CASE NO.
21-5191

IN THE

SUPREME COURT OF THE UNITED STATES

Tammy H. Hepburn, Petitioner

v.

Teleperformance, Respondent

On Petition For A Writ Of Certiorari

To The United States Court Of Appeals

For The Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

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The questions presented are:

1. Whether spoliation of evidence or failure to preserve evidence is relevant to a case when the case has been deem for litigation.

2. Whether an employee have the right to verbally be called the N-word in the workplace.

3. Whether the N-word is severe enough to create a hostile work environment under Title VII of the Civil Right Act of 1964 and 42 U.S.C. §2000e.

4. Whether the circumstances of the use of racial epithets in the workplace are sufficiently serious enough to create a hostile work environment is protected under Title VII of the Civil Right Act of 1964 and 42 U.S.C. §2000e.

5. Whether an employee that show they were treated differently from similar situated employees are protected under the Civil Rights Act of 1964 and 42 U.S.C. 2000e.

6. Whether a hostile work environment can create grounds for retaliation.

LIST OF PARTIES TO PROCEEDING

Plaintiff, Appellant, Petitioner - Tammy H. Hepburn

Defendant, Appellee, Respondent -Teleperformance

CORPORATE DISCLOSURE STATEMENT

Corporate Disclosure Statement filed by Teleperformance: Rule 7.1, Federal Rules of Civil Procedure, a nongovernmental corporate party to an action in a district court must file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock or states that there is no such corporation. The filing party hereby declares as follows: No such corporation.

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CITATION OF OPINIONS

1. United States District Court for the District of Arizona; Case No. 4:18-cv-00151-TUC-BGM.

2. Ninth Circuit Court of Appeals; Case No. 19-17053

BASIS FOR JURISDICTION

The judgment of the Court of Appeals was entered on Feb 16, 2021. A petition for rehearing was denied on Feb 16, 2021. This Court's jurisdiction rests on 28 U.S.C.§ 1254(1).

STATUTORY PROVISION AND STATUTES

Title VII of The Civil Rights Act of 1964:

Prohibits employment discrimination based on race, color, religion, sex and national origin. Title VII of the Civil Rights Act of 1964 also prohibits discriminatory conduct in the workplace that is "sufficiently severe or pervasive" to create a hostile work environment.

42 U.S.C. § 2000e-2:

Section 703 of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2 provides in part:

(a) Employer practices – It shall be an unlawful employment practice for an employer:

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or nation origin.

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(k) Burden of Proof in Disparate Impact Cases

(1)

(A) An unlawful employment practice based on disparate impact is established under this sub-chapter only if – (i)a complaining party demonstrates that a respondent uses a particular employment pract5ice that causes a disparate impact on the basis of race, color, religion, sex, or national origin and the respondent fails to demonstrate that the challenged practice is job related for the position in question and consistent with business necessity

(B)

(i) With respect to demonstrating that a particular employment practice causes a disparate impact as described in subparagraph (A)(i), the complaining party shall demonstrate that each particular challenged employment practice causes a disparate impact, except that if the complaining party can demonstrate to the court that the elements of a respondent's decision making process are not capable of separation for analysis, the decision making process may be analyzed as one employment practice.

(ii)If the respondent demonstrates that a specific employment practice does not cause the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity.

(C)The demonstration referred to by subparagraph (A)(ii) shall be in accordance with the law as it existed on June 4, 1989, with respect to the concept of "alternative employment practice".

STATEMENT OF CASE

Title VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of race with respect to terms, conditions, or privileges of employment. 42 U.S.C.§ 2000e-2(a)(1). An employer discriminates in the terms and condition of employment when it subjects its employees to a racially "intimidating, hostile, or offensive working environment." Meritor Sav. Bank, FSB v. Vinson, 477 U.S.57, 65(1986). An employee establishes a hostile-work environment claim by showing that his employer subjected him to discriminatory harassment that was sufficiently severe or pervasive. Meritor, 477 U.S. at 67. The severe or pervasive standard requires courts to consider the totality of the circumstances, including the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance. Harris v. Forklift Sys., Inc. 510 U.S. 17, 23 (1993). This standard is intended to separate unlawful harassment from ordinary tribulations of the workplace, such as simple teasing and offhand comments. Faragher v. City of Boca Raton, 524 U.S. 775, 788 (1998). Under it, a "mere offensive utterance" or an "offhand comment" cannot establish a hostile work

