

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No. 22-165

In the
Supreme Court of the United States

SAMUEL M. HOWARD,

Petitioner,

v.

OFFICE OF THE SPECIAL DEPUTY RECEIVER AND
LUMBERMEN'S MUTUAL CASUALTY COMPANY,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the District Court and Magistrate Judge did not consider all of the brief, filing, company witnesses, and business location and area. And my evidence was submitted to both courts.
2. Whether the remedial purposes of Title VII protections will be severely limited, but I filed with EEOC (TCHR). The Department of Insurance, The Division of Worker's Compensation, Danna Campbell, MD Texas State Senator District 25, Consumer Services Department of Financial Services. Service request No. 1-1014881945, Governor Michael L. Parson, State of Missouri—Division of Consumer Affairs, Senator Jeff Merkley, Washington DC, The President of the United States Joe Biden Washington DC. And Lawyer Carl Hays of Dallas TX.
3. Whether it is an abuse of discretion under the Federal Rules of Civil Procedure's liberal pleading amendment provision to deny a litigant leave to amend to add a count for on-the-job injury discrimination to a Title VII notice of the claims.

PARTIES TO THE PROCEEDINGS

Petitioner

- Samuel M. Howard

Respondents

- Office of the Special Deputy Receiver
- Lumbermen's Mutual Casualty Company

LIST OF PROCEEDINGS

United States Court of Appeals for the Fifth Circuit
No. 22-10240

Samuel M. Howard, *Plaintiff-Appellant*, v.
Office of the Special Deputy Receiver; Lumbermens
Mutual Casualty Company, *Defendants-Appellees*.

Date of Final Opinion: June 23, 2022

In the United States District Court for the Northern
District of Texas, Dallas Division

Civil Action No. 3:21-Cv-0921-K

Samuel M. Howard, *Plaintiff*, v.
Office of the Special Deputy Receiver, *Defendant*.

Date of Final Opinion: May 6, 2022

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Samuel M. Howard petitions for a Writ of Certiorari to review both of Plaintiff's cases and the judgment of The United States Court of Appeals Fifth Circuit office of the clerk on June 23, 2022, case No. 22-10240.



OPINIONS BELOW

The opinion of The (1) United States District Court for The Northern District of Texas case No. 3:21-CV-0921K(BH) (App.4a) and The United States Court of Appeals Fifth Circuit office of the clerk case #22-10240 (App.1a). These opinions were not designated for publication.

All 3 courts overlooked my cases and filed a motion to Dismiss for lack of Subject matter Jurisdiction. All of the Plaintiff's claims against the defendants are dismissed without prejudice for lack of Subject Matter Jurisdiction and Lack of Personal Jurisdiction (ordered) by Magistrate Judge Irma Carrillo Ramirez, Ed Kinkeade, District Judge the United States District Court for The Northern District of Texas.

And the United States Court of Appeals of New Orleans Fifth Circuit examined my record and showed that my evidence was blacked out and tampered with. And the court said I need to file with the Supreme Court. The Appeal Court stated they are going along with Texas Courts and made a motion for insufficient

evidence, but they blacked out my evidence and did not look at anything I submitted that the opinions of the courts were delivered by error verdict and wanted me to go back to the United States District Court for The Northern District of Texas who tampered and blacked out my evidence I filed they ruled with the Defendants Office of The Special Deputy Receiver and Lumbermen's Mutual Casualty Company. They never asked my witnesses to come forward and without my motion burden of proof.



JURISDICTION

The judgment of the Courts of the United States District Court for The Northern District of Texas on March 11, 2022 It was in their courts for 11 months and they just sat on it (App.4a.) A timely filed petition for a rehearing and rehearing en banc was denied.

On June 23, 2022 (App.1a). The United States Court of Appeals Fifth Circuit agreed with the Northern District of Texas. My case was with them for 4 months. This court has jurisdiction under 28 U.S.C. § 1254 to review the final judgment of a United States Court of Appeals.



CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIII, § 1

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 706 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)(1) provides:

To fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin

Section 706 of Title VII of the Civil Rights act of 1964 42 U.S.C. § 2000e-5b states in pertinent part:

Charges by persons aggrieved or member of Commission of unlawful employment practices by employers, etc.; filing; allegations; notice to respondent; contents of notice; investigation by Commission; contents of charges; prohibition on disclosure of charges; determination of reasonable cause; conference, conciliation, and persuasion for elimination of unlawful practices; prohibition on disclosure of informal endeavors to end unlawful

practices; use of evidence in subsequent proceedings; penalties for disclosure of information; time for determination of reasonable cause

Whenever a charge is filed by or on behalf of a person claiming to be aggrieved, or by a member of the Commission, alleging that an employer, employment agency, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, has engaged in an unlawful employment practice, the Commission shall serve a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) on such employer, employment agency, labor organization, or joint labor-management committee (hereinafter referred to as the "respondent") within ten days, and shall make an investigation thereof. Charges shall be in writing under oath or affirmation and shall contain such information and be in such form as the Commission requires. Charges shall not be made public by the Commission. If the Commission determines after such investigation that there is not reasonable cause to believe that the charge is true, it shall dismiss the charge and promptly notify the person claiming to be aggrieved and the respondent of its action. In determining whether reasonable cause exists, the Commission shall accord substantial weight to final findings and orders made by State or local authorities in proceedings commenced under State or local law pursuant to the requirements of subsections (c) and (d). If the Commission determines after such investigation that there is reasonable cause to

believe that the charge is true, the Commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such informal endeavors may be made public by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. Any person who makes public information in violation of this subsection shall be fined not more than \$1,000 or imprisoned for not more than one year, or both. The Commission shall make its determination on reasonable cause as promptly as possible and, so far as practicable, not later than one hundred and twenty days from the filing of the charge or, where applicable under subsection (c) or (d), from the date upon which the Commission is authorized to take action with respect to the charge.

Fed. R. Civ. P 15

(a) Amendments Before Trial.

- (1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course within:
 - (A) 21 days after serving it, or
 - (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

INTRODUCTION

A. Constitutional and Statutory Overview

Plaintiff in the above entitled and numbered Document cases want to file a Motion of Peonage 13th Amendment of the Involuntary servitude labor. I have not filed a tax return in 29 years because of my back injury so I could not work. So I am filing my case on Peonage Penal code free labor by reconstruction (without pay) or Medicare. *See 18 U.S.C. § 77, Peonage labor code; 18 U.S.C. § 77, 18 U.S.C. § 1581 Peonage Involuntary; 17 U.S.C §§ 1594, 1591, 1584, 1583; Title 18-8602, Circular # 3591 and liquidation of obligation.* My lien or suit against the Defendants Lumbermens Mutual Casualty Company and Office of the Special Deputy Receiver for peonage obstruct involuntary servitude.

Plaintiff is filing a motion to appeal and seeking a court date to prove my case.

Plaintiff's case was in the Honorable Irma C. Ramirez Court then moved to District Judge Ed Kinkeade's court and dismissed. I filed an appeal with the United States Court of Appeals for the Fifth Circuit, I like to file an appeal in your court. I have supplied supporting documentation why my case should not be dismissed. Because Lumbermens Mutual Casualty Company said that no documentation proves that I was ever an employee of their insured. And is also known per documents in this case file that you pursued and won a settlement for my injury with Executive Transportation with whom you were

employed at the time of this injury. There is no evidence to substantiate any claims against this insured or the L.M.C. estate in liquidation and office of the Special Deputy Receiver, defendant. I object to the court's decision to dismiss my case and would like to submit a motion to appeal.

The Texas legislature amended the commission on human rights act. Tex. Lab. Code. Ann. 21.001. 21306 (VernonSupp.1994) To conform the act to the Federal Civil Right Act of 1991 which amended similar Federal Employment Law. The amendment applies to a complaint of discrimination filed on or after September 1, 1993, act of Sept.1993, 73 d leg. K.S. Ch. 276, 1993 Tex. Gen. Laws 860 (to be the Amendment broadens the remedies available to victims of discrimination to mirror Federal law 416) *Id.*, In addition to the remedy of reinstatement, back pay, medical bills, getting fired from both jobs.

And perhaps front pay. Plaintiffs may recover actual and exemplary damages; subject uncap by the size of the employer's business 417 *id.* Ch. 276. § V. I am asking Twenty-five million two hundred sixty-eight thousand five hundred forty-eight dollars and the 10% percent. for 30 years. The damages subject to the uncaps are in addition to back or front pay which are not covered by Federal or State law.

In other Amendments in all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The courts should freely give leave when justice so requires. I like to file a motion to the courts for a rehearing of my cases. And a judge should be faithful to and maintain professional competence in the law and should not be swayed because Judge Judy Sheindlin will look at my

cases and she will say this is an open and shut case by partisan interests, public clamor, or fear of criticism.

