ORIGINAL

No. 21-7930

FILED
MAY 17 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Daniel Coleman — PETITIONER
(Your Name)

vs.

Minneapolis Public Schools — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eighth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Daniel Coleman
(Your Name)

4100 Columbus Ave S.
(Address)

Minneapolis, MN, 55407
(City, State, Zip Code)

(612) 715-7909
(Phone Number)

JURISDICTION

The United States Constitution provides jurisdiction pursuant to Article III Section 2:
The judicial Power shall extend to all Cases, inLaw and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority.

Jurisdiction is also conferred pursuant to 28 U.S. 1254 (1): Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari upon the petition of any party to any civil or criminal Case, before or after rendition of judgment or decree.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. §§ 1254, 1257, and 2101(c).

MN Statutes (Minn. Stat. § 518.58 (2012)

18 U.S.C. § 921(a)(25)

(Minnesota Statutes, section 121A.05)

(MN Stat 179A.06)

Individual with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, and the Family Educational and Privacy Rights Act).

(Minn. Stat. 121A.05 &121A.06:Reports of Dangerous Weapons incidents in Schools)

QUESTIONS

1. This case presents the very simple question of whether trial courts have Jurisdiction or under their inherent authority, to grant relief from a voluntary dismissal in which there have been allegations of fraud on the court?

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APPENDIX

TABLE OF AUTHORITIES CITED

JURISDICTION

[ ] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was February 17, 2026.

[X] 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: _____, 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. § 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).

CASES **PAGE NUMBER**

2. What effect does Fraud have on a case?
3. IS A MOTION FOR RULE 59 TIMELY IF THE DOCUMENT IS DELIVERED ON THE FINAL DAY (after hours) or ON A WEEKEND AND DOESN'T GET SCANNED BY THE COURTS UNTIL 2 BUSINESS DAYS LATER?

STATEMENT OF THE CASE

Plaintiff Daniel Coleman, respectfully moves this court under Rule 59(a)(b)(e) of the Federal Rules of Civil Procedure to alter or amend its judgment entered on April 23, 2021. (Docket 94 and 95).

Petitioner Daniel Coleman was unlawfully terminated because he reported misconduct and concerns for safety. Defendant retaliated by accusing Plaintiff of numerous false accusations. Petitioner was able to gain evidence and documentation that shows a clear issue of material facts, yet his evidence wasn't considered because the Defendant's counsel alleged they didn't receive over 300 pages of evidence. The fact of the matter is the Defendant provided Petitioner with most of the 300 pages of evidence; the Defendant's counsel refused to give Petitioner access to the evidence, stating that the case was closed.

The Defendant failed to accommodate Plaintiff's chronic asthma and retaliated after Plaintiff sought accommodation for his disability from Principal Kristiana Ward ("Principal Ward") Petitioners rights with the Americans with Disabilities Act and Minnesota Statutes § 179A.06.

Plaintiff also contends his PERLA rights were violated because the District suspended him for serving in the capacity of a "whistleblower" who exercised his right to express issues and concerns about the conditions of his employment and safety of the students and staff. The Defendant also violated the safety policy Minn stat 121A.06 and Minn. Stat. 121A.035. Plaintiff Disputes Defendant's Claims of poor job performance. Plaintiff has a substantial amount of evidence and emails, exemplifying instances where he's asked for support, emails from staff thanking him for his work, requests to lead academic/behavior duties and admitting that Plaintiff is "better" at connecting with students.

The content of one email was about a student having a gun at Bryn Mawr School, which was forwarded to the Superintendent of the District and for which Plaintiff was reprimanded. (Ex.#18) (Minn. Stat. 121A.05 &121A.06:Reports of Dangerous Weapons incidents in Schools)

Under the first step of the McDonnell Douglas framework, the plaintiff must establish a prima facie case of retaliation by showing 1) "participation in a protected activity"; 2) the defendant's knowledge of the protected activity; 3) "an adverse employment action"; and 4) "a causal connection between the protected activity and the adverse employment action." Jute v. Hamilton Sundstrand Corp., 420 F.3d 166, 173 (2d Cir.2005) (citation and internal quotation marks omitted). The plaintiff's burden of proof as to this first step has been characterized as 'minimal' and 'de minimis.' The District Court erred when it held

that the plaintiff failed to satisfy the knowledge and causation prongs of the prima facie case.

