

No. 21-5824

In the Supreme Court of the United States

Mary Jill Allgeyer, Petitioner

v.

City of Cincinnati, et.al, Respondents

FILED
SEP 27 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

ON PETITION FOR A WRIT
OF CERTIORARI TO

THE UNITED STATES COURT OF
APPEALS FROM THE SOUTHERN DISTRICT
OF OHIO, THE SIXTH CIRCUIT
NO. 20-3827

PETITION FOR A WRIT OF CERTIORARI

Petitioner Name

Mary Jill Allgeyer, Pro Se
1129 Timbervalley Court
Cincinnati Ohio 45233
(513) 368-3665

QUESTIONS PRESENTED

(1) If an employee/plaintiff is a member of a racial majority (white female) is she legally considered to be viewed as an *unprotected class*, stated below, in my reverse discrimination case, by the court?

Court of Appeals for the Sixth Circuit Filed June 28, 2021 Case No. 20-3827 Pg. 6 "Where the plaintiff is a member of the racial majority—and therefore not a member of a protected class."

(2) If an appellant has direct evidence, is it necessary to prove defendants' reverse discrimination by using Prima Facie

(3) Ledbetter v. Gilley, 385 F.3d 683,69 (6th Cir.2004). Lilly Ledbetter Fair Pay 2009 Act was a comparison of wages of female to male. When the Plaintiff is white female and works the same position in the same offices making \$20,000-\$30,000 less annually than a black female employee' counterpart who is similarly situated, will the court apply my discrimination to the Lilly Ledbetter Fair Pay Act of 2009? The disparity is the same.

(4) Reverse Discrimination: Does the court recognize reverse discrimination performed by local government when Minority and Male leadership has workplace power over older white female?

(5) Will the Supreme Court perform a review of the District Magistrate's performance with not abiding with Magistrates duties Rule 73.

Magistrate Judges: Trial by Consent; Appeal (a) TRIAL BY CONSENT.)

I issued non-consent for Magistrate Bowman, twice on forms during scheduling and was never approached to fill out a consent form.

i.

This Case is a Case of Public or Great general Interest and asks substantial constitutional questions.

LIST OF PARTIES

- All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Defendants

City of Cincinnati, 1990-2018
801 Plum Street
Cincinnati, OH 45202

Harry Black, City Manager
8, 04/21/18

Georgetta Kelly, Director Service 09/08/14
Human Resource
Service 02/21/12-11/3/2017

Represented by:

Lauren Credit Mai (0089498)
Sr. Assistant City Solicitor
Room 214 City Hall
801 Plum Street
Cincinnati, Ohio 45202
Telephone: (513) 352-4703
Email: lauren.creditmai@cincinnati-oh.gov

William C. Hicks (0068565)
Sr. Assistant City Solicitor
Room 214, City Hall
801 Plum Street
Cincinnati, Ohio 45202
Telephone: (513) 352-3329
Email: William.hicks@cincinnati-oh.gov

Petitioner

Mary Jill Allgeyer, Pro Se
12/06/2016-current
City Employee April 1990-July 1993 fired
Rehired October 1, 2000-August 1, 2018
1129 Timbervalley Court
Cincinnati, Ohio 45233
(513) 368-3665 mjallgeyer@gmail.com

Corporate Disclosure Statement

To my knowledge, no one at the time of these proceedings was in business relationships with any institutions

TABLE OF CONTENTS

INDEX TO APPENDIXES	<i>iv&v</i>
OPINIONS	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
PROPOSITION OF LAW.....	9
STATEMENT OF CASE.....	4
REASONS FOR GRANTING THE WRIT	10
CONCLUSION	13
PROOF OF SERVICE	14

INDEX TO APPENDIXES

APPENDIX A.

United States Court of Appeals for the Sixth Circuit
Order Filed June 28, 2021. Case No. 20-3827. On appeal from United States District Court Case No. 1:16-cv-01128 Order Before SUHRHEINRICH, WHITE and BUSH Circuit Judges that we affirm the district court's judgment.

Not Recommended for Publication.

APPENDIX B

The United States District Court for the Southern District of Ohio Case No.: 1:16-cv-01128, 05/13/2020, Doc 37 *'Memorandum Opinion and Order: The undersigned forewarns Plaintiff that any additional motions will be denied on the same procedural grounds unless district judge rejects the pending R&R.'*

III. Conclusion and Order

Accordingly, IT IS ORDERED THAT Plaintiff's motion for leave of court (Doc. 34), herein construed as a motion seeking leave to file an untimely motion for summary judgment, is DENIED." Stephanie K. Bowman, United States Magistrate Judge.

New evidence was omitted.

United States District Court for the Southern District of Ohio Complaint filed December 6, 2016. Case No: 1:16-cv-01128

Final Ruling

Judge Matthew W. McFarland, Docket 39 filed 07/01/2021: "*Order overruling objections (Doc 31, 38), Adopting Report and Recommendation (Doc. 30 filed 04/01/19) Granting Motion for Summary Judgment (Doc. 23 filed 01/04/19) and terminating case.*"

Case No.: 1:16-cv-01128, Doc. 40 Filed: 07/01/20

IT IS ORDERED AND ADOPTED in its entirety and that the Motion for Summary Judgment is GRANTED July 1, 2020.