environment, but an "extremely serious" incident may. In order to build a case and for a case to be established for review with all evidence possible, it is unlawful to withheld documents, electronic stored information, emails, texts, ect.... that the information may be relevant to future litigation. Zubulake IV, 220 FRD 216 (SDNY 2003); (SER 100) 10-25. Disparate treatment is one kind of unlawful discrimination in U.S. labor law. It means unequal behavior toward someone because of protected characteristic (race or gender) under Title VII of the United States Civil Rights Act. A disparate treatment violation is made out when an individual of a protected group is shown to have been singled out and treated less favorably than others similarly situated on the basis of an impermissible criterion under Title VII. Under Title VII, a disparate treatment plaintiff must establish "that the defendant had a discriminatory intent or motive" for taking a job-related action. Watson v. Fort Worth Bank & Trust, 487 U.S. 977 at 986. If an employment practice which operates to exclude minorities cannot be shown to be related to job performance, the practice is prohibited. Watson v. Fort Worth Bank & Trust, 487 U.S. 977 at 986; Albemarle Paper Co. v. Moody, 422 U.S. 405, 425 (1975). The Civil Rights Act of 1991 was enacted. The Civil Rights Act of 1991 included a provision codifying the prohibition on disparate impact discrimination. Under the disparate impact statue, a plaintiff establishes a prima facie violation by showing that an employer used a particular employment practice that caused a disparate impact on the basis of race, color, religion, sex, or national origin. 42 U.S.C. § 2(K)(1)(A)(i). An employer may defend against liability by demonstrating that the practice is "job related for the position in question and consistent with business

necessity. 42 U.S.C. § 2(K)(1)(A)(i). An Adverse Employment Action is a race discrimination claim means an "ultimate employment decision "such as hiring, granting leave, discharging, promoting, or compensating." McCoy v. City of Shreveport, 492 F.3d 551, 559 (5th. Cir. 2007). An acute incident of abuse qualify as an adverse employment action, such as when the incident "constitutes an intolerable alteration of the plaintiff's working conditions so as to substantially interfere with or impair his ability to do his job." Mathirampuzha v. Poter, 548 F.3d 70, 78-79 (2d 2008). Whether an employee opposes an unlawful practice or participates in a proceeding against the employer's activity, the employee must hold a reasonable belief that the conduct he opposed violated Title VII. Long v. Eastfield Coll., 88 F.3d 300, 305 (5th. Cir 1996).

1. **Factual Background**

Tammy H. Hepburn (Hepburn), African-American, filed claims against Teleperformance which involved racial discrimination, harassment, and retaliation. Hepburn, contends she was a loyal, dedicated, and conscientious employee of Teleperformance, formally known as Aegis USA, Inc. The Defendant acknowledges that Hepburn job performance was satisfactorily. Pet. App. B (SER 12) b. Hepburn was first hired as a Temporary Customer Service Representative. Ninth Circuit Record of Appeal Appellant Opening Brief (AOB) pg. 1;2.; (AOB) Exh.B; (SER 3) 12-13; (SER 87) 6. Once peak season ended, Hepburn was retained by Teleperformance and became a permanent Customer Service Representative. Teleperformance has provide no documents for Hepburn to support this employment change. Hepburn did receive a .50 raise bring her pay to $10.00 per hour. (AOB) pg. 1;3. (SER 368). During peak season

hiring, all employee's are considered temporary. When peak season is over, Teleperformance decides who they are going to retain. Teleperformance proferrated that Hepburn was hired as a Customer Service Representation. Pet. App. B (SER 3)9-11; (SER 303) 21-24;(AOB) Exh.B. Hepburn applied for and accepted the position of Receptionist on May 23, 2014. (AOB) pg.1;3. (SER 87) 7; (SER 303) 23-24;(SER 3) 10-11. Due to the fact that Teleperformance was acquiring Aegis USA, Inc. Hepburn's HR Manager Marilyn Winiesdorffer, informed Tammy H. Hepburn that she was going to move her to a back office to assist Human Resources with catching up with backlog of employee files and she was going to hire someone to replace her as Receptionist. (AOB) pg. 2;5. (SER87) 8-11. On July 30, 2014, Hepburn was moved to a back office within the Human Resource Office and Margaret McClanahan (McClanahan) non-African-American, was hired to replace Hepburn as Receptionist. (AOB) pg. 2;6. (SER 87) 8-11; (SER 432) 2-3. At that time Hepburn and McClanahan both was classified as Receptionist. (SER 304) 17; (SER 4) 18; (AOB) pg. 2;6. (SER 432) 4; (SER 87) 11. Hepburn was still receiving the pay as a Customer Service Representative. (AOB) pg. 2;7 ; (SER 361) 3-4; (SER 368). Hepburn move to the back office was without any business contract information as to what her new position was or information informing her of pay affiliated with the position. (AOB) pg. 2; 7. (SER) 95;1-11. Hepburn at the time she was employed with Teleperformance was well qualified to hold a position within the Human Resource Department. Hepburn has an Associate degree in Information Systems. Hepburn was hired before Margaret McClanahan.

