

21-7272

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

MAR 01 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

DELILA UWASOMBA — PETITIONER
(Your Name)

vs.

MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.,

and

BANK OF AMERICA, N.A. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Delila Uwasomba

15560 Cosby Village Ave, Apt 101

(Address)

Chesterfield, VA 23832

(City, State, Zip Code)

804.502.8534

QUESTION(S) PRESENTED

Why does the Federal and Circuit Court think it's acceptable for Bank of America and its affiliates to remove me from my position with Wells Fargo and not restore my job security?

Why does the Federal and Circuit Court think it is acceptable for my babies and I to bear the financial burden from Bank of America and its affiliates?

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

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OTHER

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 A 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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 01.06.2022.

☐ 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: 02.07.2022, and a copy of the order denying rehearing appears at Appendix B.

☐ 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 INVOLVED

Statement of the Case

I want to start by stating that I have been misrepresented by my previous attorneys, from case not being properly filed, to making statements or agreeing to statements that are untrue and to untimely filings. My previous attorney advised due to Covid a filing extension was in place, which resulted in untimely filing for my federal appeal. Also I need to mention the deposition tactic is questionable, I was questioned why I was under investigation during my employment with Wells Fargo, I contacted Wells Fargo and they confirmed I was never under any investigation. The past five years have been exceedingly difficult for me, I never thought justice would be this difficult to obtain in the court of law. As a foreign Black woman, you hear about the racial discrimination, the injustice and inequality, never did I imagine that I will experience it to this extent.

Knowing the system in place I majored in Business because my desire is to be independent by operating my own business. While other graduates were making post graduate employment plans, I decided to start my own company. Looking for a business venture, I researched and decided to open a women's Online boutique while building my network to accomplish my ultimate objectives. I wanted to accomplish so much, but my mother was afraid of my ultimate objective, since it is a male dominated sector and the risk associated with business dealings in Africa. However, my optimistic and assertive nature knew anything is possible with the right contacts. As opposed to attending college parties, I attended Nigeria political functions and political gatherings and built up a small network of politicians. At the age of twenty-two, my circle of affiliates were international politicians, sharing my desires and dreams for a thriving and economic stable Nigeria. I was enthusiastic about the potential of what Nigeria can become with a transparent governance. I knew as a young woman, I needed to be knowledgeable, deferential, and most importantly independent. So, my initial goal was to build my independence before presenting any opportunities pertaining to utilizing natural resources to fund local investments through contracts award.

After graduation, I planned a trip to Nigeria purely for business and networking for one month. During my one month stay, I met a successful LPG expert and environmentalist, which thought me it was imperative to have a successful business before I can approach my affiliates with any investment opportunities. My mother provided the funds for the startup of my Online boutique.

Shortly after my father fell ill of cancer, a few months later my youngest sister was found dead, that sidetracked everything.

After these tragedies, I decided to take a full-time job. I started working as a customer service rep and worked on revamping my company on the side. I applied to Wells Fargo and was hired as a business banker, which was an entry level position. After becoming employed by Wells Fargo, one had to hold a position for a year before applying for another position. I wanted to seek other employment opportunities with higher gains, so I decided to apply for a job on Bank of America website. After applying for the Preferred Transition Specialist (not knowing it was Merrill Lynch). I successfully passed the assessment and had an interview with Susie. During the interview she questioned where I was from because of my accent and my name. Being as a child raised in the U.S. my accent is not as heavy, but you can still tell.

The offer was extended to me mid-November via email from Crystal Cash, and of course it is contingent upon a successful background check. I looked for an apartment in advance because I was moving from Virginia to Maryland for the new job. However, I remained at Wells Fargo, did not provide any notice that I am potentially resigning, until I received a call from Zach stating my background check is cleared and he proceeded to provide start day instructions. The employment process was awkward, because when Susie called to discuss the offer that was emailed to me, she questioned me about my date of birth and if certain it is not May 14 or 15, I responded no my date of birth is May 13. Soon after, I received the email to schedule for finger printing, I took care of it promptly. While awaiting my background check results, I was then questioned by Deidre Fox as to why I filed for unemployment and to provide documentation. Promptly I went to the unemployment office and requested for a letter as to why I filed for unemployment. After submission, she stated that completes my background and to expect a phone call. It was unusual process, my employment process with Wells Fargo was streamlined, no unusual questions. And not to mention, background checks does not take that long, at a previous part-time job, my background check was ready in less than an hour.

Additionally, the charged was stated on my background check questionnaire, so it's a matter of verifying. Bank of America operates an in-house background check facilitate; therefore, the process should have been more streamlined as opposed to Wells Fargo that utilized third party. From their response, it appears they intentionally removed me from my position at Wells Fargo because they believed I do not qualify to work at Wells Fargo or any bank.

