

ORIGINAL

Case No. _____

IN THE SUPREME COURT OF THE UNITED STATES

FILED
DEC 14 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

PRADHEEP CHHALLIYIL
4690 S Lake Shore Dr, Apt #2072
Tempe, AZ 85282

— *Pro se* Petitioner,

Vs.

**FOODCHAIN ID GROUP, INC., and HEATHER SECRIST, individually and
in her
corporate capacities, Fairfield, IA 52556**

— Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO

District Court of Southern District of Iowa Central Division

U.S. Court of Appeals, Eighth Circuit St. Louis

PETITION FOR A WRIT OF CERTIORARI

Pradheep Chhalliyil
4690 S Lake Shore Dr, Apt #2072
Tempe, AZ 85282
1-641-451-1818 / 1-480-660-2654

QUESTION(S) PRESENTED

The questions presented are

1: Does Title VII of the Civil Rights Act of 1964 & 42 U.S.C. § 2000e-2(a)(1) prohibit discrimination as to all “terms, conditions, or privileges of employment,” for employees, including denial to gather evidence of discrimination from the workplace after termination without notice.

2. Whether the Southern Iowa District Court and Eighth Circuit Courts, even after knowing that the employee cannot provide evidence because he was terminated without notice and walked out of the workplace immediately and has no access to gather required evidence, had sided with the employer and concluded that employee “failed to establish a prima facie case for national origin discrimination under the ICRA or Title VII”.

3. On what basis did the Eighth Circuit Court deny the employee’s petition for rehearing, who pleaded to the Court that the failure of the employer to produce certain official documents, will prove racial discrimination was the real cause of unlawful termination and not the false acquisition of poor job performance.

LIST OF PARTIES

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

Pradheep Chhalliyil

- *Pro se* Petitioner,

**Food Chain ID Group Inc and Heather Secrist Individually and in her
Corporate Capacities**

—Respondent

• *Pradheep v. Heather*, No. Case 4:20-cv-00291-RGE-SBJ Document 58, U. S. District Court for the Southern District of Iowa. Judgment entered Oct. 28, 2021.

• *Pradheep v. Heather*, No.21-3720, U. S. Court of Appeals for the Eighth Circuit. Judgment entered Sep. 16, 2022.

RELATED CASES

1. Ricci v. DeStefano, a case alleging racial discrimination that was decided by the U.S. Supreme Court on June 29, 2009. The court's decision, which agreed that the plaintiffs were unfairly kept from job promotions because of their race, was expected to have widespread ramifications for affirmative action and civil rights law.
2. Gary sued for racial discrimination. The company argued Gary didn't receive the promotion because he "lacked initiative and communication skills." A district court sided with the company, saying Gary and his white co-worker weren't similarly situated enough to compare. But on appeal, the 4th Circuit reversed the decision, siding with Gary. Argument Date: Apr 30, 2020. Case Number: 18-1994. Robert Gary v. Facebook, Inc.

TABLE OF CONTENTS

OPINIONS BELOW.....	13
JURISDICTION.....	14
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	15
STATEMENT OF THE CASE.....	21
REASONS FOR GRANTING THE WRIT	23
CONCLUSION.....	25

INDEX TO APPENDICES

APPENDIX A –	Judgement in Iowa Court Document 59 29th day of October, 2021.
APPENDIX B –	Decision of Iowa Court Document 57 28th day of October, 2021.
APPENDIX C –	Decision of Iowa Court Document 58 28th day of October, 2021.
APPENDIX D –	Eight Circuit Decision (September 23, 2022)

**IN THE SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from federal courts:

The opinion of the United States Court of Appeals appears at appendix D to the petition and is

☒ reported at **Eighth Circuit Case Number: 21-3720**; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States District Court appears at appendix C to the petition and is ☒ reported at **Iowa Case Number:**

4:20-cv-00291-RGE-SBJ _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from state courts:

The opinion of the highest state court to review the merits appears at appendix A and B _____ to the petition and is

☒ reported at **Iowa Case Number: 4:20-cv-00291-RGE-SBJ**; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was **September 23, 2022**

☐ 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: **September 23, 2022**, and a copy of the order denying rehearing appears at appendix C.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____.

