22-6235

No. 21-_____

Please att: Chief Justice Roberts, Justice Sonia Sotomayor Ketanji B Jackson

In The

Supreme Court of the United States

IN RE: DeAnn Graham VS Coca – Cola

Civil Right, Constitutional Rights, Due Process,

ON PETITION FOR A WRIT OF MANDAMUS

TO THE UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF MANDAMUS

DeAnn Graham Plaintiff-Appellant pro se litigant

1624 Windsong Dr. Apt. #2

Elkhart, In.

October 18, 2022

QUESTION PRESENTED

When this case was before the Court of Appeals on the Appeals" and "review[ed] the Plaintiffs' appeals challenging the District Court's order their motions to dismiss." DeAnn Graham VS CCC, No. 21-3133. The Court held the Petitioners' lawsuit challenging CCC." 1. Accordingly, the Appeal Court's 7th Circuit judgment affirmed the district court's order and remanded to the 7th Circuit for proceedings consistent with the opinion. Rather than remanding the case to the district court, the court of appeals has scheduled oral argument for July 2022, to consider setting a briefing schedule on purportedly remaining justiciability issues. The question presented is whether a writ of mandamus should be issued directing the court of appeals to remand the case to the district court without delay. I believe this should be a reversal of the lower court and 7th Circuit because I allege "abuse of discretion" and "clear error", Due Process.

PARTIES TO THE PROCEEDING

Petitioners in this Court (plaintiffs-appellant in the court of appeals) are DeAnn Graham. The Respondents- Appellees in this Court is the United States Court of Appeals for the 7th Circuit. Respondents also include Judge Diane Sykes, Michael B. Brennan, and Michael Y. Scudder in their official capacity as Judges of the 7th Circuit of Appeal.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to the case in this Court within the meaning of Rule 14.1(b)(iii): U.S. District Court for Northern Indiana, No. 3:19-cv-00386, DeAnn Graham VS CCC, (May 20, 2019); U.S. Court of Appeals for the 7th Circuit, No. 21-3133, In re DeAnn Graham VS CCC (Nov. 22, 2021); Supreme Court of the United States, No. 21-...., DeAnn Graham VS CCC, (Oct. 18, 2022).

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Ordinarily, in conducting its review at summary judgment, the court will "consider the record and draw all reasonable inferences in the light most favorable to the non-moving party." Blue v. 2 Lopez, 901 F.3d 1352, 1357 (11th Cir. 2018). The court may grant summary judgment only when, after viewing all evidence in the light most favorable to the non-moving party, the court determines that no genuine dispute of material fact exists such that the movant is entitled to judgment as a matter of law. Id. at 1360. Summary judgment is improper, however, "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson, 477 U.S. at 248; Guevara v. NCL (Bahamas) Ltd., 920 F.3d 710, 720 (11th Cir. 2019) In so ruling, even a motion for summary judgment, the court should review the facts in a light most favorable to the party who would be opposing the motion.

APPENDIX

Appendix A: 7th Circuit's Order

PETITION FOR A WRIT OF MANDAMUS

Petitioners respectfully petition for a writ of mandamus to the United States Court of Appeals for the Fifth Circuit, requesting that the Fifth Circuit be directed to remand this case to the district court.

OPINIONS BELOW

The 7th Circuit Appeal courts on July 18, 2022, decision on on appeal denying plaintiffs' Oral argument when there was a clear error, there was no safety test do I was fired. The Motion to Remand the Case to the District Court is wrong.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1651.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The All-Writs Act, 28 U.S.C. § 1651(a), provides: "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

STATEMENT OF THE CASE

The 7th court of Appeal rule with the lower court than mandate that the issues from The Court of Appeals." DeAnn Graham VS CCC. In that capacity it decided plaintiff's appeals of the district court's denial of their motions to dismiss. The 7th Circuit has refused to do Oral arguments, I seriously dispute the 7th Circuit. The Honorable 7th Circuit Judge David F. Hamilton has had all my 7th Circuit Appeals cases and knowledge of them since they been in the 7th Circuit appeals. I already had filed a brief and it was in a timely matter and the Honorable 7thCircuit Judge David F. Hamilton had knowledge of the brief. Then Judge Diane Woods, on March 9, 2022, and March 10,2022 send multiple errors and amending's to my CCC case and my UMH cases. Judge Diane Woods, on March 9, 2022, of the 7th Circuit appeals Federal Court, make two very vital decisions of denials in my CCC and UMH. She had no knowledge of the cases, Judge Diane Woods, on March 9, 2022, of the 7th Circuit appeals Federal Court has shown, I allege she not even looked at my cases. How could Judge Diane Woods make a decision on my case? When she had NO knowledge of my brief that was done, that can ONLY mean she never looked at the cases before making a decision of denials, entered on March 9,2022. The tamping and delaying of the mail in all my court cases. The clear error on a safety test clearly dated 2/28/2018 completed. Petitioners respectfully request that this Court issue a writ of mandamus.