Teleperformance has not provide any information pertaing to this information. During my deposition I was asked to verify the Resume that I had submitted, that was reviewed before I was hired, however, it's not contained in the exhibit of my deposition with the Teleperformance counsel. Teleperformance believes that Hepburn was moved to the back office because they experience a seasonal increase of temporary employee hiring in the Sierra Vista area. (SER 303) 24; (SER304) 1-5; (SER 3) 16-20. Teleperformance has not provided any documentation to support Hepburn being moved or promoted to the position in the back office. Pet. App. B (SER 3). Teleperformance proferrated Hepburn moved to the bacck office was pretet to hide poor business practices and discrimination. On September 3, 2014, Hepburn address her concerns to Rhonda Reinartz (Reinartz non-African-American) about someone sabotaging the employee files, which Hepburn was directed to a hall bullentin board by Reinartz to file her complaint with yourvoice@aegiscomgroup.As the acts continued, on September 10, 2014, Hepburn filed her complaint with yourvoice@aegiscomgroup and Judy Morris, Senior Vice President (VP) of Human Resources and Niti Prothi, Associated Vice President (AVP). (AOB) pg. 2-3; 8. (SER 87), pg. 4;11-19; (SER 3) 22-23; (SER 88) 11-2; (AOB) Exh. C . Teleperformance proferrated that the employee's files was in that condition due to excessive hiring is pretextual to hide the harrassment Hepburn endured and to hide discrimination. Pet. App. B (SER 4) 12-14, (AOB) pg. 2; 8.; pg. 4;13; (SER 88) 11-24. Soon after Hepburn was moved to the back office she stopped receiving company wide email that are sent out by co-workers within her location. Usually the emails came from

the Recruiting manager Jim Gordon. (SER 305) 15-20; (SER 6) 3; (SER 434) 14; (SER 92) 10-21. On September 15, 2014, In a conversation with McClanahan, McClanahan reference to Hepburn as being the N-word up front. (AOB) pg. 3; 9. Pet. App. B (SER 4) 17-19. Hepburn filed a complaint of McClanahan act with Judy Morris SVP of Human Resources and Niti Prothi, AVP of Human Resources. (AOB) pg. 3; 9;pg. 4; 11. (SER 87) 19-24; (AOB) Exh. E. Teleperformance proferrated that an investigation was conducted into Hepburn allegations and Prothi AVP and Reinartz (acting supervisor) were not able to corroborate Hepburn's claims. Teleperformance has not provide Hepburn with essential documentation that an investigation took place. Therefore, Teleperformance conclusion of the investigation is proferrated to hide unlawful business practices. (SER 4) 22-26. Teleperformance indicates that McClanahan denied ever having used such language in reference to Hepburn. (SER 4) 27-28. (SER 5) 2-10. Teleperformance proferrated McClanahan deniel of telling Hepburn she's preceived as the N-word upfront is pretextual to hide discrimination. On September 16, 2014, Reinartz address her concerns with Hepburn about McClanahan use of the N-word as it was part of her everyday verbiage and Reinartz indicated to Hepburn that a N-word is the man who sexually molested her son, whom was African-American. Reinartz also used other racial epithets "Red Neck" and "Honky" when she reference McClanahan use of the N-word. (AOB) pg. 3;10. (SER 87)24; (SER 88) 1-4. On September 18, 2014, Reinartz showed Hepburn a photograph of a black and white herder type dog wit a knife with the words in quotation. "Mary Had A Little Lamb". (SER 433) 12; (SER 88) 5-7.