The jurisdiction of the U.S. Supreme 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 **Denied**.

A copy of that decision appears at appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date:

September 23, 2022,

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. _____.

The jurisdiction of the U.S. Supreme Court is invoked under 28 U. S. C. §1257(a).

1, Pradheep Chhalliyil, a petition to the USA Supreme Court having timely filed this petition for a writ of certiorari within ninety days of the Eighth Circuit Federal Court, September 23, 2022.



Pradheep Chhalliyil
February 19, 2023

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PERTINENT STATUTE

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

(a) Employer practices - It shall be an unlawful employment practice for an employer—

(1) 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.

This case presents the issue of whether denial of rights to get evidence from ex-workplace for proving unlawful termination done in the name of poor job performance was to avoid giving benefits including stock options due to national origin discrimination, constitutes discrimination "with respect to compensation, terms, conditions, or privileges of employment" under Section 2000e-2(a)(1).

BACKGROUND SUMMARY:

I, Pradheep Chhalliyil, immigrated from India with a Ph.D. degree in Molecular Biology in 1997. In 1996, John Fagan at Iowa started Genetic-ID (now FCID), a testing company that uses molecular Biology technology to identity GMO in foods. Fagan hired Anne Haegart, who had a basic degree in science and so researched on basic testing methods and also worked as a quality manager. Dr.Fagan also hired Bernd Schoel as Senior Research scientist, who immigrated from Germany and had a Ph.D in Chemistry and had work expertise in Protein chemistry in 1999. Since I had a Ph.D and a lot of knowledge and expertise in Molecular technology like PCR, sequencing, and cloning, Dr. Fagan, hired me as a Senior Research Scientist in the year 2000 to develop technologies. We three reported our work to Fagan where I did the Research Development of new technologies for the development of the company. Bernd who was not well versed in Molecular Biology, validated the technologies that I developed and made sure it was usable for the technicians and also made sure the technology met the Quality standards that Haegart managed. After Haegart left the company in 2006-7, Fagan hired Heather Secrist with a Ph.D to do Haegart's Quality management work and assist him to manage the operations of the company.

As the sole person in Research, I developed all the technologies that made the company along with its other branches have strong growth in the market and emerge as a successful global company. When I developed technologies, I procured raw materials from many USA, Europe and Asian companies and checked if they are suitable for testing. When one product from India was defective, Ms. Secrist commented in many meetings about the products from India and other Asian countries, with racially discriminating words "Poor Asian Quality". However, she never used those words from other materials purchased from USA, Canada or Europe. To quote one example, she was not hesitant to purchase two Automatic pipettors from a Canadian company which was never used due to poor quality.

Secrist continued the racial discrimination against me denying several employee benefits including promotions. After she became the CEO, She promoted Bernd from Senior Scientist to Technical Director. There was no application for promotions, but Secrist decided on these promotions. Dan Smith who had only a primary degree in Biology and worked as a technician rejoined the company in 2013. Secrist promoted him as the testing manager and then later to Director of Operations. In the German branch and other company branches like Germany, she made Konstantin as the R&D director of the German branch, who only used technology that I developed in Iowa. He joined the company only in 2007. However, she did not promote me from senior Scientist all these 19 years who developed single-handedly the technologies for the whole company.

Secrist however used my name as Principal Investigator to get a big testing project from a food company to convince them that we have a Research Scientist to develop

testing their food product in 2010. I did develop that testing product, but Secrist never officially made me the Research Director or even give me the PI position, due to racial discrimination. She always updated me on my technical ideas. She also did not include me in the international Research meeting, while she included Dr. Schoel, Mr. Smith and Konstantin, who did not develop any of these technologies.

All the technologies I developed are my own ideas and took responsibility to make the company stand ahead in the market against competitors. I have more than 2000 research experiments designed and executed which can be testified. I developed several technologies ahead of time, and even after my termination those are still brought to the market (evident from the date of my work and the company launching the test date). I was never given benefits like promotions, salary benefits, stocks due to racial discrimination. However, similarly situated or even less contributing colleagues were given higher promotions and benefits. Still, I continued to work with excellent performance reviews throughout my career. There was never any bad remark on my performance or missed a deadline in my entire 19 years.

