

No.

21-748

ORIGINAL

In the
Supreme Court of the United States

Supreme Court, U.S.
FILED

NOV 16 2021

OFFICE OF THE CLERK

CHINYERE U. NWOKE,

Petitioner,

v.

UNIVERSITY OF CHICAGO MEDICAL CENTER,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

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November 16, 2021

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QUESTION PRESENTED FOR REVIEW

Whether the lower courts judged Petitioner's claims?

RECEIVED

LIST OF PARTIES TO THE PROCEEDING

Petitioner is Chinyere U. Nwoke.

Respondent is the University of Chicago Medical Center.

LIST OF RELATED PROCEEDINGS

1. On September 22, 2016, Petitioner filed her first lawsuit in the United States District Court, Northern District of Illinois, Eastern Division, No. 16-cv-09153, *Nwoke v. The University of Chicago Medical Center a/k/a The University of Chicago Hospitals and Health System*.
2. On November 15, 2018, the district court denied motion to add pay discrimination. The court transcript is in Appendix B.
3. On December 13, 2018, Petitioner filed a lawsuit in Circuit Court of Cook County, Illinois, No. 2018-L-013417, *Nwoke v. The University of Chicago Medical Center*. On January 17, 2019, Respondent moved the lawsuit from State to Federal court.
4. United States District Court, Northern District of Illinois, Eastern Division, No. 19-cv-00358, *Nwoke v. The University of Chicago Medical Center*. This proceeding was moved from Circuit Court of Cook County and Plaintiff's motion to remand case to State Court was denied. Memorandum Opinion and Judgment were entered on June 4, 2020 and in Appendices B and C.
5. United States District Court, Northern District of Illinois, Eastern Division, No. 16-cv-09153, *Nwoke*

v. The University of Chicago Medical Center a/k/a The University of Chicago Hospitals and Health System. Memorandum Opinion and Judgment were entered on March 13, 2020 and in Appendices F and G.

6. United States Court of Appeals for the Seventh Circuit, No. 20-2242, *Nwoke v. University of Chicago Medical Center*. Opinion and Judgment; and United States Court of Appeals for the Seventh Circuit, No. 20-3413, *Nwoke v. University of Chicago Medical Center* Opinion and Judgment were entered on August 9, 2021 in Appendix A¹.
7. United States Court of Appeals for the Seventh Circuit, Nos. 20-2242 and 22-3413, *Nwoke v. University of Chicago Medical Center*. Petition for Rehearing was denied on August 26, 2021 and in Appendix H.

¹ The Court of Appeals entered one Opinion and Judgment for the two lawsuits.

TABLE OF CONTENTS

QUESTION PRESENTED FOR REVIEW	i
LIST OF PARTIES TO THE PROCEEDING	ii
LIST OF RELATED PROCEEDINGS	ii
TABLE OF AUTHORITIES	v
PETITION FOR WRIT OF CERTIORARI	1
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS	1
INTRODUCTION	2
STATEMENT OF THE CASE	2
A. Summary of Petitioner's Claims	2
B. Summary of the District Court's Orders	4
C. The Seventh Circuit Court of Appeals Orders	4
REASONS FOR GRANTING THE PETITION	4
CONCLUSION	5
APPENDIX	
Appendix A Order in the United States Court of Appeals for the Seventh Circuit (August 9, 2021)	App. 1

Appendix B	Memorandum Opinion and Order in the United States District Court for the Northern District of Illinois Eastern Division (June 4, 2020)	App. 9
Appendix C	Judgment in a Civil Case in the United States District Court for the Northern District of Illinois (June 4, 2020)	App. 18
Appendix D	Notification of Docket Entry in the United States District Court for the Northern District of Illinois Eastern Division (June 15, 2020)	App. 20
Appendix E	Order in the United States District Court for the Northern District of Illinois Eastern Division (November 16, 2020)	App. 22
Appendix F	Memorandum Opinion and Order in the United States District Court for the Northern District of Illinois Eastern Division (March 13, 2020)	App. 33

Appendix G	Judgment in a Civil Case in the United States District Court for the Northern District of Illinois (March 13, 2020)	App. 82
Appendix H	Order in the United States Court of Appeals for the Seventh Circuit (August 26, 2021)	App. 84
Appendix I	Transcript of Proceedings Before the Honorable Jorge. L. Alonso in the United States District Court for the Northern Division of Illinois Eastern Division (December 11, 2018)	App. 86

TABLE OF AUTHORITIES**STATUTES**

28 U.S.C. § 1254(1).....	1
29 U.S.C. § 206(D)	3
42 U.S.C. § 1981.....	1, 2, 3
42 U.S.C. § 2000e-2(a)(1)	1, 2

PETITION FOR WRIT OF CERTIORARI

Petitioner Chinyere Nwoke respectfully petitions this Court to issue a writ of certiorari to review the lack of judgment in her lawsuit against Respondent, The University of Chicago Medical Center, by the United States Court of Appeals for the Seventh Circuit and the United States District Court, Northern District of Illinois.