PETITIONERS' RIGHT TO ISSUANCE OF A WRIT IS CLEAR

Petitioners are entitled to a writ directing the to relinquish jurisdiction over this case and the district court and Appeal for further proceedings consistent with this Court's opinion, because the appeals before the Fifth Circuit have been fully resolved by this Court. That the errors from the 7th Circuit and District be correct. The appeal and district court dismiss, with clear dates on documents that the safety test was done.

REASONS FOR GRANTING THE PETITION

The Court may "issue all writs necessary or appropriate in the aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). A writ of mandamus is warranted where "(1) no other adequate means exist to attain the relief [the party] desires, (2) the party's right to issuance of the writ is clear and indisputable, and (3) the writ is appropriate under the circumstances." Hollingsworth v. Perry, 558 U.S. 183, 190 (2010) (quoting Cheney v. United States Dist. Ct., 542 U.S. 367, 380–81 (2004)) (internal quotation marks and alterations omitted). Mandamus is reserved for "exceptional circumstances amounting to a judicial 'usurpation of power.'" Cheney, 542 U.S. at 380 (citation omitted).

Where a lower court "mistakes or misconstrues the decree of this Court" and fails to "give full effect to the mandate, its action may be controlled by a writ of mandamus to execute the mandate of this Court." Gen. Atomic Co. v. Felter, 436 U.S. 493, 497 (1978) (per curiam) (quoting In re Sanford Fork & Tool Co., 160 U.S. 247, 255 (1895)); see also United States v. Fossatt, 62 U.S. 445, 446 (1858) ("[W]hen a case is sent to the court below by a mandate from this court, if the court does not proceed to execute the mandate, or disobeys and mistakes its meaning, the party aggrieved may, by motion for a mandamus, at any time, bring the errors or omissions of the inferior court before this court for correction.").

Title VII of the Civil Rights Act of 1964 is a federal law that prohibits employers from discriminating against employees on the basis of sex, race, color, national origin and religion. It generally applies to employers with 15 or more employees, including federal, state and local governments. Title VII also applies to private and public colleges and universities, employment agencies, and labor organizations. The Age Discrimination in Employment Act of 1967 (ADEA) protects certain applicants and employees 40 years of age and older from discrimination on the basis of age in hiring, promotion, discharge, compensation, or terms, conditions or privileges of employment. "To effectuate its sweeping purpose, to forbid discrimination against individuals in major areas of public life, and among employment. The court may grant summary judgment only when, after viewing all evidence in the light most favorable to the non-moving party, the court determines that no genuine dispute of material fact exists such that the movant is entitled to judgment as a matter of law. Id. at 1360. Summary judgment is improper, however,

"If the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson, 477 U.S. at 248; Guevara v. NCL (Bahamas) Ltd., 920 F.3d 710, 720 (11th Cir. 2019) In so ruling, even a motion for summary judgment, the court should review the facts in a light most favorable to the party who would be opposing the motion.
In response to the defendant's statement of uncontroverted material facts, as to the facts I the
plaintiff dispute, makes a vague, conclusory response to convey disagreement based on Conjecture. I was fired based racial bias and falsified documents; I had no safety test do and I was only fired after reporting Aaron Ridge for saying racial comments about black men. Martin at 120 Sanford Rd E Elkhart, In. 46514 to Martin at 12850IN-23 Granger, In. 46530 is 8.3 miles one way, and it was my last store, the cost of gas was on me. Coca-Cola does not pay for you to drive home, round trip 30 minutes and 16.6 miles. Not 2.5 as Coca-Cola Stated. I followed the rules, I was just an African American woman over 40, that they didn't want. I worked at Coca- Cola Refreshment until Coca – Cola Consolidated took over our Indiana division from May 2016 to March 2018. I have always, taken great pride in my job and have always had great Work ethic, 6/26/17 9:26 AM. I email William Leinart and called him About the job offers in the Indianapolis office that had a union but, South Bend office did not. They sent out an email that they need merchandisers because they have a much larger market area. They said they're a Union facility and their pay rate starts at $18.95 an hour. I was in a meeting at the facility in South Bend. I asked who the person was I need to contact about the job in Indianapolis? Brad said we don't want you to go to Indianapolis. Arron said I will find out; Aaron said you need to talk William Leinart. I called and emailed William, talked to him from that point I changed my mind. I allege he was rude, racially bias, gender bias condescending, and a very arrogant person. William told me that he felt I could not handle the value in Indianapolis, it was Walmart Stores. I said to William, I do the Walmart store here. Aaron asked me what happened with the meeting with William, and I told him. I don't feel comfortable, and I don't think that that would be a safe move for me and my children to go down there because I don't feel that William is for me. I think partially after that conversation he's a
little bias and does not want me there anyway. Aaron replied when I talked to William, I didn't care for him either, Aaron said I'm not a company man I'm for workers but, William is company. The same racial attitude that he had when I spoke to him on the phone, prior to him moving to the South Bend plant, is the same one he brought with him and then, I didn't have a job a month and a half after he got there. I'd said then William was bias, I knew when I heard William, was there, as my boss I was in trouble. The same racial bias, the same racial retaliation, same racial discrimination and the results, is me being the only African American woman losing my job, just like William, use gender and bias to cost me the job with a union in Indianapolis, with CCC. I held a position of a merchandiser at the company, I never received a verbal or a written warning. I've followed all the rules did all my mandatory meetings and test since I worked there. Aaron Ridge sent out an email about hourly pay was done and safety test January the 11th 2018-hour pay is done after Jan 14." The new safety training has started to drop, please do it now. If you want paid to do it on the hourly rate it must be done before January 14. After that it is just expected that you will get it done at the plant or home on your own time. Take advantage now so you get