In the 2018 July-August meeting, when I was asked to complete the last stages of my new technology, for the first time I stood up and asked, "what benefits will I get by completing it by the stipulated deadline". She said she will give me stock options by discussing them with the upper management. However, I added a point that I need all the good quality equipment and materials for the best performance which are needed to complete on time and with the highest quality. She made Dan Smith who has no knowledge on research purchase equipment that was of no quality. In spite of my warning, She also empowered Dan Smith to change products (PCR Mastermix) without doing Research, which caused erroneous reporting to customers and caused damage to the company. She took no action on him, while continued to take decisions on research that I was doing all these 19 years. Though I completed the already finished project and had the data, she wanted to terminate me to avoid giving the benefits of the new technology because for the first time, I raised my voice against not getting benefits.

Therefore a conspiracy plan was enacted by her, and I was terminated. In the pretext of asking me to show the data of my work in a meeting on Jan 10, 2019, I was invited and to my shock, I was told I am terminated because I did not complete the project within the stipulated deadline of December 31, 2018. I pleaded to look into the data and then terminate me because an employer has the right to terminate. But unprofessionally, without giving myself any reason and not looking at the work I have done, I was walked out of the building immediately so that I will not take any evidence of this racial discrimination act.

Table -1: Summary of Various Discriminative incidents in 19 years:

	Racial Discrimination	Discriminative Actions
1	Explicit Remarks of Discrimination	Secrist remarked many times by using words like "Poor Asian Quality" when Asian company products show any quality issues. But she does not comment like this product of Europe or America has any quality issues.
2	Salary	Secrist admitted in the deposition that my salary was "between the lowest end and the middle". While others were given higher salaries.
3	Not given higher promotions	I was not even promoted to a higher position even once in 19 years, but other like Smith, Secrist, Schoel, and Konstantin, were promoted many times to higher levels,
4	Giving name-sake positions	Though Secrist knew that I was the person who solely conceived R & D ideas and did all the research, she put my name in Business proposals enquiring who is the chief R & D person, instead of Bernd Schoel, she used my name as "Principal Investigator" in getting the business projects..
5	Stock Options	I was not given stock options but less or equally contributing employees were given stock options.
6	Not included in R & D Global meetings	When I am the sole developer of the technology, I was excluded from global research and business d meetings.
7	Not availing equal resources to develop new technologies	In 2010-2012, I gave the idea to use Next-Gen sequencing for testing by getting a Nanopore Technology instrument which cost only \$ 1000. However, it was purchased and given to Konstantin in Germany. Even after 10 years, he has not made any substantial business using iy .
8	Not providing the necessary tools to complete the task with quality	Ignoring my research abilities, my decisions were not taken into consideration, but unqualified and unprofessional advice was taken from others like changing chemicals and purchase of low-quality instruments for research.
9	False allegations of poor performance	Smith who ignored warnings, did wrong testing, and reported causing damage in quality, was not documented as a poor performer. While I did perform well, Ms. Secrist documented in her metafiles that I showed poor performance.
10	Terminating and walking out of the building within minutes	However, in my case, I was invited to present my research data but without looking at the data, she said I am terminated from my job and walked me out to avoid me from collecting any evidence to prove racial discrimination.