JUDGMENT IN A CIVIL CASE

Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

X **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and
IT IS ORDERED AND ADJUDGED: That the Report and Recommendation is ADOPTED in its entirety and that the Motion for Summary Judgment is GRANTED.

July 1, 2020.

Richard W. Nagel, Clerk of Court
By: */s/ Kellie A. Fields*
Deputy Clerk

I, Plaintiff, see no publication

TABLE OF AUTHORITIES

<i>McDonnell Douglas Corp. v. Green</i> , 411 U. S. 792 (1973).	
<u>Fed. Rule Civ. Proc. 8(a)(2)</u> ” 792.....	5
<i>Trans World Airlines, Inc. v. Thurston</i> , 469 U. S. 111	
Civil Rights Commission.....	5
City of Cincinnati Human Resource Personnel Policy & Procedures.....	
42 U.S. Code § 2000e	
42 USC 2000e-5: Enforcement provisions	
[USC02] 42 USC 2000e-5: Enforcement provisions	
https://uscode.house.gov/view.xhtml?req=granuleid:...	
§2000e-5. Enforcement provisions (a) Power of Commission to prevent unlawful employment practices. The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 2000e-2 or 2000e-3 of this title.	
IN THE MATTER OF CASES REFERRED TO UNITED STATES MAGISTRATE JUDGE STEPHANIE K. BOWMAN GENERAL STANDING ORDER ON CIVIL PROCEDURES “ <i>prior agreement to consent to the jurisdiction of the Magistrate Judge</i> .”	<i>i</i>
Ohio’s Public Record Requests Act 149.43.....	7
Civil Service Rules not followed:	
Section 10 Unclassified Service requirements.....	B
Rule 4 Section 1. Classification Plan	
O.R.C. 3313.6027. (A)	
<u>28 U.S.C. §636(c)</u>	6
<u>28 U.S.C. §636(c)(5)</u> ”	6
US Department of Labor 77A	E
O.R.C. 124.04 (E)	E
Classifications and Compensation rule 4, section 5, (e) (h); Civil Service Rule 4	

R.C. 4112.02 §1&2 Unlawful Discriminatory practices

The Ohio Civil Rights Commission enforces Ohio's laws against Discrimination. Its authority is derived from Ohio Revised Code, Chapter 4112 and Ohio Administrative Code, Chapter 4112.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO: Section 1.

That sections 3314.03 and 3326.11 be amended and sections 3313.6027 and 4113.35 of the Revised Code be enacted to read as follows: Sec. 3313.6027. (A) As used in this section: (1)

"Divisive concepts" means the concepts that: (a) One nationality, color, ethnicity, race, or sex is inherently superior to another nationality, color, ethnicity, race, or sex.

"AFFIRMING the 14th Amendment of the Constitution that we're equal under the law.". Sec. 4113.35. (A) As used in this section: (1) "Divisive concept" has the same meaning as in section 3313.6027 of the Revised Code. (2) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government and includes a state institution of higher education, the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, and the state highway patrol retirement system..... 2
(B)(1) No state agency shall offer teaching, instruction, or training on divisive concepts to any employees, contractors, staff members, or any other individual or group or require them to adopt or believe in divisive concepts.

Proposition 209

State and Federal Constitutions Require Equal Protection. The state and federal Constitutions' provide all people equal protection.....5

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 6/28/21.

No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. __A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

OPINIONS BELOW

Justice Thomas delivered the opinion of the Court.....

U.S. Senator Mike Braun states, *"To claim Qualified immunity under the Reforming Qualified Immunity Act,*

Ruth Bader Ginsburg opinions:.....

History Stories updated May 30, 2018 at <https://www.history.com/news/ruth-bader-ginsburgs-landmark-opinions-womens-rights-supreme-court>

"In an amicus brief, Ginsburg used the statute to argue that gender-based discrimination hurt men, too. "Why," she asked the Court during oral arguments, "did the framers of the 14th Amendment regard racial [discrimination] as odious? Because a person's skin color bears no necessary relationship to ability. Similarly...a person's sex bears no necessary relationship to ability.

JURISDICTION

EEOC filed September 22, 2016, Cincinnati Ohio

United States District Court for the Southern District of Ohio Western
Division 1:16-CV-1128 filed December 6, 2016; Final Ruling July 1, 2020.

United States Court of Appeals, sixth circuit Case No. 20-3827 filed August 4, 2020
Decision June 28, 2021.

The Supreme Court of the United States filed September 27, 2021.

1.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The fourteenth amendment to the United States Constitution Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Title VII of the Civil Rights Act of 1964 made it unlawful for an employer with 15 or more employees to discriminate against an employee or prospective employee because of their race/color, national origin, sex, or religion. This type of discrimination can take two forms: disparate treatment or disparate impact. Disparate Treatment discrimination occurs when an employer intentionally discriminates against an individual because they possess one of the protected characteristic. The employer's motive for taking the adverse employment action against the employee or prospective employee is central to a determination of fault.

S.181 - Lilly Ledbetter Fair Pay Act of 2009 111th ...

<https://www.congress.gov/bill/111th-congress/senate-bill/181>

Jan 08, 2009 · Lilly Ledbetter Fair Pay Act of 2009 - Amends the Civil Rights Act of 1964 to declare that an unlawful employment practice occurs when: (1) a discriminatory compensation decision or other practice is adopted; (2) an individual becomes subject to the decision or practice; or (3) an individual is affected by application of the decision or practice, including each time wages, benefits, or other practice, and for other purposes.