Paid." William Leinart, shortly after that arrived in South Bend and I very quickly started seeing the change in Aaron Ridge, I knew it was over for me. William wanted me gone, and the racial bias, and gender were clear. The meetings concerning the changes in pay were Mandatory and I was at each and every one of them. That's how I knew, that my pay would be worse off than it was. From the hourly rate to the day pay rate. I went up the chain of command, to express that my pay rate was wrong, that's when the retaliation against me real began and got worse after William Leinart, arrived. Despite the Discrimination, and Retaliation I have received from Manager, Supervisor, Human Resources, and other top people from the Coca-Cola. Todd Marty, Janise Moeller Brad Kinsley, Diane Borella, Howard Morris, Aaron Ridge and William Leinart. I remained committed, faithful and loyal to this company from day one. I have always taken great pride in my job and have had work ethic. Upon all these new conditions, my pay change from hourly pay of $13.52 and overtime of $18.39 to a Daily Pay Aaron came to me, I believed out of guilt because they all knew it was bias and William didn't want me there and Aaron had started converted to their racial bias ways, and William's Hostile Working environment. Aaron said, you took it on the chin. I wrote you a letter of reference Tue, Jan 16, 2018, 10:54 AM I had always complied with my job. I have a letter here that was written from Aaron on January 16th, 2018. He asked me, are you planning on staying with the company. I said at this point I am looking for another job because I cannot make ends meet losing $800 a month. He said I figured as much wrote me a referral letter telling people how outstanding of an employee I was, and I have put the letter in an attachment.

To whom it may concern,
"I have worked with DeAnn Graham Since June of 2017 as her immediate supervisor, DeAnne has shown in that time outstanding work ethic, drive, leadership and overall performance. DeAnn is a consistent over-achiever and will always complete her daily task 100 percent. DeAnne is an employee that I wish I had a staff full of, If I could hire 20 DeAnne's I would do so in a heartbeat. As much as I would hate to lose her as a top performing employee I would highly recommend her to any Job with the confidence she would make an immediate impact on your team. Deann has shown great punctuality and attendance in her time with me, I never have had to be concerned if she would be at work. If you have any questions feel free to reach out to me at 765-215-3229"

