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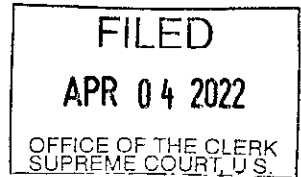
21-7579

SUPREME COURT OF THE UNITED STATES

Taqwa Siddeeq,
Petitioner,

vs.

DeKalb County, Georgia
Respondent



ORIGINAL

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

PETITION FOR WRIT OF CERTIORARI

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Questions Presented for Review

Question 1:

Does due process for terminated employee exist under the *Loudermill* standard when government counsel withholds from the court record the employee's written response to the employer's intent to terminate letter, and the written response is unavailable on the record?

Question 2:

Under 24 CFR 92.356(b), does the statutory restrictions applicable to a job position's tenure covered under this statute extend to a subsequent job position's tenure when such position is not covered under this statute, and when a period of unemployment separates the two position tenures?

Question 3:

Under 24 CFR 92.356(b), does any non-HOME related pre-existing financial interest constitute a conflict of interest for a covered person under the statute?

LIST OF INTERESTED PARTIES

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

RELATED CASES

Siddeeq v. DeKalb County, No. 1:17-cv-01327-SCJ, U. S. District Court for the Northern District of Georgia, Atlanta Division. Summary Judgment in favor of DeKalb County was granted by the District Court on December 2, 2019.

Siddeeq v. DeKalb County, No. 20-10155-HH. On December 20, 2021, the Eleventh Circuit affirmed the district court ruling.

**STATEMENT OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE
STATEMENT**

Plaintiff-Appellant is appealing Pro Se and does not have a parent corporation and is not a publicly held corporation.

JURISDICTION

The opinion of the eleventh United States court of appeals for *Siddeeq v. DeKalb County*, No. 20-10155-HH was decided on December 20, 2021, and appears at Appendix A to the petition and is unpublished.

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Petition for Writ of Certiorari

Taqwa Siddeeq, Plaintiff/Petitioner, respectfully prays that a writ of certiorari issue to review the unpublished judgement below.

Siddeeq v. DeKalb County, No. 20-10155-HH. On December 20, 2021, the Eleventh Circuit affirmed the district court ruling granting summary judgement to DeKalb County.

Plaintiff/Petitioner is a former employee of Defendant/Respondent, DeKalb County, Georgia, and has, as a pro se petitioner, brought forth a wrongful termination action under Title VII, claiming discrimination and retaliation on the part of the County, and misapplication of federal law to a Title VII matter, respectfully petitions this court for a writ of certiorari to review the judgment of the Eleventh Circuit Court of Appeals affirming a district court ruling affirming summary judgment in favor of the County, and rejecting an extraordinary request for the production key documentation of *Loudermill* compliance not on the record.

Introduction

"The HOME Investment Partnerships Program (HOME) provides formula grants to states and localities that communities use - often in partnership with local nonprofit groups - to fund a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people. HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households..."

www.hud.gov/program_offices/comm_planning/home

"The federal government's largest housing construction program for the poor has squandered hundreds of millions of dollars on stalled or abandoned projects and routinely failed to crackdown on derelict developers or the local housing agencies that funded them. Nationwide, nearly 700 projects awarded \$400 million have been idling for years, a Washington Post investigation found. Some have languished for a decade or longer even as much of the country struggles with record-high foreclosures and a dramatic loss of affordable housing. The U.S. Department of Housing and Urban Development (HUD), which oversees the nation's housing fund, has largely looked the

other way: It does not track the pace of construction and often fails to spot defunct deals, instead trusting local agencies to police projects. The result is a trail of failed developments in every corner of the country..."

'A pattern of HUD projects stalled or abandoned', By Debbie Cenziper and Jonathan Mummolo, The Washington Post, May 14, 2011

Millions of low-income persons in communities across the United States look to the HOME program for assistance in securing one of the most basic and increasingly elusive needs, affordable housing. Working to meet these housing needs are thousands of committed and dedicated housing professionals, many who often forego much more lucrative private sector careers to give of themselves to help low and moderate income families become homeowners or find affordable housing.

When Congress authorized Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.), authorizing the HOME program, it seemed that real help was on the way. The reality can be somewhat different. Far too often, standing between the proper use of the funds authorized by Congress, and the front line service providers within government, and those operating various nonprofit agencies who partner with governments to meet those needs, and their citizen

clients, are officials of local governments and their various self-interests. This case illustrates how easy it can be to effectively manipulate the existing HOME regulations outside of the purpose of the program.

This writ is an opportunity to alert the highest court in our nation to the ongoing need for this crucial government program to be better protected from corruption and manipulation by bad actors or poorly trained officials that sometimes manifest themselves within the participating jurisdictions, their unwise actions inevitably denying significant levels of intended Congressional benefit to some of our nation's most vulnerable.

Statement of the Case

Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.), authorizes the Home Investments Partnerships Program (HOME), which is found at 24 CFR 92. The Affordable Housing Act is administered by the U.S. Department of Housing and Urban Development (HUD). DeKalb County, Georgia, is a participating jurisdiction (PJ) in the HOME program. HOME is the largest federal block grant to state and local governments designed exclusively to create affordable housing for low-income households.

