

21-6690

Case No.

In The
Supreme Court of the United States

Supreme Court, U.S.

FILED

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OFFICE OF THE CLERK

JOE PYATT,

Petitioner,

v.

AECOM TECHNICAL SERVICES, INC.

Respondent.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

◆
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SUPREME COURT, U.S.

QUESTION PRESENTED

The ruling by the Eleventh Circuit Court of Appeals departs so far from the accepted and normal usual course of judicial proceedings that it now requires the supervisory power of this court to correct. This court has established a burden shifting framework to guide the lower courts of how a litigant can prevail in a discrimination case based on disparate treatment. This court established this precedent in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973) which has been followed by the majority of all federal district and circuit courts. The Petitioner established a prima facie case for discrimination under the *McDonnell Douglas* framework supported by evidence and was denied the right to a trial.

The question presented is

1. Whether the district court, as well as the Eleventh Circuit Court of Appeals, can overrule the precedent of this court set in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973).

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I. TABLE OF AUTHORITIES

1. Arizona v. Rumsey, 467 U.S. 203, 212 (1984)
2. Bostock v. Clayton County, 140 S. Ct. 1731 (2020)
3. Jam v. Int'l Fin. Corp., 139 S. Ct. 759, 769 (2019)
4. Landry v. Lincare, Inc. 579 F.App'x 734 (11th Cir. 2014)
5. McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973)
6. Oncale v. Sundowner Offshore Servs., Inc., 523 U.S. 75, 79 (1998)
7. Payne v. Tennessee, 501 U.S. 808, 827 (1991)
8. Price Waterhouse v. Hopkins, 490 U.S. 228, 258 (1989)
9. Ramos v. Louisiana 140 S. Ct. 1390, 1432 (2020).
10. Tex. Dept. of Cmty. Affairs v. Burdine, 450 U.S. 248 (1981).
11. Welch v. Texas Dept. of Highways and Public Transportation, 483 U.S. 468, 494 (1987)
12. Wood v. New York Life Ins. Co., 783 F.2d 990, 993 (11th Cir. 1986)

II. OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit was issued on September 13th, 2021. App 5. The Eleventh Circuit affirmed the decision by the United States District Court for the Southern District of Florida issued on August 14th, 2020, document number 129 in the District Court's docketed matter number: 1:19-cv-23708. App 4.

III. STATEMENT OF JURIDICITION

The United States Court of Appeals for the Eleventh Circuit issued its opinion affirming the decision of the United States District Court for the Southern District of Florida on September 13th, 2021, App. 5. The Eleventh Circuit denied a motion to recall the mandate for a rehearing. See App 6. The jurisdiction of this Honorable Court is invoked pursuant to 28 U.S.C. § 1254(1).

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves, for all intents and purposes, the anti-discrimination provisions of Title VII of the Civil Rights Act of 1964, as amended.

42 U.S.C. § 2000e-2(a) EMPLOYER PRACTICES

It shall be an unlawful employment practice for an employer –

- (1) 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 national origin.

V. STATEMENT OF THE CASE

1. Title VII and McDonnell Douglas Framework

A Plaintiff seeking to file a cause of action for race discrimination can do so under Title VII of the Civil Rights Act of 1964, as amended (“Title VII”). The Florida Civil Rights Act (“FCRA”) has modeled and uses the same framework as Title VII, thus it is analyzed under the same standards as Title VII. The Supreme Court of the United States has created precedent and a framework to guide litigants on how to establish a prima facie case for race discrimination under the McDonnell Douglas Framework. The Eleventh Circuit has stated [W]hen reviewing discrimination claims supported by circumstantial evidence, we employ the three-step, burden-shifting framework established in *McDonnell Douglas*. . .the plaintiff must show (1) he is a member of a protected class; (2) he was subjected to an adverse employment action; (3) his employer treated similarly situated employees outside of his protected class more favorably than he was treated; and (4) he was qualified to do the job. *Landry v. Lincare, Inc.* 579 F.App’x 734 (11th Cir. 2014) (internal citation omitted)

The Supreme Court has further elaborated on this by explaining that [T]he basic allocation of burdens and order of presentation of proof in a Title VII case, is as follows. First, the plaintiff has the burden of proving by the preponderance of the evidence a prima facie case of discrimination. Second, if the plaintiff succeeds in proving the prima facie case, the burden shifts to the

defendant "to articulate some legitimate, nondiscriminatory reason for the employee's rejection." . . . Third, should the defendant carry this burden, the plaintiff must then have an opportunity to prove by a preponderance of the evidence that the legitimate reasons offered by the defendant were not its true reasons, but were a pretext for discrimination. *Tex. Dept. of Cmty. Affairs v. Burdine*, 450 U.S. 248 (1981).