A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings Rule 15 expresses directions that leave to amend be “Freely give” has no meaning if it is not an abuse of discretion to deny¹. Jenkins leave to amend to add a disability claim. Rule 15(a) declares that leave to amend shall be freely given when justice so requires; This mandate is to be heeded. *See generally*, 3 § 15.08, 15, 10. The trial courts sought reconsideration of the District Court ruling and objected when the magistrate recommended denying its motion. (DKt.69JA 138, DKT. 75. JA 156-161) on July 9, 2018, The District Court denied the trial court’s reconsideration motion. (DKT.78, JA166)

B. Overview of Judicial Rules

1. The Judicial Branch—The White House guarantee that no person shall be deprived of life, liberty, or property without the due process of law, and protection against being tried.
2. The Texas code of Judicial conduct—Texas Center for Legal Ethics, Texas code of Judicial conduct. Book-Mark. (Tex. R. Disciplinary P. reprinted in Texas Govt. Code Ann, tit. 2, sub tit. G app. (Vernon Supp. 1995).
3. The Courts and constitutional interpretation—Supreme court as the final arbiter of the law. The court is charged with ensuring the—has

¹ *Jenkins v. Housing Ct. Dept., et. al.*

hitherto organized a judicial power in the same manner as the Americans.



STATEMENT OF THE CASE

38 C.F.R. § 19.30—Furnishing the Statement of the Cases. Wrongful Termination

A. Wrongful Termination from Grayline Tours

Early on 11/17/1992, I was working on a tour bus, I was installing back brakes on it and was doing it by hand because we did not have a tire jack to work with, so I had tried to lift it up on the axle to install the tire when I hear my back pop, so I went to my supervisor's office at Grayline Tours to let him know. I went to Parkland Hospital in Dallas Texas and was seen by a physician. I was treated by an Orthopedic Specialist. I went back to work the next day. I was on light duty. I asked my supervisor about my medical treatment being paid for. So that is when I filed a Worker's Compensation Claim. And the next thing I knew I was fired for no reason. Plaintiff was terminated after having exercised his or her right to the first amendment². In such cases discrimination discharge³ raised genuine issues of material fact on the existence of pretext 28 Kan. App. 2d at 112. The power to hire or fire employees is ultimately possessed by the employer consequently, the Tort of retaliatory discharge may be committed only by the employer. 182, 111, 2d at 21-22

² *Larson v. Ruskowitz*, 252 Kan. 963, 850 P.2d 253 (1993)

³ 231 Kan. 763, Syl. 2. *Robinson v. Wilson concrete Co.*, 913 F.Supp. 1476, 1483 (D.Kan.1996) 28 Kan. App. 2d at 109-10.

we find the above rationale very persuasive and conclude that only the employer is liable for retaliatory discharge.

B. Bringing Claim for Retaliatory Discharge Under the Texas Labor code

The Legislative purpose of the Texas Labor Code Sections 451.001-451.003/352 (formerly article 8307C) 353 is to protect persons who are entitled to benefits under Worker's Compensation and to prevent them from being discharged by reason of taking steps to collect such benefits.⁴ A plaintiff bringing a retaliatory discharge for employment and the claim for worker's compensation ⁵ A plaintiff need not prove that he was discharged solely because of his deterring or contributing factor in his discharge⁶.

Thus, even if other reasons for discharge exist the plaintiff may still recover damages if retaliation is also a reason causation may be established by direct or circumstantial evidence and by the reasonable inferences drawn from such evidence⁷. Paragon 783 S.W.2d at 658 once the link is established, the employer must rebut the alleged discrimination by showing

⁴ *Carnation Co. v. Borner*, 610 S.W.2d 450, 453 (Tex. 1980)

⁵ *Paragon Hotel Corp. v. Ramirez*, 783 S.W.2d 654,658, (Tex. App.—El Paso 1990 writ denied)

⁶ *Southwestern Elec. Power Co. v. Martin*, 844 S.W.2d 229, 232 (Tex. App.—Texarkana 1992 writ denied)

⁷ *Investment Properties Management, Inc v. Montes*, 821 S.W.2d 691, 694, (Tex. App.—El Paso 1991, no writ).

there was a legitimate reason behind the discharge⁸ Because this action arises out of Samuel M. Howard wrongful termination claims under Title VII of the Civil Rights Act of 1964.

C. Legal Background

I Samuel M. Howard was an employee under the Fair Labor Standard Act and concluded that I worked at Grayline Tours and sustained an on-the-job injury, and I filed a Worker's Compensation Claim, soon after Grayline Tours fired me. Now I am suing Grayline Tours and the Office of the Special Deputy Receiver Co. for emotional distress, defamation and unlawful termination of employment, and the (denial). This has been a 30-year-old case and I am looking for long-time benefits of twenty-five million two hundred sixty-eight thousand five hundred forty-eight dollars and the 10 percent for 30 years. I have removed my cases to the Federal District Court and remanded the case to the state court. Plaintiff appealed the order of remand.