SEC. 4. DISCRIMINATION IN COMPENSATION BECAUSE OF AGE. Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended--

``(3) For purposes of this section, an unlawful practice occurs, with respect to discrimination in compensation in violation of this Act, when a discriminatory compensation decision or other practice is adopted, when a person becomes subject to a discriminatory compensation decision or other

practice, or when a person is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.".

UNCLASSIFIED POSITIONS 124.11

The City has many unclassified postions that do not follow ORC rules. O.R.C. Section 10 Unclassified Service requirements Rule 4 Section Classification. departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.

- (4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;
- (5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;
- (6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;
- (7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;
- (b) The library staff of any library in the state supported wholly or in part at public expense.
- (8) Four clerical and administrative support employees for each of the elective state officers, four clerical and administrative support employees for each board of county commissioners and one such employee for each county commissioner, and four clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees; ETC. <https://codes.ohio.gov/ohio-revised-code/section-124.11>

STATEMENT OF THE CASE

RESPONSE (1) The Appellant Court before: Suhrheinrich, White, and Bush, Circuit Judges state Case: 20-3827 Document 32-2 filed 06/28/21 Page 6 that for "Prima Facie was (1) the plaintiff was a member of a protected class, (2) the plaintiff was qualified for the job, (3) the plaintiff suffered an adverse employment decision, and (4) the plaintiff was replaced by a person outside the protected class or treated differently from similarly situated non-protected employees. White v. Baxter Healthcare Corp., 533 f.3d 381, 391 (6th Cir. 2008). "Where the *Plaintiff is a member of the racial majority—and therefore not of a protected class*—and alleges discrimination, then the first and fourth factors change, so that the plaintiff must demonstrate background circumstances supporting the suspicion that the employer discriminates against the majority, and the plaintiff must also demonstrate being treated differently from similarly situated employees of a different race. Case: 1:16-cv-01128-MWM-SKB Doc #: 30 Filed: 04/01/19 Page: 6 of 26 PAGEID #: 941 7."

When applying *employer discriminates against the majority*, a fact that is noted above, as a Pro Se petitioner, I may represent only myself, but my case is with the court that discriminates against the majority. Suspicions about discrimination of the majority are as follows: Taking promotional tests for years with the same white female employees hoping for promotions and, afterwards, looking at eligible list, it is easy to ascertain who will be certified for promotions by HR's new policies and procedures to certification. HR discriminated against me for years, as noted

with direct evidence in this lawsuit, as proof of employer discriminates against majority and in the court, I am majority.

RESPONSE (2) Direct Evidence:

"The 5framework does not apply where, for example, a plaintiff is able to produce direct evidence of discrimination. See *Trans World Airlines, Inc. v. Thurston*, 469 U. S. 111, 121."

Justice Thomas delivered the opinion of the Court as follows:

"This case presents the question whether a complaint in an employment discrimination lawsuit must contain specific facts establishing a *prima facie* case of discrimination under the framework set forth by this Court in *McDonnell Douglas Corp. v. Green*, 411 U. S. 792 (1973). We hold that an employment discrimination complaint need not include such facts and instead must contain only "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. Rule Civ. Proc. 8(a)(2)."

Although I submitted pages of minority in similar situations of positions Doc 27, the defense ignored direct evidence and continued with with Prima Facie proof. Prima Facie was used by defendants and Magistrate against plaintiff in motions and Summary Judgment in my case which is not necessary with direct evidence.

"The *McDonnell Douglas* framework does not apply where, for example, a plaintiff is able to produce direct evidence of discrimination. See *Trans World Airlines, Inc. v. Thurston*, 469 U. S. 111, 121.

RESPONSE (3)

In comparing Lilly Ledbetter case to mine, the difference is skin color and opposite sex which, looking at sex only is currently against my Civil Rights.

Lilly Ledbetter Act restores position of the EEOC each paycheck that delivers discriminatory compensation is a wrong *actionable* under the federal EEO statutes, regardless of when discrimination began.

RESPONSE (4)

Reverse Discrimination:

Reverse Discrimination: When minority has the power with decisions about the

workforce, and directly or indirectly make discriminatory decisions or with policy, the majority suffers. The Civil Rights Act addressed discrimination causing minority disparity in the work place. Disparity by majority in the workplace is on par to that of disparity of minority past. When minority leaders have power over majority and disregard the rules and laws put in place to alleviate discrimination in the public sector workforce, they are equally guilty of employee discrimination, but in the reverse.

RESPONSE (5) Magistrate Bowman continued oversight and rulings of this case and did not honor the plaintiff's non-consent entry on forms (attached) on two separate occasions during Joint Discovery Plan/scheduling.

"When authorized under 28 U.S.C. §636(c), a magistrate judge may, if *all parties consent*, conduct a civil action or proceeding, including a jury or nonjury trial. A record must be made in accordance with 28 U.S.C. §636(c)(5)". In District Court, I (Plaintiff) issued non-consent for Magistrate Bowman, twice on forms during scheduling Case: 1:16-cv-01128-MWM-SKB Doc #: 8 Filed: 03/09/17 and Page: 1 of 6 PAGEID #: 77, I never gave the Magistrate consent. Magistrate threw out my *Leave of Court* to submit *new evidence in 2019*. The Magistrate facilitated a Bench Trial De Novo (not sure of date) pushing for Summary Judgment opposed by me Doc #: 38 Filed: 05/27/20 PAGEID #: 1049 in favor of defendants ignoring issues of fact and omitting direct evidence for De Novo to District Judge McFarland, all without notification to me.

