s only attempt to assert a conflict lies in her cite to *Holland v. Florida*, 560 U.S. 631 (2010) to suggest that the Eleventh Circuit’s decision “contradicts” this Court’s jurisdiction regarding equitable tolling. (Pet. 9). This is unsupported in law or fact. *Holland* involved equitable tolling of a federal habeas petition for review of a death sentence under



the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”). While the *Holland* Court found that the lower court’s standard requiring “proof of bad faith, dishonesty, divided loyalty, [or] mental impairment” as “too rigid” a standard, here, the Eleventh Circuit did not apply such a standard to Ms. Bouazizi. *See Id.* at 634-35 (citing *Irwin v. Department of Veterans Affairs*, 498 U.S. 89, 96 (1990)). Rather, the Eleventh Circuit confirmed that “the requirement to file a notice of appeal within thirty days of the entry of the final judgment is ‘mandatory and jurisdictional.’” *Bouazizi v. Hillsborough County Civil Service Board*, 844 Fed. Appx. 135, 139 (11th Cir. 2021) (citing *Rinaldo v. Corbett*, 256 F.3d 1276, 1278 (11th Cir. 2001) (quotations omitted)). Accordingly, *Holland*, in which the Court based its decision in part on the fact that the AEDPA statute of limitations defense was not jurisdictional, does not present a conflict with the lower Court’s decision. *Holland*, 560 U.S. at 645.

### **CONCLUSION**

For the foregoing reasons, the Civil Service Board respectfully requests that this Court deny Ms. Bouazizi’s Petition for Writ of Certiorari.

Respectfully submitted,

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