Plaintiff/Petitioner, Taqwa Siddeeq, was terminated from his employment as a Senior Center Manager with the county's Office of Senior Affairs (OSA), on September 30, 2014. [Doc. 100-2, at 8] In this employment termination letter, the County claimed Siddeeq violated the "HUD conflict of interest statute" that is applicable to HOME funded nonprofits (i.e. 24 CFR 92.356). This was Siddeeq's second termination from County employment. His first employment with the County began on September 27, 2010, as a Housing and Financial Specialist within the Community Development Department (DCCD). [Doc. 4 at 7] This first employment concluded with a termination on January 25, 2013 asserting conflict of interest violations. [Doc. 4 at 20-24] This first employment termination was reversed on appeal to the County's Merit Council for lack of evidence. [Doc. 4 at 25-26] This reversal led to Siddeeq being re-instated on July 25, 2013, to a Senior Center Manager position that the County stated "avoids conflict of interest". [Doc. 100-1, at 48]

DCCD receives program administrative funding from HUD provided HOME funds. This funding is supposed to pay for salaries of DCCD employees "*engaged in administering and managing activities assisted with funds made available under this subtitle.*" 42 U.S.C. 12742(c).

The OSA is funded by the County's general fund and is not funded through HUD. [Doc. 90 at 11:16-24]

HOME regulations allow local government employees to serve on a CHDO nonprofit's board of directors. 24 CFR 92.2 (5)

The County attempted to reinstate Siddeeq to his former position however Siddeeq resisted reinstatement to his former position without assurances no conflict of interest remained. [Doc. 100-2 at 65-66] Siddeeq requested the County seek a legal opinion, a HUD exception under the statute, or a HUD determination. [Id.]

The County responded with a July 22, 2013 reinstatement letter. [Doc. 100-2 at 78-79] In that letter, the County assigned Siddeeq to a position as Senior Center Manager, stating the position "*was chosen to avoid the conflict of interest problems that have been a long term subject of concern for the County and for you.*" [Id.]

On July 24, 2013 Siddeeq filed an EEOC claim. [Doc. 48-17]

On July 25, 2013, per the requirement of the July 22, 2013 reinstatement letter, Siddeeq returned to work for the County as a Senior Center Manager.

Siddeeq observed the one-year waiting period mandated in 24 CFR 92.356(b). In October 2013 email communications between Siddeeq and DCCD Director Christine Morris, the County confirmed the one year waiting period was effective as of July and counting down (i.e. *"even though you are assigned to another area of the department, the length of time for that assignment has been since July. One year has not passed"*), and the County affirmed that Siddeeq's new position *"removes (Siddeeq) from having direct input into decisions made by this department regarding activities assisted with HOME funds."* [Doc. 100-2 at 43-44]

After waiting beyond July 2014, to ensure unquestionable compliance with the HOME conflict of interest statutory one year waiting period, Siddeeq requested and received personal time off, which he then volunteered this private time with his faith congregation's nonprofit, NWI, in August 2014, at a public HUD training event. Local government officials, including DeKalb County officials, and other nonprofit participants from throughout Georgia also attended.

The County responded to Siddeeq's presence at the training event by issuing Siddeeq an intent to terminate letter. [Doc. 92-3, at 98-99]. The County subsequently issued Siddeeq a termination letter on September 30, 2014, in which it referenced Siddeeq's response to their intent to terminate letter of September 11, 2014. [Doc. 92-3, at 100-102] However, the County chose not to include the Siddeeq response on the record, despite its being referenced in their termination letter.

Due Process under the *Loudermill* standard

The due process clauses of the Fifth and Fourteenth amendments both prohibit federal and state governments from depriving individuals of liberty, or property, without due process of law. [U.S. Const. amend. V; U.S. Const. amend. XIV] The Court ruled in Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985) that a government employee with property rights in his or her employment is entitled to due process prior to being deprived of any significant property interest. In the present case, Siddeeq was a government employee with property rights to his employment with DeKalb County. As such, he was entitled to the due process provided by the *Loudermill* precedent, known as the "*Loudermill* hearing". The "*Loudermill* hearing" affords the employee at risk of termination the opportunity to respond to the employer regarding the reasons for which the employer seeks to dismiss the employee.

Under Rule 106 of the *Federal Rules of Evidence*, when a part of a writing or recorded statement is introduced, an adverse party may require

introduction of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with the writing or statement originally introduced, to provide explanation, qualification, or context for the original piece of evidence introduced. Per Rule 106, the County's decision to omit a key document, the Siddeeq *Loudermill* response, when it submitted its evidence of compliance to the *Loudermill* process, means evidence of the *Loudermill* process is incomplete. It is reasonable to conclude that incomplete due process is not due process.

Local government counsel represent the public interest and should be held to a higher standard than private lawyers, with a responsibility to seek justice.