Although I, plaintiff, filed objections to Magistrate with responses and motions and denied her twice on scheduling forms to consent, the Magistrate continued with rulings throughout this case with some as follows:

The Magistrate gave no notification to plaintiff about changing defendant's pleadings to Summary Judgment; repeatedly did not consider direct evidence in this case, did not recognize City documents as evidence submitted with complaint and with other motions reiterated with complaint, used a faulty date of last discrimination incident with EEOC form (error date typed by EEOC from papers in hand) and Magistrate ruled against Plaintiff for leave of court to submit new evidence and a motion for Summary Judgment in 2019. There were 40 docket entries in this case in District Court, and additional dockets in the Court of Appeals with many showing direct evidence to discrimination.

The Magistrate facilitated a bench trial without notification to plaintiff, picked out certain docket entries for De Novo and omitted important direct evidentiary docket entries of City documents submitted by plaintiff. According to a Court Liaison at mediation, the court was led to believe that the Magistrate read through all documents and that, in her estimation, Summary Judgment to the defendants was warranted. If that is the case, the Magistrate deliberately misled the court by providing only 4 docket entries for the bench trial and for the District Judge for Case No. 1:16-cv-1128: using only Doc 31, Doc 38, Doc 30 and Doc 23, while relevant direct evidence was also with entries Doc. No. 27 dated 01/28/19 with exhibits on pages 795-880; Doc #: 13-1 Filed: 07/31/17; Doc 29 had many exhibits with Exhibit 927 allowing Director's favorites; Exhibit #931 with Personnel Policy & Procedure (PP&P) for HR liaison position given to Ms. Bruns; and HR Age related discrimination on page 935 for ADEA Stereotyping (Case: 1:16-cv-01128- Doc #: 27

Filed: 01/28/19 PAGEID #:812) against EEOC II. Also under ADEA, the matrix HR used which only has age and ethnicity with no merit listed for HR staff making transfer and promotional decisions Doc #27 PAGEID #: 796. Doc 33; Doc 34 and

Doc 35. Age and Ethnicity should be in separate programs and not used by HR staff making decisions.

Discovery from defendants was Null:

Case: 1:16-cv-01128-MWM-SKB Doc #: 21 Filed: 10/26/18 PAGEID #:421Plaintiff issued to Court Motion for Court to Compel Defendants to answer, produce documents, emails, Video and other forms of communication requested of defendants in their response to interrogatory questions from Plaintiff.

City Solicitor's and defendants response: "The Interrogatories, which are copied into Plaintiff's Motion, are with all due respect, convoluted and at times unintelligible, and seek almost entirely irrelevant, time-barred and otherwise objectionable information". I, Plaintiff, received no discovery from the defendants, motion for Notice to Compel thrown out and two separate certified Public Information requests to City Solicitor and HR were ignored against Ohio's Public Record Requests Act 149.43 DOC 27 PAGEID 795.

MY CASE

My name is Mary Jill Allgeyer. I retired from City service after 21 years August 1, 2018. In 2010, I received a Bachelor's Degree and my name was never certified for promotions and 50 applications went no further than HR due, in part, to my age and race. I received excellent performance reviews. I was forced to take promotional tests for advancement when most of my promotional career positions went to unclassified, outsiders and favorites that never had to sit on promotional tests or answer to the criteria HR required of me.

HR implemented new Policies in to align workforce to priorities of Diversity, Inclusion, and Equity that eliminated me from opportunity for my whole career. As a new policy, HR no longer gives administrative study guides for promotional tests, which can be used for transparency after grading. Transparency taken away by HR new policy does not allow for participants to look over their graded tests for errors in grading or elimination of correct answers when too many prioritized employees answered wrong. HR pays for companies to put together tests parameters that give HR more control over who gets promoted to classified Administrative Civil service positions than in years past. In one HR report, a company noted that the "white female" employees are underutilized in the workforce. HR has engaged and hired some outside company personnel whose programs and surveys helped with the City's priorities.

Applying my low wages to block eligibility to higher wages and classification, HR controlled my career path by applying "does not meet" to most of promotional applications (attached), transfers, and blocking me promotional testing which ended my career.

This case is relevant to reverse discrimination of the City of Cincinnati leadership that raises substantial errors with not following Statutes, Rulings, State laws, Civil Service Commissioner' rules and the City's Personal Policy & Procedure

A.

(PP&P) rules with considerations to constitutional laws in connection to the plaintiff's discrimination (reverse discrimination) the plaintiff has suffered by the culture of City leadership and lower courts to label me as white skinned and therefore an unprotected employee with the City and is one of public or great general interest to well over half of the population of the United States.

On my last week at work July 2018, I finally confided with two current DOTE employees, who were former HR staff (one black, one white), about my lawsuit they both separately told me that *I was blackballed* over at HR.