The Supreme Court of The United States has made it clear that the doctrine of *stare decisis* is to be followed in order to keep uniformity in the courts when ruling on important matters that effect the public. The egregious course of action which departs from the normal rulings of the courts is a matter of significant importance. The merits detail a detriment to this country that greatly influences the fabric of our society, the merits cover the topic of, racism. The Supreme Court has stated [w]e should adhere to the doctrine of *stare decisis* and stop short of overruling those cases. *Stare decisis* is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process. *Payne v. Tennessee*, 501 U.S. 808, 827 (1991) (internal citations omitted). (citing *Welch v. Texas Dept. of Highways and Public Transportation*, 483 U.S. 468, 494 (1987).) ("overruling a precedent of this Court is a matter of no small import, for "the doctrine of *stare decisis* is of fundamental importance to the rule of law.")

The Supreme Court has always emphasized on the fact that [T]he overruling of one of this Court's precedents ought to be a matter of great moment and consequence." 501 U.S. 808, 848 (1991) (citing *Arizona v. Rumsey*, 467 U.S. 203, 212 (1984) (Consequently, this Court has never departed from precedent without "special justification."). The matter before this court is a ruling by the Eleventh Circuit Court of Appeals that departs from the precedents set in *McDonnell Douglas Corp v Green*. This ruling must be corrected as it greatly affected the petitioner's life who fought for years to get the justice he believed the judiciary would grant him given his innocence backed by irrefutable evidence contrary to the arguments presented by the respondent, AECOM Technical Services, Inc. Such a departure from precedent would surely begin to destabilize and dismantle the predictability of the courts in a manner in which the public would lose trust in the system that is meant to protect the liberties and freedoms created by the ancestry who fought and died to preserve such precious principles of virtue. Justice Kagan has stated the [C]ourt should have a body of *neutral* principles on the question of overruling precedent. The doctrine should not be transformed into a tool that favors particular outcomes. *Ramos v. Louisiana* 140 S. Ct. 1390, 1432 (2020).

2. The Petitioner's Prima Facie Case for Discrimination

The Petitioner, Mr. Pyatt, provided evidence to establish a prima facie case for discrimination. In his response to the motion for summary judgement filed by AECOM he stated that he suffered an adverse employment action

because he engaged in a protected activity by reporting discrimination to his supervisor. See App 1. Mr. Pyatt recorded the respondent to which they clearly stated he could no longer enter his employment office location on the weekends, nor come in early or late. See App 2. At this point Mr. Pyatt has satisfied three of the four elements to establish a prima facie case for discrimination under the McDonnell Douglas frame which are (1) he is a member of a protected class given he is African American (2) he was qualified for the job since he graduated with his bachelors in civil engineering and (3) he suffered an adverse employment action because he reported discrimination.

The last element to be proved is to show that a similarly situated employee was treated more favorably outside his protected class. Mr. Pyatt showed that Huey Pham ("Mr. Pham") was treated differently in the same situation when he was allowed to come into work on the weekends and also come into work early and leave late without reprimand. Mr. Pyatt submitted the evidence to the court that confirmed Mr. Huey did indeed come into work early and leave late whenever he so chose too as well as coming into work on the weekends for nearly the first two years of Mr. Pham's employment with AECOM. Mr. Pham was never told that he made people in office feel "uncomfortable" and so he could not enter the office anymore (emphasis added). Mr. Pyatt told Mr. Pham that he was experiencing discrimination by AECOM at which Mr. Pham confirmed this to be true. See App 3 (emphasis added). Mr. Pham was required to report the discrimination to AECOM because of AECOM

policy. Mr. Pyatt states that Mr. Pham was approached by AECOM about the matter and he was not reprimanded for speaking about the issue regarding discrimination by AECOM. Mr. Pham is a similarly situated employee who reported issues to AECOM annually and was never reprimanded nor suffered an adverse employment action as well as never being told by AECOM management that he makes people feel uncomfortable so he could not enter the office anymore (emphasis added). Mr. Pyatt has now satisfied the fourth element that a similarly situated employee outside of his protected class was treated differently than he was.