This photo was viewed by Hepburn and McClanahan. (AOB) pg. 4;12. (SER 88) 6-11. This was the second time Reinartz had showed Hepburn the same picture after Hepburn filed a complaint. (AOB) pg. 4; 12, (SER 88) 7-11. Hepburn was intimidated the first time Reinartz showed her the picture, but brushed it off. The second showing of the picture, Hepburn became threaten and feared for her, dog, daughter, and her family safety.. This form of harassment and retaliation was detrimental. On November 5, 2014, Hepburn met with Yolanda Bay, HR Manager, to get an update on the status of the investigation. Bay informed Hepburn that she had to speak with McClanahan and get with the company lawyers. (AOB) pg. 5;15. From September 2014-December 1, 2014, Hepburn had not been interview or update on the investigation of her allegations. At the time Hepburn had ended her employment with Teleperformance, Hepburn had know knowledge of the investigation or the remedial and disciplinary action that had taken placed. Teleperformance Because of the length of time it was taking Teleperformance to complete it's investigation and her working conditions, on December 1, 2014, Hepburn constructively resigned from Teleperformance. and move back to Virginia.

2. Procedural Background

Hepburn all essential personnel are aware of the events that has taken place while she was employed with Teleperformance. The essential personnel consist of Kerry Black, Director of Human Resources, Judy Morris, Senior VP of Human Resources, Niti Prothi, Associate VP of Human Resources, and Yolanda Bay, Human Resource Manager. (SER) 89;7-9. (AOB) pg. 3; 9;pg. 4; 11. (SER) 87; 19-24. (AOB) pg. 4;13 (SER) 88; 11-26.

Hepburn filed discrimination with the EEOC Phoenix, AZ office. (AOB) pg. 5; 16. (SER) 89; 2-16. The final charge was presented to Teleperformance in January 2015. After mediation that took place on March 30, 2015, Hepburn did not hear from the EEOC office (after several attempts to receive case updates) until August, 2017 by notification with a right to suit letter. Hepburn filed suit in the Arizona Superior Court in Cochise County on November 8, 2017. (SER) 454-460. On January 22, 2018, Hepburn filed an Application for Entry of Default Arizona Superior Court in Cochise County. (SER) 470-471. See (Pet. App. C). Teleperformance , the defendant provided notice of its removal pursuant to 28 U.S.C.§§1332, 1441, and 1446 of this case CV2017-00625 pending in the Superior Court, State of Arizona, County of Cochise. (SER) 440-499 to the United States District Court District of Arizona, pursuant to 28 U.S.C. § 1332(a)(1). Hepburn claimed, that Teleperformance created a racially hostile work environment in violation of Title VII. The proceedings continued with Hepburn and Teleperformance participating in the Court ordered Mandatory Initial Discovery Pilot. which consist of the following process: On April 3, 2018 received order that the Honorable Judge Velasco would conduct proceeding in this case [3]. On April 17, 2018, the Plaintiff presented Teleperformance with Interrogatories requesting information relevant to create her case. (Doc. 45, Exhibit 5). On April 20, 2018 the plaintiff received Notice of Deposition form the defendant scheduled for May 22, 2018. On April 24, 2018, Hepburn submitted Mandatory Initial Discovery Request to the defendant. On April 26, 2018, Hepburn received the defendants Initial Disclosure Statement. On May 13, 2018, Hepburn

submitted adjusted Initial Disclosure to the defendant. On May 15, 2018, Hepburn received Defendant's Responses to interrogatories. On May 22, 2018, Hepburn attended her deposition meeting with the defendant. May 25, 2018, Hepburn received order for scheduling conference from the court . On June 11, 2018, Hepburn submitted to the defendant Supplemental and Additional Initial Disclosure. On June 19, 2018, Hepburn served a Request to Defendant For Production of Documents. Because the defendant fail to provide Hepburn with discovery information in accordance with the Mandatory Initial Discovery Pilot, On August 10, 2018, Hepburn submitted to the United States District Court District of Arizona a request For Pre-Motion Conference. On August 29, 2018, Hepburn received the defendant's Response To Plaintiff Pre-Motion Conference. On August 30, 2018, Hepburn sent a letter to the Honorable Judge Bernard Velasco stating incidents that were taking place with her and her private property. On September 17, 2018, Order received from the court denying Hepburn's Motion for Pre-Motion Conference. On September 12, 2018, Hepburn received defendant's Motion For Protective Order. On September 17, 20 18, Hepburn submitted a Motion For Reconsideration . On October 3, 2018, Hepburn receive order granting Protective Order based on the defendant releasing relevant case information to Hepburn for case production and denying Hepburn's Motion for Reconsideration. The defendant only released two fictitious affidavits from Human Resource Manager Yolanda Bay and Payroll's Rhonda Reinartz. On October 4, 2018, Hepburn received order for Judge Honorable Bruce G. Macdonald to continue the proceeding of this case. On October 22,