I continue to include the HR Director and City Manager to this complaint as they were paid to perform without disparity to me, failed by blocking my career, putting unclassified and outside candidates into the my next higher position(s) in my career path with criteria applied to me, not afforded those employees and eliminating open positions that I was qualified to receive while directing the workforce with HR-stated priority to changing the workplace using *diversity and inclusion* (excludes white female), and *equity* (means losses to me).

U.S. Senator Mike Braun states, "*To claim Qualified immunity under the Reforming Qualified Immunity Act, a government employee such as a police officer would have to prove that there was a statute or court case in the relevant jurisdiction showing his or her conduct was authorized: a meaningful change that will help law enforcement and the citizens they protect.*"

Changing the workforce priority held by HR and the City Manager will further divide the *classes* of employees in the workforce. The City Manager and Civil Service Commissioners allowed the HR Director to change Personnel Policy

B.

& Procedure to gain control and advance minorities, which caused reverse discrimination. Before my federal complaint, I had many email communications to notify the administration of reverse discrimination charges with HR, City Manager, Mayor's Office between 2015 and 2016 when I filed with City's EEOARB and State EEOC that led to growing retaliation against me in 2016. These acts continued after I filed the complaint in federal court December 6, 2016. This Case is a Case of Public or Great general Interest and asks substantial constitutional questions.

Summary judgment was accomplished, in part, by the City's defendants reoccurring application to the plaintiff Administrative Remedies. I filed an EEOC complaint and received *Right to Sue* September 22, 2016. I followed with a Complaint in Federal Court on 12/06/16 with last City discriminatory act occurring during that month, September 2016. The EEOC manager, from a EEO paper she took from me, erroneously typed the wrong date for EEOC last incident. August 28, 2015, was the date I filed an EEO complaint form to the City of Cincinnati. The regulations provide that civil actions may be filed in an appropriate federal court: (1) within **90 days** of receipt of the final action where no administrative appeal has been filed; I filed within 75 days after EEOC complaint. Also stated in Defendants' Summary Judgment was with the City Deposition with me as I tried to answer impossible questions on who received the promotions from the 25 applications I submitted from November 2015 until the

C.

deposition date. According to a City report, the new evidence I tried to submit in 2019 showed problems with hiring and promotional time-lines that are usually months apart for actual hiring and promotions. HR programs have many process flaws. Another new problem is with working-out-of class for months and then civil service commissioners' promoting the employee permanently and making the promotional date the retroactive date of 1st day of working out of class months before. HR gave training months in advance to the favorite employee without notification to all employees who were eligible for the position for positions.

As an older white female, I was subjected to indirect reverse discrimination by HR Directors and black City Managers whose main priority of the City is to change the workforce by promoting diversity stated on websites and in all City reports. These priorities added disparity to the culture of the City of Cincinnati organization that are an extension of the International City/County Management Association (ICMA) policies . Their view and Best Practices to City Managers is with Diversity, Inclusion, Equity and Sectionals stated in many reports:
<https://icma.org/race-equity-and-social-justice>; <https://icma.org/blog-posts/getting-everyone-aboard-equity-train>. This push is to distribute best practices to ensure the health and welfare of minority to the detriment of white females in local government.

D.

Reverse Discrimination timeline:

- In 1990 Black HR Director, as shown on personnel forms , gave me 50% status while working me at 100% in a union position with no benefits for three years (divorced white female with four children); same HR Director fired me when I was 42 years of age to give my position to new black candidate off of an eligible list. This new employee received full benefits and holiday pay on her first day of work.
- 2000 Reentering City service off of a Civil Service entry level test and I later bought back my sold three years of retirement funds after losing half of funds to taxes and costing me triple in wages over many years for replacing;
- Against US Department of Labor 77A, Black Balled status is plainly used by HR from this point in years 2000-2018 and continues with each pension check as follows:
 - being classified incorrectly 2000-2018 against O.R.C. 124.04 (E) Classifications and Compensation rule 4, section 5, (e) (h); Civil Service Rule 4 Classification Section 1: No person shall be employed or regularly assigned to work under any classification not appropriate to the duties performed. Case: 1:16-cv-01128- Doc #: 27 Filed: 01/28/19 Page: 18 of 98 PAGEID #: 803 .
 - 2000-2018 HR giving me status of "does not meet" eliminating my high level experience and degrees and not allowing me to sit on low administrative promotional tests or become candidate to my years of applications :16-cv-01128 Doc #: 27 Filed: 01/28/19 Page: 20 of 98 PAGEID #: 805;
 - hired in City Manager's office at half the salary of those before and after me, who were black employees Case: 1:16-cv-01128- Doc #: 27 Filed: 01/28/19 Page: PAGEID #: 797 & Doc #: 27 PAGEID #: 798 ;
 - put in a new position to City and not studied for proper classification against Civil Service Rules, Rule 4 Section 5, denying me a fair and equitable resolution in Police Chief's office after it was agreed I was working above classification with low wages, but HR still did not permit me to take a clerk Typist 3 test while letting a newer employee, black, while in police, skipped

E.

many classifications and took an Admin. Tech and was promoted: 1:16-cv-01128 Doc #: 27 PAGEID #: 804;