Counsel for the respondent erroneously misapplied the McDonnell Douglas framework to the merits of the case by stating that Mr. Pyatt could not prove that a similarly situated employee was treated differently when Mr. Pyatt got fired from his employment which is a distortion of the facts meant to deceive the courts. The district court, as well as the Eleventh Circuit, adopted the respondents' reasoning and ignored Mr. Pyatt's evidence which proved his argument by stating [H]ere, Mr. Pyatt failed to establish a *prima facie* case of race discrimination. Specifically, Mr. Pyatt did not present evidence to show (or permit a jury to find) that other similarly situated employees were treated differently by AECOM. . . Mr. Pyatt does not advance any evidence, nor could we find any in the record, to suggest that other AECOM employees had aggressive incidents at the office and were not terminated. Hence, under the *McDonnell Douglas* framework, Mr. Pyatt cannot satisfy the first prong of the

prima facie standard, and we affirm the district court's grant of summary judgment on this ground. See App 5 at 14. Mr. Pyatt never provided any arguments that he was fired because he was discriminated against. This is an argument made up by counsel for the respondent to deceive the courts into thinking they could apply the McDonnell Douglas framework to a set of facts that are immaterial to the argument presented by Mr. Pyatt. Mr. Pyatt is not required to provide evidence of a similarly situated employee who was fired because an aggressive incident that was unrelated to what was occurring during his employment with AECOM with respect to the discrimination he was experiencing (*emphasis added*).

Given the proper application of the McDonnell Douglas framework it is irrefutable that Mr. Pyatt did indeed establish the first prong for a *prima facie* case of discrimination. Thus, proving that precedent must be followed once Mr. Pyatt satisfied all the elements for a *prima facie* case for discrimination under McDonnell Douglas framework. It is of utmost importance to understand that summary judgement should not have been granted given the facts of the case as this ruling is in direct conflict with the precedent set by the Supreme Court of The United States under the proper application of the McDonnell Douglas framework. Mr. Pyatt need not reargue other points he provided with regards to not being allowed to obtain discovery as this is the only matter that must be addressed that would have not allowed the district court nor the circuit court to grant summary judgment. AECOM never addressed this argument nor

acknowledged the evidence that proves Mr. Pyatt's arguments to be true. AECOM, nor the district court, acknowledged the audio recordings that further prove that he was discriminated against by AECOM.

Assuming *arguendo*, given awareness of this error, this court has already set precedent in these circumstances by stating [R]econsidering these decisions now, we conclude, for the reasons heretofore stated, that they were wrongly decided and should be, and now are, overruled." *Payne*, 501 U.S. 808, 830 (1991).

VI. REASONS FOR GRANTING THE WRIT

3. There is a Direct Conflict with The Supreme Court's Decision

The ruling given by the United States District Court for the Southern District of Florida is in direct conflict with the precedent set by the Supreme Court of the United States and other federal circuit courts. This is clearly a proper and important certiorari candidate whose life has been greatly affected by the ruling that is in conflict with the uniformity of decisions on the same matter across the district and federal circuits. Title VII of the Civil Rights Act of 1964, as amended, holds that one cannot be discriminated against as an employee on the basis of race, color, sex, or religion. Congress enacted this legislation to ease and calm the public during the era of Martin Luther King Jr. There are many in the United States who are affected by discrimination at all levels of academia at which the only remedy are the laws that protect them from unlawful discrimination by an employer.

The legislative intent for the enactment of this law by congress was to provide redress to the hardships experienced primarily by the African American community in this country. "In determining the intention of the legislature in enacting a particular statute, the Court should look to the old law and to the evil which the legislature sought to correct." *Wood v. New York Life Ins. Co.*, 783 F.2d 990, 993 (11th Cir. 1986). Justice John Roberts has stated "We ordinarily assume, "absent a clearly expressed legislative intention to the contrary," that "the legislative purpose is expressed by the ordinary meaning of the words used.'" *Jam v. Int'l Fin. Corp.*, 139 S. Ct. 759, 769 (2019) (internal citations omitted). Justice Gorsuch opined on this matter with respect to Title VII of the Civil Rights Act of 1964 by stating [T]his Court normally interprets a statute in accord with the ordinary public meaning of its terms at the time of its enactment. After all, only the words on the page constitute the law adopted by Congress and approved by the President. . . We must determine the ordinary public meaning of Title VII's command that it is "unlawful ... for an employer 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 national origin." *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