On appeal, the Fifth Circuit observed that the district court's order of remand was based upon the rationale that it does not have the discretion to exercise jurisdiction over the pendent state claim *Id* at 304. Because this reason is not a ground for remand under section 1447(c) and 29 U.S.C. § 1447 (1989). Section 1447(c) provides two grounds for remand: (1) a

⁸ *Hughes Tool Co. v. Richard*, 624 S.W.2d 598, 599 (Tex. Civ. App.-Houston, 14th Dist. 1981 writ ref N.R.E) cert denied, 456 U.S. 991 (1982).

defect in the removal procedure and (2) a lack of subject matter jurisdiction. I like the courts to note that they had jurisdiction to review the remand order.

Both Honorable Judges in the United States District Courts of the Northern District of Texas Dallas Division made a syllabus, by the court of appeal, error and blacked out my evidence and I never went to a hearing. Motion for a directed verdict-sufficiency of the evidence-the extent of review. When there is a challenge to the sufficiency of blackout of evidence, on an issue of fact by motion for a directed verdict, the courts may not weigh conflicting evidence but are required to resolve all facts and inferences reasonably to be drawn from the evidence in favor of the party against whom the motion is leveled. 3 decades on how the rich won, commits a crime without punishment.

Whether notice of claim proves that I was an employee at Grayline Tours. I won a settlement seeking a motion for a hearing, trial court may have relied upon the wrong or assigned erroneous reason for its decision.

D. Tampering with Evidence

United States Court of Appeals Fifth Circuit office of the Clerk

1. Pointed out to me that my file has been blacked out on the DVD from the United States District Court for the Northern District of Texas 25 C.F.R. § 11.440-Tampering with or fabricating physical evidence was altered, destroyed, or removed any record, document or thing with a purpose to impair its verity or availability in such proceeding or investigation or.

2. Alter, destroy, mutilate, or conceal a record, document, or other object or attempts to do so with the intent to impair the object's integrity or availability for use in an official proceeding.

I went to the old Red Court House to get proof that I worked at Grayline Tours. So, I got the special warranty deed to the property to see my boss name Zuri Zaid and I knew he was in partnership with Sunset Tours and Travel Inc., a Texas Corporation and Executive Transportation they have the same address. Grayline Tours' name was blacked out on deed No. 94151-01914. John C. Carney & Associates P.C. 3300 Oaklawn Suite 350 lock box 35 Dallas TX. 75219, Bruce C. Juell was the President. They were all in a limited partnership in Delaware. Please see the scanned documents and court records.

E. Procedural History

The United States District Court for The Northern District of Texas, Dallas TX., Honorable U.S. Magistrate Judge Irma C. Ramirez dismissed the plaintiff (app.6A) and hostile environment claims (on the incorrect grounds that the claim had not been properly exhausted). (app. 7 A.) The retaliation claims dismissal (id). And I Samuel M. Howard did not have a trial in any court. So, Magistrate Judge Irma C. Ramirez moved my cases to the United States District Court Northern District of Texas, Dallas Division Honorable Ed. Kinkeade, District Judge, Presiding No. 3:21-CV-921-K(BH)

On June 23, 2022, The United States Court Appeals Fifth Circuit Office of the Clerk case No. 22-

10240 affirming the District Court (App.1a-21a) summary judgment the First Circuit ruled that no Personal Jurisdiction and Subject Matter Jurisdiction. I have filed in all three courts, and I have never had a court date or hearing my cases have been there for a year and a half.



REASONS FOR GRANTING THE PETITION

I. NEVER PAID, DESPITE WINNING THE CASE

Plaintiff Howard requests that this court grant Certiorari because on 8-8-1995 appellant appears to have agreed to a settlement with alleged employer Executive Transportation Services Inc. for \$26.000 in exchange. I won the case, but they never paid me. I worked for Grayline Tours and want to get paid on both jobs for the claims arising from a back injury. But on 12-6-1992 ROA. 13 Executive Transportation Service Inc. never paid me and never acknowledged that I was an employee for Grayline Tours. The Appellant filed this suit but now the appellant wants to file a lien against the appellees attempting to enforce the settlement agreement and recover Twenty-five million two hundred sixty-five hundred forty-eight dollars money that I am claiming that is owed for 30 years under the purported settlement. *See* ROA. 10.70. My opinion on the Motion for rehearing on settlement, suit, and lien. And I like to file a Motion on Texas Penal Code-Penal § 37.09 tampering with or fabricating physical evidence. A person knowing that an offense has been committed alters, destroys, or conceals any record, document, or thing with intent to impair its

verity, legibility, or availability as evidence in any subsequent investigation of or official proceeding related to the offense.