- HR hiring retired and current HR employees to lie about duties and responsibilities I performed for years, during my classification study. Case: 1:16-cv-01128 Doc #: 27 PAGEID #: 808;
- HR Director(s) to the City took away all merit business parameters to degrees (I received at 49 years old in 2000 and 57 years old in 2010) high experience, responsibility and excellent performance reviews from promotional consideration to all my applications and would not let me take higher administrative tests 2006-2018 while promoting black and younger employees above me and dropping employees into my promotional career path from different career paths without consideration to their lower salaries and lower classifications or promoting new candidates to the City devoid of promotional criteria of salary and classification used to block me as a candidate for promotions. I was placed on an eligible list for Supervising Management

Analyst, but did not receive an interview Case: 1:16-cv-01128 Doc #: 27 Filed: PAGEID #: 861; PAGEID #: 863;

- no promotional training for 21 years. Ms. Bruns, who was our training liaison, was the only administrative employee in DOTE to receive promotional training in my last 11 years of employment;
- no tuition reimbursements forcing me to pay on student loans for 18 years in hope of promotions while giving other City employees student tuition reimbursements. Case: 1:16-cv-01128- Doc #: 27 Filed: 01/28/19 PAGEID #: 811
- 2016 Administrative Promotional Test with 3-parts. Written, computer, and Structured Interview Panel each worth 33%. I called HR and told staff that, according to Ohio Revised Code, Interview Panels are only used if there is no written test, and the panel is only used for Police and Fire with the top three candidates.
- After the test was taken, the HR director ended up throwing out one portion of the test, so Interview panel is worth 50% of grade. I emailed to HR to find out who interviewed me to explain my low score, but never received information. There was no transparency to the interview process, the interviewers, or grading taken by 70 employees in random locations. Against Civil Service Rule 10 section 5: The identity of all persons taking promotional examinations shall be concealed from the examiners by use of an identification numbers. The face-to-face interview by panel eliminated that. This process has never been used for any administrative tests and was very discretionary. The HR Director, Ms. Kelly, implemented the interview panel to gain control of promotions.
- On HR sheets I received after deposition, with the listing of everyone who took the 2016 test, my name was deactivated Case: 1:16-cv-01128- Doc #: 27 Filed: 01/28/19 PAGEID #: 855;
- HR Director gave temporary promotion and training to an employee who was not eligible to receive the position because the position required a degree. This was an employee *favorite with director* Doc #: 27 Filed: PAGEID #: 815). I

- was qualified for the position which did not require classification or salary parameters as it was unrepresented. The position was without advertisement or notification to employees. I have the Director lying (audio recorded submitted) stating twice that he thought the promoted employee had a degree as required in Human Resource Personnel Policy & Procedure 2.10
- after my Union Grievance in Police Chief's office working at higher classification without correct classification and higher wages, HR turned around and promoted a black employee who took my place, allowing her to take an administrative Tech test from lower salary as a Clerk Typist 2 classification skipping many steps and classifications while HR used "does not meet" criteria to block my career path. Similarly situated except I had higher wages and classification than she.
- HR paid for employees to give false statements to my Classification study to escape promoting me and giving new wages. Later, HR and my department promoted the girl I trained to an administrative tech one classification higher than my classification.
- Against O.R.C. regulation

With new hiring and promotional policies to follow priorities of City's Workforce, the platform was with Diversity, Inclusion & Equity that also added to disparity of my career path. HR took away promotional merit. New key policies helped HR control which employees got higher administrative positions: Eliminating degree requirements, career path & experience requirements, no transparency with promotional testing, promoting unclassified, promoting outside candidates, using Director favoritism, no notification to vacant positions, certifying random names from bigger departments. Then in 2016, HR eliminated higher administrative promotional tests and gave exceptional appointments out to Director's favorites, not compliant to O.R.C. Civil Service Classifications to Rule 08 Section 3 "exceptional appoints shall not be general in application." With this new HR policy to process, there is no way for employees to compare their applications to

G.

final promotions received. This was the theme of the City deposition that the defense and Magistrate used repeatedly in many motions for Summary Judgment and RR from the Magistrate to the court.

This case is an accumulation to years of being black balled with HR staff performing reverse discrimination from the beginning of my City Service as it hinges from that first act in 1990. The lack of integrity speaks to the culture of this public entity. I feel that I am entitled to relief due to reverse discrimination to my

age and race (HR term *black balled*) as follows:

➤ Hired August 1990 as Clerk typist 3 Civil Service AFSCME

afscme
position
Collected
unemployment
one check.

Classified Union position. Received no information about AFSCME. (1) No Benefits of vacation, sick, holiday, health or life insurance from 1990-1993 unlike the other 6,000 City employees. Black HR Director, Betty Baker, controlled my employment put on personnel sheets at part-time. False.

Hired and worked full time. (Received HR Personnel sheets from HR in 2004.) Fired July 1993, at 42 years of age with no prospects, by Ms. Baker who immediately placed new black candidate in my position with all benefits on first day of work.

➤ October 2000 I re entered City service through an AFSCME entry test. I Interviewed with City Manager, Shirey, and with Betty Baker now in City Manager's office, hired as Clerk Typist 1. Six months in new

H.

the position Riots occurred April 2001. My responsibilities and tasks was greatly enhanced with National news in office two weeks and with special meetings all day. Those who followed in the same position were classified as Administrative Techs at \$20,00-\$30,000 higher in wages annually. All are black from 2002-current

After riots, Mayor fired City Manager Shirey and my supervisor was sent to Sewers. Received an automatic promotion to clerk typist 2. Called HR to ask for transfer to Police. The position and duties were new to City and, against O.R.C. rules, was not studied for classification duties or salary. That is HR's Director's responsibility.