Indeed, the statutory interpretations by the Supreme Court of Title VII enacted by Congress created a ruling in favor of a prevailing party in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 which has become the model for all the lowers courts to use with regards to applying the construction of the statutory

interpretation of Title VII creating a four step framework to follow. As stated previously, this precedent has been disregarded by the Eleventh Circuit Court of Appeals. The Eleventh Circuit Court of Appeals has exhibited a pattern of not applying this courts' precedent when they affirmed dismissals of cases asserting that Title VII did not prohibit sexual orientation discrimination. This Court ruled contrary to the Eleventh Circuit's interpretation of Title VII by stating [W]e hold that when a plaintiff in a Title VII case proves that her gender played a motivating part in an employment decision, the defendant may avoid a finding of liability only by proving by a preponderance of the evidence that it would have made the same decision even if it had not taken the plaintiff's gender into account. Because the courts below erred by deciding that the defendant must make this proof by clear and convincing evidence, we reverse the Court of Appeals' judgment against Price Waterhouse on liability and remand the case to that court for further proceedings. *Price Waterhouse v. Hopkins*, 490 U.S. 228, 258 (1989).

Similarly, the Supreme Court has also stated [T]here is no justification in Title VII's language or the Court's precedents for a categorical rule barring a claim of discrimination "because of . . . sex" merely because the plaintiff and the defendant (or the person charged with acting on behalf of the defendant) are of the same sex. . . If our precedents leave any doubt on the question, we hold today that nothing in Title VII necessarily bars a claim of discrimination "because of . . . sex" merely because the plaintiff and the defendant (or the person charged with acting on behalf of the defendant) are of the same sex. *Oncale v. Sundowner Offshore Servs.*,

Inc., 523 U.S. 75, 79 (1998). The lower courts were divided on this issue of whether Title VII covered claims of discrimination involving homosexual men and women. The Supreme Court brought clarity of the law on this issue when it ruled that [A]n employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids. *Bostock v. Clayton County* 140 S. Ct. 1731, 1777 (2020).

We are now faced with the same issue viewed through a different lens regarding discrimination and the precedents set by this court not being followed by the lower courts. This court has stated [T]he complainant in a Title VII trial must carry the initial burden under the statute of establishing a prima facie case of racial discrimination. *McDonnell Douglas Corp. v. Green* 411 U.S. 792, 802 (1973). The Petitioner has satisfied this requirement as well as proving by a preponderance of the evidence that the proffered reasons given by the Defendant for its actions were but a pretext for discrimination (emphasis added). Thus, the ruling of the district court, as well the Eleventh Circuit Court of Appeals, is in direct conflict with this courts' precedent.

4. The Conflict with Prior Decisions May Exacerbate Racial Tensions Across the United States

The legislative and judicial branches of government have brought redress to the issue of racism that has brought upon great distraught to the United States originating from the era of Antebellum America. Even today, we are faced with the same problematic behaviors that gave rise to the killings of George Floyd and Ahmaud Arbery which led to the clashes witnessed between citizens of different social groups during the 2020 riots. This case touches on the very nature of the destruction we are witnessing in today's America. Approaching such a topic requires the most sophisticated reasoning as to not agitate and exacerbate an issue that has caused the country to nearly collapse. Corporate institutionalized systemic racism is a problem that has not been given redress in today's technocracy which allows for the images and examples of discriminatory behavior to go viral across the web so that the masses at large can witness firsthand that, which has now affected Mr. Pyatt to such a degree that he seeks the Supreme Court to address the matter.

Providing clarity on the law which seems to have been distorted by the lower courts in a manner that appeals to the severe racial injustice that the Petitioner has experienced will add ease the racial tensions in this country. For the reasons just stated this court should grant the writ of certiorari.

VII. CONCLUSION

This Honorable Court must grant the writ of certiorari in this case to confirm that the District Court, as well as the Eleventh Circuit Court of Appeals, did indeed misapply the McDonnell Douglas Framework and went against the precedent of this court when they ruled in favor of the Defendant, AECOM. The Eleventh Circuit Court of Appeals has previously shown that they refused to recognize this courts' precedent in Price Waterhouse when it ruled contrary to that decision. The Circuits split from this courts' precedent also threatens the predictability of the courts and rulings which is essential to stabilizing the judiciary effecting the public at large. The lower courts distortion of this court's directive has created an illusion of justice resulting in completely different rulings in very similar cases. The rule of law requires predictability and consistency which can be achieved when the lower courts follow this courts' directives in McDonnell Douglas without distortion of the facts.

I **HEREBY CERTIFY** on this 17th day of December, 2021, I mailed the foregoing document with the Clerk of the Court. I certify as well that the foregoing document is being served this day on all counsel of record either via mail to;

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A handwritten signature in black ink, appearing to read "Joe Pyato". The signature is written in a cursive, flowing style.