

No. 21-7085

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
NOV 24 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Kristina Merle Larson — PETITIONER
(Your Name)

vs.

American Home Products, Wyeth-Ayerst Labs

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, fourth circuit, Richmond, Virginia

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kristina Merle Larson
(Your Name)

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(Address)

Suffolk, Virginia 23434

(City, State, Zip Code)

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Questions Presented

- 1.** Why is it okay for the defendant to completely ignore the plaintiff's request for a reasonable accommodation? The plaintiff was never notified whether her request was granted. Therefore, after having been asked to resign, the plaintiff did not know whether to continue working by calling on and visiting doctors and surgeons. She did however, immediately request a reasonable accommodation.
- 2.** Why is it okay for the plaintiff's employer, the defendant, to discuss the plaintiff's work issues with her psychiatrist, who was also an employer of the defendant, without the plaintiff's knowledge?
- 3.** Why is it okay for the defendant to humiliate and shame the plaintiff in a restaurant, loudly demanding that she resign, so that other patrons could hear the conversation?
- 4.** Why is it okay for the defendant to treat the plaintiff differently than he had previously, once he found out that her health issue was that of a psychiatric nature? Previously, he had been very encouraging, even requesting that the plaintiff consider short term disability, stating that, "I need you (the plaintiff) for the long haul;" explaining that he needed her and needed her to be well.
- 5.** Why is it okay for the plaintiff's supervisor to treat the plaintiff differently than another employee who was also having health issues?
- 6.** Did the fact that the plaintiff was taking a medication, manufactured by her employer, (the defendant), effect the company's decision to terminate her? According to the plaintiff's psychiatrist, an expert in his field, the medication is well known amongst doctors, to exacerbate certain disorders.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[✓] 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:

RELATED CASES

List of Parties

US Federal Court, Norfolk, VA

Related Cases

1. Larson vs. American Home Products, Wyeth Ayerst Laboratories,

No. 21-165, US Court of Appeals, 4th Circuit of Virginia

Judgement entered 9-20-2021

2. Larson vs American Home Products, Wyeth-Ayerst Laboratories,

No. 2:19-cv-00685-RAJ-LRL, Eastern Virginia

Judgement entered 8-19-2021 and 5-6-2020

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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 ONE 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 TWO 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 August 19, 2021.

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: September 20, 2021, and a copy of the order denying rehearing appears at Appendix ONE.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS

American with Disabilities Act, 42, U.S.C. 12102-12213

Statement of Case:

The plaintiff took a sales position with the defendant, working out of her home office calling on doctors, surgeons, and hospital pharmacies, selling medications. Due to the nature of the position, she rarely saw her supervisor, who lived about two and a half hours away from her home. The company office was located about six hours away from the plaintiff's home. The plaintiff's sales were very good and all reports from her supervisor were good. Approximately, 4 months later, in April, the plaintiff made the decision, with her family doctor, to begin taking an anti-depressant. Trusting her employer implicitly, she chose a medicine made by her employer. Her entire life changed and not for the better. She became more and more depressed and even suicidal. She continued to call on her physicians as much as she was able, and sales were very good. However, it became very hard to leave her home due to the depression. Also, there were other side effects which made certain parts of her position almost impossible to perform. The isolation, combined with working from home, prevented her from realizing how bad she looked due to losing weight, a side effect of the medication and how bad things had gotten. The plaintiff's supervisor requested a meeting. They met at Dunkin Donuts. He was very kind during this meeting. He told the plaintiff he had noticed changes in her although, he was not specific. He asked if she was okay. He was very encouraging. He explained that he needed her, "For the long haul." He asked if she had considered going out on short term disability to get well and then return to work. He explained that he had another sales representative out on short term disability, and it was no problem. The plaintiff then explained to him that she had recently been diagnosed with something and that she was receiving the help she needed. She truly thought she would improve on the anti-depressants.

However, things got much worse. Searching for answers, she decided to see a psychiatrist. Not wanting to randomly pick a specialist, she chose one who was also an employee of the defendant. In addition to his private practice, he was a spokesperson for the defendant. He was considered an expert in his field. He immediately recognized the problem. He explained that she, the plaintiff, had a certain disorder, which is exacerbated by the medicine she had been taking. It caused many side effects, extreme depression, suicidal thoughts, inability to concentrate, among many others. He wanted to titrate the plaintiff off the anti-depressant and at the same time begin a more appropriate medication. She did this and immediately things improved. But she had to clean up the mess that her life had become during the previous, approximately 10 months, both professionally and privately.