Freeport-McMoRan Oil & Gas Co. v. FERC, 295 U.S. App. D.C. 236, 962 F.2d 45

(1992) This writ contends the County's legal counsel had a duty to the public interest to provide completely the available documentation of the *Loudermill* process followed. Petitioner respectfully requests this Court address this issue, and also reverse the summary judgment for lack of due process under *Loudermill*.

HOME Statutory applicability across employment tenures

The facts show that Siddeeq, during his first employment tenure, was a Housing and Financial Specialist, with duties applicable to the HOME conflict of interest statute (92.356(b)). Siddeeq was then terminated from employment with the County. A successful internal appeal resulted in his reinstatement to employment after six months of unemployment, however, not as a Housing and Financial Specialist, but as a Senior Center Manager. Siddeeq received payment of back salary. The Senior Center Manager does not meet the conflicting position standards outlined in 24 CFR 92.356(b). This was affirmed by the County in the July 22, 2013 reinstatement letter, and again in the October 2013 email exchange. [Doc. 100-2 at 43-44]

The HOME conflict of interest statute mandates a one-year waiting period, post tenure. The Petitioner asserts the County has incorrectly construed the HOME statute term "tenure" to mean "overall employment" instead of positional employment. [Doc. 48-26 at 2] This construction was presented by the County in their September 30, 2014 termination letter despite the fact Siddeeq was indeed unemployed by the County immediately preceding his assignment to the non-conflicting position. Director Morris also asserted, in that same letter, that the statutory waiting period did not end on July 2014. This statement directly conflicts with the Director's prior email of October 2013, where she stated, in response to Siddeeq's inquiry on the subject: *"even though you are assigned to another area of the department, the length of time for that assignment has been since July. One year has not passed"* [Doc. 100-2 at 43-44] The Director references Siddeeq requesting *"permission to volunteer (his) services for DeKalb County CHDO's such as NWT"*, and cites those requests as a basis for concluding Siddeeq was insubordinate. The mere act of Siddeeq requesting Director Morris' permission to volunteer his personal time with public charities does not impute the statutory authority to Director Morris to grant or deny that permission. The First Amendment limits a public employer's ability to leverage the employment relationship to restrict the liberties employees enjoy in their capacities as private citizens. Perry v. Sindermann, 408 U.S. 593, 597, 92 S. Ct. 2694, 33 L. Ed. 2d 570 (1972)

HOME Statute inapplicability of any pre-existing debts to HOME assisted activities.

The United States Department of Housing and Urban development (HUD) issued CPDCI-FY13-1, dated April 5, 2013, on this matter. This document was issued in response to inquiries made by Petitioner directly to HUD. In this document HUD states "*As a recipient of CHDO funding in a 'HOME participating jurisdiction,' Mr. Siddeeq has an interest, a "financial interest or benefit," in the form of the repayment of a debt owed him by the CHDO. He stands to gain financially from the nonprofit CHDO's HOME-assisted activity.*" [doc 100-2 at 49] HOME assisted activities are specific activities development undertaken by a CHDO nonprofit after they receive HOME funds for the purpose. A CHDO may also receive operating overhead funds from HOME as well, so long as the salaries and overhead is directly related to the HOME assisted activities. It is not possible for any debt unrelated to, or pre-dating, the HOME assisted activity to be repaid by HOME funds. To reasonably determine the applicability of a pre-existing "financial interest" to 24 CFR 92.356(b), in this case HUD would have to show that "but for" the statutory restriction, the employee would be able to receive this particular "*financial interest or benefit*" from the HOME-assisted activity, or the proceeds therefrom. Since Siddeeq's service to the nonprofit as executive director and the debt associated with that service, pre-dates all HOME program involvement for both parties, and is unrelated to any HOME assisted activity or its proceeds, it is inconceivable to see how HUD concludes Siddeeq "*stands to gain financially from the nonprofit CHDO's HOME-assisted activity.*" [id] At most, any such unrelated interests would constitute an "identity of interest", not a statutory "conflict of interest".

If, somehow, HUD concludes any of these pre-existing interests are somehow a conflict, does HUD, or the PJ, have a duty to "resolve the matter or seek an exception"? In the case of Siddeeq, the matter was brought to the County's attention, and to HUD's attention, and despite the directive of HUD in their letter, for the County to resolve the matter or seek an exception under the statute, the matter was neither resolved, nor was an exception ever sought.

The HOME conflict of interest statute also contemplates that PJ employees are free to obtain actual financial interests in, and benefits from, HOME assisted activities, so long as they are at least twelve months outside of a position with duties consistent with the statutory language, no exceptions required. The County's construction of the statute suggests Siddeeq can become indefinitely subject to the statutory restrictions, despite no longer being in a position with duties consistent with the statutory language, unless an exception is requested by the County, and

granted by HUD. This mis-construction of the statute by the County appears to be in error, and because there are hundreds of PJ's nationwide, relying on this statute, these errors should be clarified, and summary judgment reversed due to inapplicability of statute.

Taqwa Siddeeq, Petitioner
April 3, 2022

(Petitioner granted
extension until April 3,
2022).