William, came to Indiana and it was over for me, Indiana division was not helping me the retaliation was to get rid of me. The pay change and route. I went to Dave Greenberg, for help on 2/27/2018, and said to me on phone when I called him concerning this matter. DeAnn, can I ask you a question today, I said yes Dave. "What did you do to make people start coming down on you like this? Dave said you should consider retiring or looking for another job." This to me was age and gender discrimination. To me that was very hurtful because, I trusted Dave. I have been a victim in this situation. I have done nothing wrong. Dave, asked me not to say anything about what he said to me. I emailed him back to express my hurt to him. I talked to Dave about the Safety test. He said you can't be fired for not taking a Safety test. We had a meeting on March the 7th 2018 and I was terminated on March the 10th 2018 for lies of insubordination, that I had not done my safety class online that was not true. I have always complied with my job, but management retaliated against me deliberately discriminated and retaliated against me because I reported Aaron Ridge, after he had said many racial discriminating comments about African American men at Coca-Cola. Aaron Ridge being white, he was still allowed to kept his job, these are the privileges you receive, and not one consequence for his action just benefits granted to him., Aaron was able to manipulate the situation and keep his job because the color of his skin. But because I reported Aaron Ridge, after he had said many racial discriminating comments about African American men at Coca-Cola. They falsified documents against me that I had not done a safety test. There was no safety test do, my safety test wasn't due until March the 31st 2018 and I got fired on March to 10th. We had a meeting on March the 7th 2018 and I was terminated on March the 10th 2018 for fundamental lack of fairness that they said I was of insubordination; I had done nothing wrong. There was no safety test do, this retaliation was because I told the truth, and nobody wants to hear the truth. There was no safety test do, I had not broken one rule at that company. I did not get fired until I had reported Aaron for saying those discriminating things against the black man at the company. Contradicting what was said own time is not mandatory. Coca-Cola have abused their authority and misused their power in a negative way. I have been denied the right to work at Coca -Cola base on racial bias and my age. Nothing but, discrimination, there is an environment that is hostile, towards African Americans employees if they feel; you are going against their grain. Coca-Cola knows the true that they have refused to acknowledge a history of bias in the company against African Americans. Coca-Cola history repeats it self because November 17, 2000, they paid $193 million Dollars for Racial bias. Coca-Cola had unsubstantiated and frivolous claims, from, they have no evidence to back it up my safety test was not done what I was fired for. In no way was factual support to this claim of Coca Cola, it should be Dismissed for lack of evidence. Coca Cola legal claim was baseless and has no evidence to back it up. The error from the District and Appeal was clear, there was no Safety do.

III.

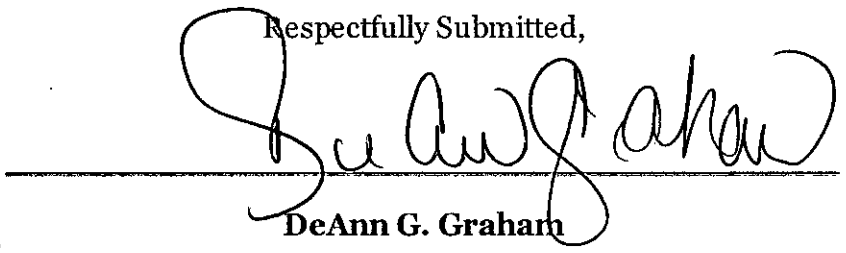
NO OTHER ADEQUATE MEANS TO OBTAIN RELIEF EXIST

No other adequate means exist to obtain Petitioners' requested relief. "[T]he Court has indicated that mandamus is the only proper remedy available. United States v. Fossatt, 62 U.S. (21 How.) 445, 446 (1858), 'does not proceed to execute the mandate, or disobeys and mistakes its meaning.'" Stephen M. Shapiro, et al., Supreme Court Practice 665 (10th ed. 2013). The petitioners have been denied by the court of appeals' order setting oral argument and for the case and remanded to the district court. I am asking for the courts to use the evidence in the case, that is clear that no safety test was do, and I was not insubordinate. I was the only black woman out of all the men merchandisers, and I was only fire after I report racism. Please correct the errors made and overturn it.

Conclusion

Please right a wrong, that cost me everything management had me fired and Falsified Documents that I didn't take a safety test never lost anything. They cause me to lose my Pay, Racial bias, Gender, Age, defamation, Wrongful termination, and Retaliation, emotional distress and mental anguish. But claimed Arron did nothing wrong and Management. I have suffered had the hand of Coca-Cola, I ask the courts Respectfully to enter overturn, in my favor and against CCC there was absolutely no mandatory safety test do.

Respectfully Submitted,



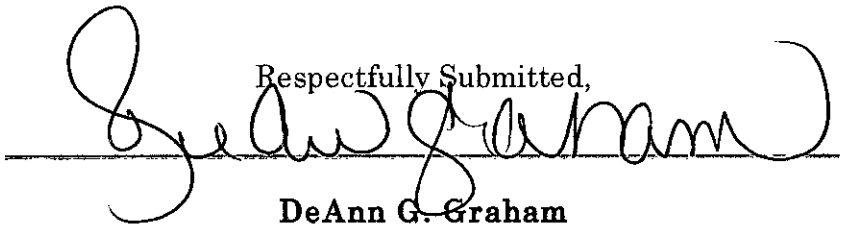
DeAnn G. Graham

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was furnished via US Mail This 18th day of October 2022.

Respectfully submitted this 18th day of October 2022

Respectfully Submitted,



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