On December 2nd, while at work I received a call, I did not pick up on time so it went to voicemail, which explains the voicemail from Zach Vie that should be part of evidence. We connected on the second call, he explained what to expect on the first day of work and my start date is December 5th. I was super excited that this tumultuous process is finally over, I can now provide Wells Fargo with my resignation letter. It was short notice, however I needed to protect myself. I was employed, it was not necessary, but it would be great to have that additional income to facilitate the reinvestment of my Online business. I apologized to my supervisor for the short notice, he instructed that I go back to my desk and send an email, which I did.

About an hour or so, I called Susie to ask her about some training materials for Series, she calls back explaining my background check is still pending. My response was what do you mean, I just quit my job based on my conversation with Zach Vie, I have arranged for movers, what is going on. She proceeded to explain that I will be able to start Tuesday. I did not fathom there will be any issues being that I have banking experience. Monday evening, she proceeded to tell me my background is still pending and if it could be due to fraud. I should have asked more questions; my thought was they have my information mixed up. Between then I had called Zach numerous times questioning why he made the call, and he explained I was among ten people scheduled to start on Monday. I was still being hopeful until I received the disqualification letter. I have never contemplated suicide in my life, but I did that day. I realized I was up for a rude awakening and there was a serious problem. I cannot think of words to express my feelings and emotions, it was almost worse than losing my father and sister. I have never cried as much as I did that day, it was as if my world was coming to end.

I have relocated, have all these new obligations, and things were finally coming back to perspective and just like that it is about to be destroyed. The following day, Angela called and apologized for the mistake and advised me that I did not qualify for Preferred Transition and to rectify there is an alternative position however I need to prove I did not spend four days in jail. I explained to her it is half the sentence. In fact, I did not spend up to forty-eight hours, my mother bonded me out the first day within hours which counted as day one. After the conclusion, my attorney, advised I only had one day left and that I can spend it on the weekend. I went in close to 12am on Friday and I was released first thing in the morning around 6am. It was unfortunate situation dealing with an associate daughter (2007) and I even offered to pay for the merchandise. It does not define who I am, nor will it determine my future, at this moment that is what is happening, and I will not allow it.

While I was in Virginia, we had another discussion, Angela suggested I obtain approval from the FDIC and provided a number which I called right away. I provided my address for a packet to be sent. The court had similar document which they already had; the jail retains record for a certain amount of time. I decided to contact the attorney that handled the case, and he was willing to write a letter on my behalf. The next day on my way to my attorney, Angela called, we went back and forth regarding the jail sentence, and I kept telling her in Virginia, it's half the sentence and I am going to provide the documentation, next thing I know she stated here it's, I can verify, I'll mark satisfactory on this position, and someone will be in contact with further details. There was no need to go to my attorney office to obtain documentation since she was able to verify. I was so relieved, and so happy, and my mother was happy we were able to finally resolve the issue. She was so worried about my wellbeing and was so happy that I was going to be fine. Once again, I am excited, out of curiosity I emailed Susie to learn about the new position, she was out of the office. She replied when

she returned to office, asking who gave me this information and who is Angela. My thoughts, here we go again, what is the problem now. I have never experienced such a dysfunctional employment process. She requested for Angela number, I provided it. She calls back moments later and broke the news they are not moving forward with me, as soon as she said those words, I busted into tears, everything went blank, I was distraught, it did not make sense, I was hearing every other word, I heard something about Nigeria and fraud. I am thinking what I do now with all these obligations, with my late father's estate with no source of income to complete the loan modification. Rent is at \$1,500 plus utilities, etc. how am I going to take care of it while maintaining my objectives. It was a very scary moment for me, I did not qualify for unemployment because I resigned from my previous position.

I started applying for jobs, I was so distraught that I underperformed during my interview and was questioned why I did not transfer to another Wells Fargo. I depleted my savings that was intended for my online boutique. I had to sell furnishings to keep a roof over my head, it was awful. I was in the process of a root canal; I was told few months prior I had pre cancer and to refrain from stress. Here I am stressing and not able to financially take care of my medical needs.

I contacted an attorney, he reached out to Bank of America for a resolution, they did not respond adequately so he advised that I file a discrimination case with the EEOC. The EEOC recommended meditation, I expressed in my written argument, what was at stake, they have shown little interest in resolving this matter as if this is some type of legal chess game and who can write the best legal document. The ideal would be to resolve any issue as quickly as possible in respect of one's time and obligations, especially when they have taken away their financial security. The only response in relation to resolving this matter was years into the case stating my demand exceeds the \$300k cap. They referred to my demand as a nuisance demand, utterly disrespectful. If there is going to be a set cap, there needs to be a set time frame and stipulations that allows for the inclusion of impacted opportunities. They have taken advantage of this cap and dragged me through a lengthy legal process further plunging me into a financial distress.