Performed administration for the Police Relation Section for the DOJ Collaborative Agreement for two years as a Clerk Typist 2. Lots of administrative responsibility and tasks to Collaborative and Police Relations Section. I filed a union grievance after two years of being underpaid and Police agreed with my grievance, but did not offer a higher classification or higher wages and wanted me to sign a settlement for \$300. I did not sign the settlement as Mr. Baker (black boss) gave me a performance review as "meets" for a Clerk Typist 2 and was "a slap in the face". Civil Service Commissioners continued to hold me back from higher classifications and sitting on higher administrative tests. HR still used "does not meet" for stopping my career, a loss of years of higher wages. The Black employee,

I.

who took my place in police, was also a Clerk typist 2, HR allowed her to sit on Administrative Tech Test, skipping many steps and classifications. When I retired she was classified as an administrative specialist.

In 2004, took AFSCME Clerk Typist 3 test and came in 8th out of 90, promoted to Department of Transportation & Engineering (DOTE). HR had no say on promotion as falls under AFSCME union contract. Worked payroll for 4 years for 190 employees.

In 2004 went to Payroll office and found copies of my 1990-1993 City checks and printed from magnetic tape.

After I sent a request, the City Payroll clerk emailed me classifications of those performing payroll and most were of a higher classifications. All received promotions due to new Payroll software programs in 2000. I requested a classification study with HR. I filled out forms of all tasks and HR hired back my retired (8 mo.) boss who lied and said that I did not perform 99% listed tasks. So again I was not promoted. HR paid her to lie and block my promotion even though HR has my performance reviews on file that my ex-boss signed stating those tasks. More years of financial losses. Later, the employee I trained was promoted.

In 2006, I went back to college to finish my bachelor's degree in the Science of Business and Public Administration. In 2007, I was allowed to take the Administrative Tech test and, because of a City retirement incentive for early

J.

retirements, our department and the City lost a lot of administrative employees. Our department had many openings and I was promoted to Admin. Tech. for the City Engineer. By 2007-2008, HR eliminated the requirement of a degree for Administrative Specialist and Senior Administrative Specialist, which helped the City promote employees who did not earn higher education, into higher classifications. I graduated with my degree in 2010, and submitted many applications for promotions, but was told I "did not meet" requirements to positions I should have easily filled. HR Matrix of employees' list only states race and age. HR has a big turnover in the department after employees get promoted and transfer out to continue as loyal HR liaisons in Supervising Management Analysts positions that wages go to six figures.

From 2010 to 2016, I took many Administrative Specialists Tests but my name was never certified to go out to departments with vacancies. I also submitted 25 applications for promotions and transfers from November 2015 to 2018 that, with my degree, experiences and high responsibility, I would have become an integral part of the City's administration, but again, I never got to the interview step. During this time, I was working on special projects, which, after I set up the program, my work is handed over to someone of a higher classification. With Retaliation, Ohio law prohibits retaliation against any person because that person has opposed any unlawful discriminatory practice, or because that person has made a charge, testified, assisted or

K.

participated in any manner in any investigation, proceeding or hearing. This law can apply to my Director showing favoritism to an employee, Ms. Bruns, promoted to the Department's HR liaison position without the required degree for the position. No notice was posted or went out for the HR liaison position to qualified department employees. Ms. Bruns was our HR training liaison and HR, trained her months in advance for the position. No one else in administration positions received or was offered promotional training from Ms. Bruns from 2007 - 2017. Favoritism in our department was listed as a problem in the new evidence I submitted in 2019 Doc #34. It was in the Cincinnati.com , on the City's website, presented to council 201901588 titled Presentation -Dote Climate Assessment update, Pg 10-District court Doc #34 PAGEID 1009. Also presented 2019 was an Internal Audit from the City Manager to council for Discrimination and retaliation.

L.

PROPOSITIONS OF LAW

Laws Against Discrimination

The Ohio Civil Rights Commission enforces Ohio's laws against Discrimination. Its authority is derived from the Ohio Revised Code Chapter 4112 and Ohio Administrative Code Chapter 4112

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO: Section 1. That sections 3314.03 and 3326.11 be amended and sections 3313.6027 and 4113.35 of the Revised Code be enacted to read as follows: Sec. 3313.6027. (A) As used in this section: (1) "Divisive concepts" means the concepts that: (a) One nationality, color, ethnicity, race, or sex is inherently superior to another nationality, color, ethnicity, race, or sex.....2

"AFFIRMING the 14th Amendment of the Constitution that we're equal under the law.". Sec. 4113.35. (A) As used in this section: (1) "Divisive concept" has the same meaning as in section 3313.6027 of the Revised Code. (2) "State agency" means every organized body, office, or agency established by the laws of the state for the exercise of any function of state government and includes a state institution of higher education, the public employees retirement system, the Ohio police and fire pension fund, the state teachers retirement system, the school employees retirement system, and the state highway patrol retirement system.....2
(B)(1) No state agency shall offer teaching, instruction, or training on divisive concepts to any employees, contractors, staff members, or any other individual or group or require them to adopt or believe in divisive concepts.