With respect to the knowledge prong, the District Court held that the plaintiff could not demonstrate Defendant's knowledge of his protected activity because Coleman allegedly had provided no evidence that Defendant had knowledge of, in her reason for imposing discipline on Coleman.However, for purposes of a prima facie case, a plaintiff may rely on "general corporate knowledge" of his protected activity to establish the knowledge prong of the prima facie case.4 Gordon v. N.Y.C. Bd. f Educ., 232 F.3d 111, 116 (2d Cir.2000) ("Neither [the Second Circuit] nor any other circuit has ever held that, to satisfy the knowledge requirement, anything more is necessary than general corporate knowledge that the plaintiff has engaged in a protected activity.")

This complaint was sufficient to impute to Minneapolis Public Schools general corporate knowledge of the plaintiff's protected activity. The plaintiff made disability aware to Defendant that his protected activity of asthma was documented on his district paperwork on multiple occasions. (Ex. 31,32) (Docket 95) (See Reed, 95 F.3d at 1178 (holding that a plaintiff's complaint to an officer of the company communicated his concerns to the company as a whole for purposes of the knowledge prong of the prima facie case); see also Summa v. Hofstra Univ., 708 F.3d 115, 125–26 (2d Cir.2013). Therefore, Plaintiff satisfied the knowledge prong of the prima facie case.

This case is a good illustration of why corporate knowledge is sufficient for purposes of a prima facie case of retaliation. If that were not true, a simple denial by a corporate

officer that the officer ever communicated the plaintiff's complaint, no matter how reasonable the inference of communication, would prevent the plaintiff from satisfying his prima facie case, despite the fact that the prima facie case requires only a de minimis showing.

Judge Doty advised during the hearing for summary Judgment that he read all of the information/evidence but he disregarded 90% of my evidence.Court's decision was based on a clear error of fact and there was misconduct from opposing counsel when Jonathan Norrie stated he did not receive over 300 pages of evidence. Defendant produced several exhibits that were included in Plaintiff's employee relations file.

The Defense alleged they did not receive key evidence but in fact they received all of the exhibits and produced several exhibits via Plaintiffs Employee relations file. The Employee relations file was produced by the defendant April 2, 2019.
In addition, Appellant emailed and mailed evidence to the defendant and it's counsel. Jonathan Norrie acknowledges that emails were sent to Brittany Bachman Skemp, but alleges he did not receive the emails even though he was a recipient as well. Jonathan Norrie was included on emails where appellant sent discovery. (Dkt 97)

In addition, the Defendant continued to engage in misconduct when Plaintiff requested access to the discovery link from Defendant to verify more documents, but Defendants counsel declined. (Exhibit A) The Exhibit (emails) included with my Affidavit show a pattern of misconduct from the Defense counsel. Jonathan Norrie's Affidavit caused

counsel declined. (Exhibit A) The Exhibit (emails) included with my Affidavit show a pattern of misconduct from the Defense counsel. Jonathan Norrie's Affidavit caused Plaintiff to have an abundance of evidence to be overlooked, causing Plaintiff's case to be dismissed. Jonathan Norrie Mislead the court and denied having evidence.

On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct entry of a new judgment

REASONS FOR GRANTING PETITION

1. COURT ERRED IN DISCRETION OF FACTS IN REGARDS TO MOTION 59 FRAUD UPON THE COURT
   a.) Court erred in judgment dismissing Plaintiff's rule 59 and denying a hearing to discuss the Defendants perjury

2. THE COURT ERRED IN GRANTING SUMMARY JUDGMENT FOR DEFENDANTS BASED ON LACK OF A GENUINE ISSUE OF MATERIAL FACT REGARDING (A) LACK OF PROBABLE CAUSE FOR THE UNDERLYING LITIGATION AND (B) MALICE
   B. THE TRIAL COURT IGNORED EVIDENCE CREATING A GENUINE DISPUTE

3. COURT ERRED IN DISCRETION OF FACTS FOR SUMMARY JUDGMENT
   a.) Court erred in Judgment dismissing over 300 pages of Plaintiff's evidence, yet most documents were initially received from the Defendant.

A FRAUD ON THE COURT ALLEGATION BY ITSELF SHOULD BE SUFFICIENT FOR A DEFENDANT TO SEEK RELIEF PURSUANT TO *The fraud standard.*

A district court may summarily dispose of a fraud claim (i.e. grant summary judgment) "only where there is no genuine issue of material fact in dispute and where a determination of the applicable law will resolve the controversy." *Gaspord v. Washington County Planning Comm'n*, 312 Minn. 591, 591, 252 N.W.2d 590, 590 (1977).