Table 2: BENEFITS DENIED

	Degree	Year of Joining	Position offered at joining	Years Worked	Contribution to the growth of FCID	Several Promotions at different times	Other Benefits Offered
Pradheep Chhalliyil	<u>Ph.D</u>	2000	Senior Scientist	19	Solely conceptualized novel testing ideas for the growth of the company and its business. Developed a strong R & D base in Iowa and testing strategies that was followed by all the franchising units of the company. Though these were not mentioned in the job description, I took personal responsibilities and worked for the growth of the company. These ideas were done well in advance before the CEO's could comprehend business opportunities in the testing field. Apart from this, routine testing strategies, cost and time saving methods for lab, trouble shooting of customer samples that other competitors failed. Updating the technologies to keep the business ahead of the competition in the market.	No	No
Bernd Schoel	<u>Ph.D</u>	1999	Senior Scientist	20	Validated the developed products of Pradheep in R & D and implemented in the lab to do testing by doing final validations. Helped in quality assessments, reports of test result managements, etc.	Technical Manager, Technical Director	Stocks, Higher Salary
Dan Smith	Bachelors	2000 (discontinued in 2006 to 2013)	Lab Technician	13	Initially did Lab Technician work and from 2013 managed Lab Technicians in testing	Lab Manager, Director of Lab, Director Of Operations at FoodChain ID	Stocks, Higher Salary
Heather Secrist	<u>Ph.D</u>	2007	Quality Manager, Executive Vice President	14	Hired as Quality Manger and helped in managing sales and operations	CEO, COO, CEO - Global Technology, SVP, Managing Director	Stocks, Higher Salary
Ken Ross	MBA	2006	VP Sales	12	Strategic Advisor, bringing in investors	CEO, CEO- Global Technology,	Stocks, Higher Salary
Brad Riemenapp	MBA	2017	CEO	4	Leading the global expansion of the company	Global CEO	Stocks, Higher Salary

STATEMENT OF THE CASE

National Origin discrimination could take the form of refusing to hire, discharging, failing to promote, harassing, or discriminating against a person with respect to any other term, condition, or privilege of employment.

In my case, racial discrimination at many levels was done in these 19 years of employment. Both the Iowa Court and Eighth Circuit sided with the Secrist and FCID. The Case 4:20-cv-00291-RGE-SBJ Document 58 Filed 10/28/21 has a totally different version of the background that I have given which the courts did not take any action to verify.

As relevant here, I allege that the District and Circuit (4:20-cv-00291-RGE-SBJ, 21-3720) concluded that I “failed to establish a prima facie case for national origin discrimination under the ICRA or Title VII”, knowing that I cannot provide evidence because I was terminated without notice and walked out immediately. Even with my repeated pleading, I was not allowed to exercise the civil rights of an employee, which in my case is to get access to my 19 years of research work materials and emails through which I can show the courts the evidence that they require. Moreover, the courts did not question the employer’s action of unlawful termination which is a violation under civil rights Title VII.

Finally, the “Court considers the existence of the metadata noted in Defendants’ statement of material facts paragraphs 44 and 45 as undisputed (Case 4:20-cv-00291-RGE-SBJ Document 57 Filed 10/28/21 Page 12). It is surprising that the court took just the unofficial metadata of the employer as undisputed, but overlooked even official documents like using my name as “principal Investigator” to get a project. This is not even addressed in the judgment of motion, including several of my evidence. These are the company’s documents that even a happy resigned employer will not have in possession, then how can the court ask an employee like me who was unlawfully terminated without any notice and walked out of the company in a few minutes to show evidence of the discrimination in promotion? In fact, the court failed to execute lawfully granting me civic rights to access those official documents.

There are several pieces of evidence of discriminatory acts that the Court did not insist the employer to produce in the Court.

One example is “In fact, Chhalliyil testified he did not want Schoel’s supervisory position and did not apply for it. (Case 4:20-cv-00291-RGE-SBJ Document 58 Filed 10/28/21 Page 12 of 20). Despite my request to show evidence of the application for the promotion process in the company as in the case of Schoel, the courts supported the discriminatory acts of the employer.

The Court also executed a preferential bias to the employer by stating that "Chhalliyil fails to present evidence sufficient to demonstrate the existence of an oral contract" (page 20, 4:20-cv-00291-RGE-SBJ Document 58 Filed 10/28/21). However, the Court did not request the employer to show an official warning letter or performance review of my work in 2018.

Also, the Court did not ask the employer to show evidence of disciplining actions on Smith who interfered with research changes and caused erroneous reporting to the customers and caused damage to the company. However, I was terminated with the false acquisition that I did not finish the project. The Court also did not ask the employer to show my data of project completion which Ms. Secrist refused to look at the time of termination.