My mother is disappointed because she trusted me to operate a successful business venture. I prolonged creating a family until my business is operational and self-sufficient, but I am now struggling to provide for my children as I intended.

This case does not hinge on my recollection of the conversation between Susie and I, it only proves that I was distraught, distressed, hysterical that I have been defrauded out of my job with Wells Fargo, and if things are not quickly resolved everything that I have worked and built was going to be destroyed. This case hinges on the fact Zach Vie contacted me with start day instructions whilst he should not have, because that phone call have turned my life upside down. It hinges on the fact I was removed from my position with Wells Fargo and with fraud accusation. It has been an emotional wreck from that point on. I did everything possible to move forward with any position offered. I would have accepted anything had it been offered to have kept me from depleting my savings and not having to sell my furniture's and sleeping on the floor. I met my kids' father out of depression, being abandoned because of the situation. I was sleeping on the floor while pregnant with my daughter that I ended up losing her at five months. I have been put through a lot of hardship because of this situation and I am still going through it.

I lost credibility with my closest affiliate that is now a senator, the possibilities were endless. The issue is not what was said to me, the issue is how it impacted my life based on my ethnicity and their negligent hiring process. This is about my two-year-old and four-month-old son not having a secured future and not providing for them as I intended, this is about my mother that trusted me with an investment opportunity. It is once again threatening my livelihood, it is not just me anymore. I

now have a two-year-old and a four-month-old and it is affecting us. I lost my stay home job on January 14, being overwhelmed dealing with this case. I was once again shattered and disappointed with the court ruling. As opposed to enjoying motherhood in my late 30's I am dealing with a civil case seeking for justice for the lifestyle that I was creating for my children. We are at risk of eviction; every time I have some type of savings it has gone on lawyer fees. This is not what I envision at this point of my life

By now I would have amassed the amount of my initial demand had I not been interrupted. I am a very hardworking, goal driven, and extremely competitive. During my employment with Wells Fargo, I graduated top of the sales class, I was awarded five out of the five certificates for achievements, most sales, high referral rate, etc. Last year I successfully passed my exams and am now licensed to sell annuity, life and health insurance. During my employment at Premium Choice, I also exceeded expectations and became top producer within a month of employment. Apart from not being satisfied because I rather exceed those expectations with my company; Premium Choice doesn't offer any PTO nor maternity leave and I needed a work from home position that's not customer interface for the sake of my newborn.

I seek the court fairness in rendering justice. Not recollecting the exact words of my communication after a couple of years does not change the fact, I was removed from my position at Wells Fargo which impacted my finances significantly. It came to a point I was unable to pay for rent after the funds that was set aside for my Online business was squandered in rent, utilities, etc. as I was not able to collect on unemployment and continue to be squandered on attorney fees post employment. They're aware I was unable to collect unemployment and should've made it a priority to resolve this case when I initially reached out with Mr. Dansicker or when EEOC recommended mediation. It would have prevented a lot of things had the case been resolved at that time. I lost our family home that I was in the process of modifying for a rental property and lost everything that I had built up and organized and they are liable for it. It is important that we respect one's goal, objectives, and time whether we value them or not. Candidates do have goals and obligations outside of their immediate position or employment seeking and it is important that we respect them regardless of the individual nationality or gender. The court needs to understand the issue is determining the fair dollar value that is owed to me and facilitate in determining the appropriate dollar value owed to me. Had I been disqualified without being removed from my position at Wells Fargo which impacted my finances there would not be a lawsuit. Words does not affect me and I'm not going to waste my time pursuing a civil matter over words.

REASONS FOR GRANTING THE PETITION

To prevent injustice, not being able to recollect words communicated is not enough to determine discrimination didn't take place. The case is very clear, I was employed with a notable bank, and they have not been able to identify the reason why I was not offered an alternative position within the bank after providing start date instructions for a position they're claiming I do not qualify. Although I would have been eligible had they filed the proper paperwork with the FDIC/FINRA. At the very least, I should have been offered a similar position that I held at Wells Fargo or a position without FDIC or FINRA requirements.

I took the precaution to protect my position with Wells Fargo by not providing resignation letter despite the job offer in place and waited to be called with affirmative start date before providing resignation. There's nothing I could have done on my part to prevent this civil matter, however there are many options they could have exercised but chose not to therefore it's discrimination.

In the most recent attempt to resolve this issue outside of the court, I was offered a dollar amount that doesn't account for the legal fees I have sustained let alone the economical and emotional damages. Because they're under the impression they have won the legal proceedings therefore exempting them from the financial damages, a very unfair injustice practice. EEOC found them liable, and I ask that the court do the same. Otherwise, the system has failed us.

STATEMENT OF THE CASE