One day, while the plaintiff was seeing her doctor for a personal appointment, another sales rep from the defendant, the same company from which the plaintiff was employed, was calling on the same psychiatrist for work related issues. This sales rep and the plaintiff were in the waiting room at the same time. The plaintiff introduced herself to this new employee. When she mentioned to the doctor that she had seen a fellow employee in the waiting room, he told the plaintiff that she did not want her employer to know she was seeing a psychiatrist. He said that was not the type of thing she wanted her employer to know. He suggested from that time on that the plaintiff use the V.I.P entrance.

A few days later, several months after the meeting at the Dunkin Donuts, the plaintiff's supervisor requested another meeting. They met at IHOP in Chesapeake. He was very different to the plaintiff this time. It became clear to the plaintiff that her supervisor had been made aware of her seeing a psychiatrist. The new employee could have mentioned it to her supervisor, who then made the plaintiff's supervisor aware. The plaintiff's supervisor was very rude to her, even

yelling at her very loudly and saying rude things to her. At some point, she explained to him that she had previously been misdiagnosed but, had just seen a specialist, a psychiatrist, and been properly diagnosed. He became angry and pulled out a sheet of paper demanding that she resign, which she did not.

Later the same day, over the phone, the plaintiff explained what happened between she and her supervisor to her psychiatrist. He was very supportive. He explained to her the definition of a reasonable accommodation. He even offered to speak to the company on behalf of the plaintiff. She did not accept his offer to help her, though she realizes now that she should have accepted. She was so happy to finally have an explanation for the sickness. She began educating herself immediately. Effective communication is a major handicap for some people with this disorder. So, with the new medicine and support from her physician, she said she would like to talk to her supervisor herself.

The reasonable accommodation she requested was the following, as advised by her psychiatrist: The first month she would meet with her supervisor, one on one, to discuss needed improvements and, areas where she had improved. The second month she would meet with her supervisor every other week to discuss the same. The third month the meetings would be monthly. This would continue for the first year and longer, if necessary. All of this would be done while the plaintiff would be employed and working. At the same time, she would be educating herself, with the support of her psychiatrist for medicine management and therapy, as needed. This would ensure the plaintiff's safety while being titrated on or off the appropriate medications.

After leaving IHOP, speaking to her psychiatrist, and calling her supervisor later that evening and explaining things to him, the plaintiff was waiting to hear from her supervisor

regarding the granting of the accommodation. Sadly, the plaintiff was unable to speak to her supervisor again regarding this issue of the requested reasonable accommodation. She tried to contact her supervisor over and over by phone and email. He never responded. She continued receiving paychecks until almost exactly 3 months passed. But he never gave her an answer agreeing to the request. The plaintiff was ostracized and ignored, which was very damaging to her. She was unsure of what she was to do, continue calling on doctors and working or not. The meetings between the plaintiff and her supervisor never happened.

This created a toxic work environment for the plaintiff both at home and when she went to call on doctors, surgeons, and hospitals. Knowing the supervisor had spoken to her psychiatrist in a slanderous manner, she was unsure what had been said to the physician and surgeons to whom she sold products. She did receive a voicemail from her supervisor, three months after her request for a reasonable accommodation, stating that she had been terminated.

Upon termination, the plaintiff's benefits changed and, her psychiatrist refused to continue seeing her. Things became very bad for the plaintiff very quickly, including hospitalization. The events following the termination effected the plaintiff's entire life. All of this could have been avoided had the defendant not ignored the American with Disabilities Act law, to grant a reasonable accommodation. And, had the defendant not ignored the plaintiff. It should be required by law that a request for a reasonable accommodation is acknowledged and, a clear answer given to the employee who is doing the requesting.

Reasons for Granting the Petition:

The reason for granting this petition is that it is an issue of national importance. There are many people today who are working from home, as was the plaintiff in this case. It makes it very easy for an employer, especially one whose office location is 5 hours away from an employee, to ignore an employee. Ignoring an employee is abusive, creates a toxic work environment and should be illegal.

Once the plaintiff filed a case with the EEOC, she requested mediation, which the defendant refused. There is much difficulty involved when an individual person sues a large corporation. This is well known. The defendant did everything to ignore the plaintiff, after becoming aware that her health issues were psychiatric. Rather than attempting to resolve any issues and accommodate the plaintiff, they dismissed not only the plaintiff but, they dismissed and ignored the law. This makes this case one of national importance, protecting others who are experiencing hardship mentally or physically during this time in our country. Corporations should be required to acknowledge all request for a reasonable accommodation made by an employee. And they should be required to grant the ones that are in fact, reasonable, as was the request in this case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kristina Mule Larson

Date: November 11, 2021