OPINIONS BELOW

The Seventh Circuit Court of Appeals affirmed the Opinions of the District Court. The Order is reproduced in Petitioner's Appendix A.

JURISDICTION

The judgment of the United States Court of Appeals for the Seventh Circuit was entered on August 9, 2021. Petitioner filed a petition for rehearing on August 20, 2021. The petition for rehearing was denied on August 26, 2021. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Lilly Ledbetter Fair Pay Act of 2009 amends the Equal Pay Act of 1963 and the Civil Rights Act of 1964 to prohibit gender-based wage discrimination. 42 U.S.C. § 1981 provides in pertinent part that: "All persons...shall have the same rights...to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens." 42 U.S.C. § 2000e-2(a)(1) provides in

pertinent part that: "It shall be an unlawful employment practice for an employer...to discharge any individual, or otherwise to discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."

INTRODUCTION

The Lilly Ledbetter Fair Pay Act of 2009 strengthens The Equal Pay Act and prohibits wage discrimination on the basis of sex. The Equal Pay Act of 1963 requires that men and women in the same workplace receive equal pay for equal work. 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964 prohibit employment discrimination on the basis of "race," "sex," or "national origin." 42 U.S.C. § 2000e-2(a)(1). These provisions hold that an unlawful employment practice occurs when a discriminatory compensation decision is adopted.

It remains to be judged whether the decision of Respondent to pay Petitioner less than her male and white female peers violated the provisions of these statutes.

STATEMENT OF THE CASE

A. Summary of Petitioner's Claims

The Complaint in the Circuit Court of Cook County, Illinois, in pertinent part, states:

1. On November 7, 2011, Defendant hired Plaintiff as the first Nigerian-born, African American female

Hospital Operations Administrator (HOA) among five Caucasian females and one Asian male HOAs.

2. On November 7, 2011, Defendant paid Plaintiff salary grade 18 while paying Plaintiff's non-black and male peers salary grade 20.
3. During the same time, Thomas Lloyd, Tracy Pietrzyk, Emily Lowder, and Christopher Hargreaves, all white directors, harassed; created a hostile work environment; chased Plaintiff on hallways; and prevented Plaintiff from doing her work and duties. Pietrzyk mimicked Plaintiff's accent at meetings.
4. In or about April 2018, Defendant gave Plaintiff documents indicating that Defendant underpaid Plaintiff by \$71, 726.50 because of her race and sex.

Petitioner claims violations of The Lilly Ledbetter Fair Pay Act of 2009; The Civil Rights Act of 1866, 42 U.S.C. § 1981, The Equal Pay Act of 1963, 29 U.S.C. § 206(D); and Intentional Infliction of Emotional Distress ("IIED"). Petitioner demanded \$71,726.50, the difference in salaries between her and her non-black / male peers; punitive damages and court costs.

On September 22, 2016 Petitioner filed her first suit against Respondent. Petitioner's two motions to amend her first suit were denied, which led to the filing of the second suit. Defendant had argued that Plaintiff's claims in her second suit would be futile. The district court did not rule on the futility of Plaintiff's claims, and stated, "I will not reach the issue of futility." Appendix B, p. 10, line2, Transcript of district court's ruling on Plaintiff's motion to amend complaint.

B. Summary of the District Court's Orders

On March 13, 2020, the district court in the first suit granted summary judgment to Respondent. On June 4, 2020, the district court in the second case dismissed the second suit. On June 26, 2020, the district court awarded Respondent \$18,393.69 in bill of costs.

C. The Seventh Circuit Court of Appeals Orders

On August 9, 2021, the Seventh Circuit Court of Appeals affirmed the decisions of the district courts in the two lawsuits, reducing the bill of costs by \$100.00. On August 26, 2021 the Seventh Circuit Court of Appeals denied rehearing.

REASONS FOR GRANTING THE PETITION

Certiorari is warranted because the claims in the lawsuits have not been judged.

In her first suit, Petitioner claimed, in pertinent part, that:

1. In May 2015, Plaintiff's supervisor suddenly placed Plaintiff on a Performance Improvement Plan, or PIP. Plaintiff was disciplined and terminated for poor leadership, though her peers, none of them African-American, were not disciplined under same or similar circumstances.
2. Plaintiff's PIP ended in September 2015, but the meetings continued with increasing frequency and no explanation for why they were taking place. She offered to write out explanations of her performance

like her non-black peers did, but was told her meetings were confidential.

3. The extra meetings had the effect of putting considerable strain on Plaintiff's time, which affected her performance, and she was subjected to more meetings and discipline.
4. Beginning March, 2016, Plaintiff frequented Defendant's Emergency Room with abdominal pain, headaches, chronic chest pains and other conditions. Doctors from other hospitals later diagnosed Plaintiff with Post Traumatic Stress Disorder (PTSD) and other conditions associated with the conditions of stressors at work.

Based on the district and appeals court Orders and Opinions, there is no judgment on the merits of Petitioner's claims.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Petition for Writ of Certiorari be granted.

Respectfully submitted,

/s/Chinyere U. Nwoke

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Dated: November 16, 2021

APPENDIX