When presented with a motion for summary judgment, the district court may not weigh the evidence. *Wagner v. Schwegmann's South Town Liquor, Inc.*, 485 N.W.2d 730, 733 (Minn. App. 1992), *review denied* (Minn. July 16, 1992). Instead, the district court must view the evidence in the light most favorable to the nonmoving party. *Grondahl v. Bulluck*, 318 N.W.2d 240, 242 (Minn. 1982).

Here, the district court failed to view appellant's Exhibits/Affidavits in the light most favorable to appellant and, instead, impermissibly weighed other evidence against appellant. Appellant presented evidence of material issue and evidence that respondent actually did receive discovery documents. .

RULE 59

The courts advised Appellant that he was outside of his federal computing time, but Plaintiff Daniel Coleman was within his computing time of 28 days per Mn Civil rules of procedure 59.03.

Although, this case did not go to trial, per Minnesota Rule 59.01 On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or

verdict or service of notice by a party of the filing of the decision or order; and the motion shall be heard within 60 days after such general verdict or notice of filing, unless the time for hearing be extended by the court within the 60-day period for good cause shown. The federal statute allows 28 days but under rule 3) *Inaccessibility of the Clerk's Office.* Unless the court orders otherwise, if the clerk's office is inaccessible:(A) on the last day for filing under Rule 6(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(B) during the last hour for filing under Rule 6(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday. (4) *"Last Day" Defined.* Unless a different time is set by a statute, local rule, or court order, the last day ends:(A) for electronic filing, at midnight in the court's time zone; and (B) for filing by other means, when the clerk's office is scheduled to close. (5) *"Next Day" Defined.* The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event. (6) *"Legal Holiday" Defined.* "Legal holiday" means:(A) the day set aside by statute for observing New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day;(B) any day declared a holiday by the President or Congress; and (C) for periods that are measured after an event, any other day declared a holiday by the state

where the district court is located. Due to the document being received on a weekend,

Petitioner should be granted his rule 59 request.

The Plaintiff's deadline for filing was May 23, 2021 which landed on a weekend, Per Rule 6.Time / 6.01Computation

(a) Computing Time. The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

(1) Period Stated in Days or a Longer Unit of Time. When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday. Plaintiff advised the courts at the Summary Judgement Hearing that the Defendant received all discovery documents, yet Jonathan Norrie's Affidavit lying under oath assisted in granting summary judgment for the Defendant. (The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters ...") " *Ritchie v. Krasner*, 221 Ariz. 288, 303, ¶ 52 (App. 2009).

between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function — thus where the impartial functions of the court have been directly corrupted." "Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

What effect does an act of "fraud upon the court" have upon the court proceeding? "Fraud upon the court" makes void the orders and judgments of that court. It is also clear and well-settled Illinois law that any attempt to commit "fraud upon the court" vitiates the entire proceeding. The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934) ("The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions."); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929) ("The maxim that fraud vitiates every transaction into which it enters.."). Additionally, the Defendant was not transparent during the requests for depositions; Jonathan Norrie advised that a number

of employees were not current employees. Later, it was discovered that the witnesses were in fact still employees of the Minneapolis Public Schools. This occurred on another occasion during discovery when requesting information, the Defendant advised they did not have information that they revealed once Petitioner contracted the courts.

In re Village of Willowbrook, 37 Ill.App.2d 393 (1962) ("It is axiomatic that fraud vitiates everything."); Dunham v. Dunham, 57 Ill.App. 475 (1894), affirmed 162 Ill. 589 (1896); Skelly Oil Co. v. Universal Oil Products Co., 338 Ill.App. 79, 86 N.E.2d 875, 883-4 (1949); Thomas Stasel v. The American Home Security Corporation, 362 Ill. 350; 199 N.E. 798 (1935). Under Illinois and Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect. It is well settled that courts have inherent equity power to vacate judgments obtained by fraud. Chambers v. NASCO, Inc 501 U.S. 32, 44 (1991); see also In re Levander, 180 F.3d 1114, 1118-19 (9th Cir. 1999).

CONCLUSION

Plaintiff Daniel Coleman deserves the right to a fair trial and has proven there is evidence of issue of material fact and violations of Plaintiff's ADA rights/ Retaliation. The Defendant disciplined Appellant for claims that were withdrawn, as the claims were false and unwarranted. The Defendant and its counsel presented false allegations, fraudulent misrepresentation and discovery that created an unlawful advantage for the Defendant. Petitioner prays that a review of his Writ for Certiorari is granted.