1. Real Properties MIP Limited Partnership a Delaware limited partnership. RRP-dgT Cp Corp A Delaware Corporation. General Partner-Bruce C. Juell, President.
2. C/O RRP Management Corp. 11400 W. Olympic Blvd Suite 700 Los Angeles, County California 90064-1507
3. Sunset Tours and travel a Texas corporation 5125 Cash Road Dallas, TX 75247 A Texas Corporation.
4. Executive Transportation, 2615 Ross Ave. Dallas, TX. A Texas Corporation
5. Grayline Tours of Dallas/Ft. Worth Dallas TX. A Texas Corporation.

A person knowing to black out physical evidence that will show on the special warranty deed that Grayline Tours was on Hall St., Swiss St. and did tamper with evidence.

II. CIRCUIT DECISION ERODES TITLE VII'S PRIMARY PURPOSE

The First United States Court of Appeals Fifth Circuit, On appeal from the United States District Court Northern District of Texas, Dallas Division No. 3:21-CV-921 Honorable Ed. Kinkeade, District Courts Judge, presiding.

The First Circuit Decision erodes Title VII's *prima purpose* as articulated by this court, to end unlawful workplace discrimination. Nothing in Title

VII's text or legislative history limits how employees may oppose unlawful employment practices. 42 U.S.C. § 2000e3(A). Instead, the opposition clause is expansive,⁹ And courts should not tamper with evidence on people cases that need to stop and help people.

In deciding the question of fact on retaliatory motive the First Circuit decision run afoul of the courts holding in Reeves, and ruling in other circuits, including in the First Circuit, The United States District Court for the Northern District of Texas Court, Honorable U.S. Magistrate Judge Irma C. Ramirez, and District Court Honorable Judge Ed Kinkeade 530 U.S. at 150 and the other circuits court's holding referenced above other Federal courts decisions support Jenkins¹⁰ position that the question of retaliatory motive requires a trial, rehearing, going to court with a jury.

P.S. I was wondering if you are a Pro Se the courts do not help you with anything at all. Will not help you with filing your documents.

⁹ *EEOC v. New Breed Logistics*, 783 F.3d 1057, 1067 (6th Cir. 2015)

¹⁰ *Jenkins v. Housing Ct. Dept., et. al.*

CONCLUSION

Based on the foregoing, the petition for a Writ of Certiorari should be granted.

The plaintiff does not need to show that retaliation was the employer's sole motive or reason for the termination, or wrongful discharge after a work-related back injury. I filed a Worker's Compensation claim within a month. The company Grayline Tours boss called me to the office and said that I was fired. The employer terminated the plaintiff's employment. It should not be counted against Samuel M. Howard because he had filed a worker's compensation claim¹¹.

Appellant claims that Executive Transportation Services Inc. never paid him. ROA.13.

7-13-2022 Appellant is filing a lien against Appellees attempting to enforce the settlement to recover 30-year-old claims of money for Twenty-five million two hundred sixty-five hundred thousand forty-eight dollars and the 10% percent interest owed under the purported settlement *see* ROA. 10-70. The motions for rehearing and to have my day in the Supreme Court.

Plaintiff why do I have to show the Court's proof it's the employer who is liable for retaliatory discharge.

1. The District Court considered all arguments, briefs, and objections filed by the appellant before dismissing his case for lack of subject

¹¹ *Coleman v. Safeway Stores, Inc.*, 242. Kan 804, 752, P.2d 645, 652 (Kan.1988)

matter and personal jurisdiction. The Courts here in Texas do not help you with your case.

2. The Magistrate Judge said that there is no plain error and closed it on 3-1-2022 for lack of subject matter jurisdiction and personal jurisdiction. The District Court never looked at my witnesses that's an error, I never filed documents 26, 27, 28, 29, 30, and 31.
3. The District Courts and Texas were tampering with my evidence they blacked out some of my evidence on the DVD from the Court's now that is an error.
4. The District Court's Judges struggle with error, with ethical behavior with Judges, Lawyers, and Pro-Se. From my experience, it's not good.

Respectfully submitted,

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