2018, Hepburn the Plaintiff filed a Motion For entry of Default Judgment [45]. On November 1, 2018, Teleperformance Motion For Summary Judgment. On November 8, 2018 Hepburn received the defendant's Response to Plaintiff's Motion For Entry of Default Judgment . On November 26, 2018, Hepburn received defendant's response to Hepburn's Production of Documents. On December 12, 2018, Hepburn submitted her Opposition to To Defendant's Motion for Summary Judgment [51]. On December 21, 2018, Hepburn received order for plaintiff to file supplemental to her response to Defendant's Motion for Summary Judgment.[52].

In the Third and Fourth Circuits, a jury may find that a workplace use of the N-word is an extremely serious isolated incident that is sufficiently to violate Title VII; in the Fifth, Sixth, Seventh, Eighth, and Tenth Circuits, a single workplace use of the racial epithet is a non-actionable mere utterance". The frequency of the occurrence of the use of the N-word and the other racial epithets used would allow any reasonable jury could find that Teleperformance conduct was sufficiently hostile. Teleperformance conduct was sufficiently hostile not only because such epithets were used, but also because they were expressed in conversations with Hepburn. Because this conduct took place within days of each other, which effected Hepburn's work environment and work performance any reasonable jury could find that these acts were severe and pervasive. The United States District Court for The District of Arizona granted Teleperformance motion for summary judgment. Pet. App. B. and the United States Court of Appeals For the Ninth Circuit affirmed the District Court decision. Pet. App. A. Upon discovery that an error had

occurred with Hepburn's opposition to Teleperformance motion for summary judgment. Hepburn motion the United States Court of Appeals for the Ninth Circuit to strike Hepburn's supplement to her opposition to Teleperformance motion for summary judgment and Teleperformance reply/respond, because Hepburn records does not correspond with the documents submit to the courts by Teleperformance. Hepburn and if it was submitted by Hepburn or on her behalf it should be stricken from the records. (Ninth Circuit Docket 25 and 26).

REASONS FOR A WRIT OF CERTIRORARI

Petitioner Tammy H. Hepburn respectfully petitions this court for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit and the United States District Court District of Arizona. In summary, Rule 56(c) procedure for summary judgment (1) A party asserting that a fact cannot be or is genuinely disputed must support the assertion by: (A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or (B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact. In review and research Hepburn discovered that documents that have been submitted to the Courts by Teleperformance does not match and is inconsistent with Hepburn records. After discovering such, Hepburn motion the court to strike her Supplement to oppose the defendant motion for summary judgment and Teleperformance reply/response to Hepburn's supplement to oppose

the defendant motion to summary judgment. In the Judgment from the District Court concludes the "Based upon the foregoing, the Court finds that the Plaintiff failed to meet her burden in opposing the Defendant's motion for summary judgment." It is fundamental to appellate practice that the records on appeal be of relevance and appropriate. The Appellant, Tammy H. Hepburn, discovered that her Plaintiff's Supplement to the Defendant's Motion for Summary Judgment that the Defendant, Teleperformance hand the Ninth Circuit Court has it is possession is insufficient defense or a redundant, immaterial, impertinent or scandalous matter. Delta Consulting Grp., Inc. v. R. Randle Constr. Inc., 554 F.3d 1133, 1141 (7th. Cir. 2009). The Court may strike defenses that are "insufficient on the face of the pleadings, that fail as a matter of law, or that are legally insufficient.". Heller Fin., Inc. v. Midway powder Co., 883 F.2d. 1286 (7th. Cir. 1989). The document contained in Hepburn's files indicates that she submitted to the Defendant was the Plaintiff's Supplement to Opposition Motion To Defendant's Motion For Summary Judgment and Not the Plaintiff's Supplement to the Defendant's Motion For Summary Judgment. (Ninth Circuit Doc. 26). Therefore the construction of such document constitutes a reversible error. Reversible error warrants reversal of a judgment on appeal. Reversible error criteria consist of one or more of the appellant's substantial rights being affected or the evidence in question be of such character as to have affected the outcome of the trial. Montana Petroleum Tank Release Compensation Bd. v. Crumley's, Inc. 174 P.3d. 948 (Mont. 2008). The United States Court of Appeals for the District of Columbia held that a court may not grant a summary judgment motion merely because the non-moving party failed to oppose the motion, even when a local rule provides that the District Court may treat an