All these clearly show that the Courts also exercised discrimination by giving more preference to the employer over an employee like me, by passing a favoring motion of judgment by concluding, "He also fails to generate a genuine issue of fact as to whether Defendants' proffered reasons for terminating him were a pretext for national origin discrimination".

A person having a Ph.D. usually starts a career as a Senior Scientist and then goes higher in rank and when changes jobs, that title, and position are taken into account by the new employer. In my case now I am only getting an entry-level job and lost 19 years of work experience and talent evidence because of the discrimination at FCID. The Courts which are supposed to protect citizens did not look into this inhuman aspect.

REASONS FOR GRANTING THE PETITION

The Supreme Court receives thousands of petitions seeking racial discrimination justice in the workplace, where most of these petitioners would have been subjected to any one of the privileges denied to them by their employers, who violated the constitutional Title VII of the Civil Rights Act of 1964 & 42 U.S.C. § 2000e-2(a).

My case is a unique one where the employer has violated more than **seven** "terms, conditions, or privileges, conditions" of employment for more than 19 years.

I suffered all these seven discriminatory acts that include,

1. Giving unauthorized preference to a less qualified person in taking decisions is a mark of racial discrimination. § 2302(b) of title 5 of the United States Code.
2. Intentionally treating one employee in a less favorable manner than another employee for discriminatory reasons is known as disparate treatment. SEC. 2000e-2. [Section 703].
3. Discipline & Discharge of corrective actions preferring race 49 U.S. Code § 31105.
4. Title VII, the ADEA, and the ADA prohibit compensation (salary, stocks) discrimination on the basis of race. Unlike the EPA, there is no requirement that the claimant's job is substantially equal to that of a higher-paid person outside the claimant's protected class, nor do these statutes require the claimant to work in the same establishment as a comparator.
5. The law forbids discrimination when it comes to any promotions.
6. Harassment can include, for example, racial slurs, and offensive or derogatory remarks about a person's race or color. Harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).
7. The law forbids discrimination when it comes to termination.

The Lower Courts dismissed my appeal because I didn't to show evidence of racial discrimination at work. I conveyed the Court that I was terminated without notice and walked out of the office immediately so that I will not take any evidence of the racial discrimination act. The Court denied giving me the right to have access to my office computer at FCID which would have helped me to show the evidence.

In contrast, the Lower Courts did not insist the employer to show evidence that I did not complete my work, meeting the deadline which was the reason for termination. I do not know whether they sided with the employer like in other cases or because the constitutional Title VII of the Civil Rights Act of 1964 & 42 U.S.C. does not grant the right to an ex-employee to gather evidence of racial discrimination at the workplace.

Whatever may be the reason, the current law has left me, the petitioner to stand in

the Court helpless to show racial discrimination in 19 years of work there. I request this petition for a Writ of Certiorari to be granted because there is the misapplication of a properly stated rule of law and denying the right to gather evidence. Therefore, this amendment of Title VII is of utmost public importance.

CONCLUSION

The petition for a writ of certiorari should be granted and the decisions below reversed.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Pradheep Chhalliyil', with a long, sweeping horizontal stroke extending to the right.

Pradheep Chhalliyil
February 19, 2023

Case No. _____

IN THE SUPREME COURT OF THE UNITED STATES

PRADHEEP CHHALLIYIL
4690 S Lake Shore Dr, Apt #2072
Tempe, AZ 85282,

— *pro se* Petitioner,

V.

UNITED STATES OF AMERICA,

— Respondent.

CERTIFICATE OF WORD COUNT

Pursuant to Rule 33.1(h) of the Rules of this Court, I certify that the accompanying Petition for a Writ of Certiorari, which was prepared using Century Schoolbook 12-point typeface, contains 5365 words, excluding the parts of the document that are exempted by Rule 33.1(d). This certificate was prepared in reliance on the word-count function of the word-processing system (Microsoft Word) used to prepare the document.

I declare under penalty of perjury that the foregoing is true and correct. Dated this 19th day of February 2023.



Pradheep Chhalliyil
February 19, 2023