Proposition 209

State and Federal Constitutions Require Equal Protection. The state and federal constitutions provide all people equal protection.....5

August 28, 2015. That is incorrect and corresponds to papers I filed with the *City's EEOARB* on that date (August 28, 2015). See Case: 1:16-cv-01128 Doc #: 3 Filed: 12/22/16 (wrong date clerk error) Page: 5 of 7 PAGEID #: 41.

Case: 1:16-cv-01128-MWM-SKB Doc #: 6 Filed: 02/09/17 Page: 1 of 5 PAGEID #: 71

2. Defendants deny the Plaintiff has jurisdiction as described section II of the Complaint.

8. #: 6 Filed: 02/09/17 Page: 1 of 5 PAGEID #: 71

Defendants admit the allegations in section IV(B) of the Complaint but aver that the allegations in the EEOC complaint were not timely filed.

Fact:

There was not a *latest incidence date* to reverse discrimination at EEOC as it was continuous and worst in 2016 as my complaints states and retaliation against ~~RC~~

~~112.02 § 1&2~~ Unlawful Discriminatory practices was used.

Case: 1:16-cv-01128-MWM-SKB Doc #: 6 Filed: 02/09/17 Page: 1 of 5 PAGEID #: 71

The true date of all forms and evidence in the complaint is December 6, 2016.

Clerk's office Error with splitting my complaint in half and putting half in docket on December 6, 2016, day of complaint and the other half on December 22, 2016. All complaint and evidence was submitted on December 6, 2016.

(incorrect date)

Case: 1:16-cv-01128-MWM-SKB Doc #: 3-1 Filed: 12/22/16 Page: 8 of 21 PAGEID #: 51

Plaintiff filed a discrimination complaint with the City and presented to the City's EEOARB on November 25, 2015 in front of 8 undisclosed males with one an attorney working in HR. He made many false statements on the EEOARB report forwarded to the City Manager.

The HR lawyer said that in 1990-1993, I was working through a contract, which is false, I was a full time City employee in a union position.

During Discovery I sent Interrogatory questions to defendants for my case against the City about the EEOARB meeting to find out who was there at the table judging me, but defendants gave no information. I followed up with a Motion for the court to Compel discovery, but again Magistrate threw it out.

Case: 1:16-cv-01128-MWM-SKB Doc #: 12 Filed: 07/05/17 Page: 1 of 13 PAGEID #: 87 City Solicitor, Ms. Boggs states "The Amended Complaint does not state a claim upon which relief can be granted because Plaintiff failed to exhaust administrative remedies and relies upon threadbare recitals of the elements of the claims supported only by conclusory statements. Plaintiff: False Please see all direct evidence in the case. EEOC September 22, 2016 and Federal complaint 12/06/2016 (75 days).

Case: 1:16-cv-01128-MWM-SKB Doc #: 12 Filed: 07/05/17 Page: 7 of 13 PAGEID #: 93

1. Plaintiff failed to file the claims with the EEOC within 300 days.

Administrative Remedy to EEOC last occurrence to reverse discrimination was ongoing on date of EEOC filing September 22, 2016 with a fraudulent promotional test for Administrative Specialist in 2016. I filed a Complaint in Federal Court on December 6, 2016 within **75 days**, well before deadline.

Plaintiff's Response Doc #: 13 Filed: 07/31/17 Page: 1 of 19 PAGEID to 157 to PAGEID #: 174; Case: 1:16-cv-01128-MWM-SKB Doc #: 13-1 Filed: 07/31/17 Page: 1 of 189 PAGEID #: 176 De

EEOC II Discriminatory Practices Are Prohibited by laws Under Title VII, the ADA, GINA, and the ADEA, it is illegal to discriminate in any aspect of employment, including:

- hiring and *firing*; *compensation*, assignment, or *classification* of employees; *transfer*, *promotion*, layoff, or recall; *job advertisements*; recruitment; *testing*; use of company facilities; *training* and apprenticeship programs; fringe benefits; *pay*, *retirement plans*, and disability leave; or other terms and conditions of employment.

XIII. Reasons for Granting the Petition

With the Appellate Court ruling to reverse discrimination of majority white-skin-race female deemed as unprotected against the Title VII Civil Rights Act, this ruling will continue to allow a precedence of reverse discrimination of the older white female employee to go unchecked. As ICMA continues to issue propaganda with minority priorities of public entities to City and County Managers, white female's future for opportunity will remain non-existent in local government. For years Cincinnati's local government has performed on a platform of reverse discrimination to a large portion of the workplace. This case raises substantial error with local government not following the City's Statutes, Rulings, Civil Service Commission rules and the City's PP&P rules put in place to avoid discrimination in a public entity workplace where there is no financial bottom line or top line gross

that denotes normal business opportunity for employees. Reverse discrimination is real and can paralyze the health and welfare of families for years. Majority female workers have no recourse to fight against discrimination inside the current City culture. With low wages and no advisories on hand, reverse discrimination is and will continue to be of public or great general interest to well over half of the population of the United States and must be recognized for change in the court system. The court needs to assure equal rights in the workplace are given to all regardless of race (skin color) to help enlighten local government attorneys to the forces of employment laws especially in cases of reverse discrimination currently dominating local government, from top down. The end result will be with unifying the culture of public entities.

CONCLUSION

The Petition for Writ of Certiorari should be granted.

Respectfully submitted,



Mary Jill Allgeyer

Mary Jill Allgeyer, Pro Se

Date: September 27, 2021