unopposed motion as conceded. The District Court must analyze whether summary judgment is warranted under Federal Rule of Civil Procedure (FRCP) 56. FRCP 56e sets out what the Court may do when the party opposing summary judgment fails to properly address the moving party's assertions of fact. The rule does not permit the Court to grant the motion as conceded when the non-moving party fails to oppose the motion for summary judgment. Upon request of the United States District Court for the District of Arizona or the Defendant, Teleperformance, the proper motion to be filed is a motion for a more definite statement or statements. Swierkiewicz v. Sorema N.A., 534 U.S. 506, 514, 122 S.Ct 992, 152 L.Ed. 1 (2002); Sisk v. Texas Parks and Wildlife Dept, 644 F.2d 1056, 1059 (5th. Cir.1981). Although motions to strike are sometimes disfavored, they should be granted when: 1) the allegations have no possible relation to the controversy and 2) the allegations may cause prejudice to one of the parties Augustus v. Board of Public Instruction, 306 F.2d 862, 868 (5th. Cir. 1962).Ninth Circuit Docket 26. All cases should be view as a whole to include all evidence to claims presented. This case stems from a case with the EEOC Phoenix Office. The Defendant was very aware that the case was in litigation and failed to preserve evidence to the related litigation. (SER 100) 10-15. In December 2017, the Supreme Court of Virginia decided a case of first impression as to whether spoliation of evidence requires an element of "bad faith". Spoliation refers to the destruction of evidence or the failure to preserve evidence that is protected by FRCP 37. Spoliation occurs when a party is aware: (1) that there is either pending litigation or probable future litigation, (2) that the pending or probable litigation involves evidence in that party's custody or under its control, and (3) that if that evidence is destroyed or not preserved,

it will interfere with the other party's ability to prove it claims. A general axiom that exemplifies most common law standards is the duty to preserve electronically stored information or any potentially relevant evidence, attaches when a party reasonably foresees that the information may be relevant to future litigation. Zubulake IV, 220 FRD 216 (SDNY 2003). (SER 100) 15-26. Therefore, Writ of Certirorari should be granted for review of the Petitioner complete case. The Ninth Circuit make known that Tammy H. Hepburn appeals, pro se, from the district court's summary judgment in her Title VII employment action alleging race discrimination, hostile work environment, and retaliation claims. The Ninth Circuit affirmed the district court decision. In the Third and Fourth Circuits, a jury can find on use of a slur severe enough to establish a hostile work environment. The D.C.Circuit has suggested agreement with the view that one workplace use of the N-word, a work that "instantly calls to mind our country's long and brutal struggle to overcome racism and discrimination against African-Americans", may alone establish a hostile-work environment claim. Ayissi-Etoh v. Fannie Mae, 712 F.3d 572, 580 (D.C. Cir. 2013). In the Fifth, Sixth, Seventh, Eight, and Tenth Circuits, the workplace use of a racial epithet by itself is invariably insufficient to place a hostile work environment claim before a jury. What ever the circumstance are in the work place, the use of the N-word (and other similar abhorrent racial epithets) violates Title VII. This is a recurring issue that can be resolved only by this Court. The N-word is used in the work place to demean African-American employees. Title VII makes it unlawful for an employer to discriminate against an employee with respect to his compensation, terms, conditions, or privileges of employment on the basis of various characteristics, including race. 42 U.S.C. §

2000 e-2(a)(1). The N-word alone is "perhaps the most offensive and inflammatory racial slur in English." Swinton v. Potomac Corp., 270 F.3d 794, 817 (9th. Cir. 2001). In Hepburn's case, the use of the N-work and the other racial epithets was severe and pervasive that changed Hepburn's prospective of the organization and working environment. Therefore Hepburn's case should be reviewed and a reversal including relief should be granted.

CONCLUSION

When a case evidences is mainly based on what the plaintiff have submitted, this case should be look at in it's entirety. No case should be one-sided, whereas one side is not held responsible for not providing evidence that is relevant to a case. Even though, (I) Hepburn did not receive supporting documentation from the Respondent (Teleperformance), (I) Hepburn has provided my burdeen of proof in suffering racial discrimination, a hostile work environment, and retaliation at the hands of Teleperformance.

Therefore, this Court should grant my petition for Writ of Certiorari.

Date: May 13, 2021

Signature: Tammy H. Hepburn

Tammy H. Hepburn

TABLE OF AUTHORITIES

STATUES