No. 22-7082

[redacted]

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

CRYSTAL GAYLE JORDAN, PETITIONER

VS.

ATLANTA PUBLIC SCHOOLS, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEALS FOR THE ELENVENTH CIRCUIT

APPEAL NO.

21-11516-F

DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

CIVIL ACTION NO.

18-CV-00994-JPB

CRYSTAL GAYLE JORDAN, PRO SE

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QUESTIONS PRESENTED

1. **Is** an Email **(10 days after return from Protected Medical Leave) amongst Employer and Employer's Attorney expressing the** intent to terminate employment **of Eligible Employee "Proof for Pretext for Unlawful Retaliation", if the employer** waited "110+ days" to issue a Notice of Charges **purposely keeping employee from using the** "*temporal proximity (<90 days)*" **Defense?**
2. Does requiring "Proof of RETALIATION" as the *only* way to Succeed on an F.M.L.A. Claim satisfy the **Findings and Purposes Section** of the Family and Medical Leave Act Law?
3. Is it a correct interpretation of law 29 USC §2617(a)(1)(A)(iii), that employers who break the F.M.L.A. Statues of Pay & Position Restoration, Maintenance of Employer Health Benefits, Prohibited Act of Interference and Discrimination of Due Process, and cause Economic Instability (Damages) be held liable for relief of damages, even if malicious retaliation is not proven?
4. Is "not informing" the relevant player (Payroll Supervisor) of Employee's Return from Protected Medical Leave a reasonable defense for inconsistent pay, Violation of Family and Medical Leave Act 29U.S.C§2614(a)(1)(B) ?
5. Is "not informing" the relevant player (Benefits Supervisor) of Employee's Return from Protected Medical Leave a reasonable defense for not restoring

cancelled medical insurance benefits, Violation of Family and Medical Leave Act 29U.S.C§2614(c) ?

6. Is "not informing" the relevant players (Superintendent, The School Board, and Georgia Professional Standards Commission) of employee's Approved and Protected Medical Leave a reasonable defense for terminating employment and recommending suspension from Teaching while referencing Protected Leave Dates as "unauthorized, unexcused absences", Violation of Family and Medical Leave Act 29U.S.C§2615(a)(1)(2) ?
7. Is *purposefully refraining from setting proper protocol* to inform relevant players, to make sure Federal Employment Law is upheld, and Family and Medical Leave Participants are Restored to Work Properly and Rights are Protected, pretext for Unlawful Retaliation with a large organization founded before F.M.L.A. was a law?

PARTIES TO THE CASE

Defendant, Appellee: ATLANTA PUBLIC SCHOOLS

Plaintiff, Appellant: **CRYSTAL G. JORDAN**

Magistrate Court JUDGE W. JOHNSON

Northern District of Georgia District Court JUDGE R. STORY and JUDGE J. BOULEE

Eleventh Circuit Court of Appeals Justice ROSENBAUM, GRANT, and BRASHER

Related Cases

Rodney Jones v. Gulf Coast Health Care 11th Cir. (2017)

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TABLE OF AUTHORITIES CITED

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 judgement below.

OPINIONS BELOW

The opinions of the United States court of appeals appears at **Appendix A** to the petition and is unpublished.

The opinion of the United States district court appears at **Appendix B** to the petition and is unpublished.

JURISDICTION

The Court of Appeals for the Eleventh Circuit entered final judgment on August 26, 2022. A timely petition for rehearing was denied by the United States Court of Appeals on October 19, 2022, and a copy of the final judgement order denying rehearing appears at **Appendix C**.

This United States of America's Supreme Court's Jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

TEMPORAL PROXIMITY, *Rodney Jones v. Gulf Coast Health Care 11th Cir. (2017),* has been one of Crystal Jordan's *pro se* Defenses for proof of Unlawful Retaliation that was overlooked when Rosenbaum, himself, did not express any opinions (Appendix A) on the application of the 2017 "case law defense" to which he was a party.

Appellant Jordan understood that *Rodney Jones v. Gulf Coast Health Care 11th Cir. (2017)* established that it be **deemed 'automatic "Retaliation"' if an employer fires an employee within a temporal proximity of less than 90 days from the time the employee has returned from approved medical leave**. Depend on Atlanta Public Schools to have hired the best lawyers, fully aware of the court's sympathy towards F.M.L.A. Participants who use the *temporal proximity* defense to succeed on an F.M.L.A. Claim.

September 27, 2016, Crystal Jordan returned from Approved Family and Medical Leave (See Appendix D.1) to Harper-Archer Middle School. 10 days later, October 7, 2016, an Email (see Appendix D.2) amongst Atlanta Public Schools' Employees makes the statement that "we are moving forward to terminate contract" and October 18, 2016 Email (see Appendix D.3) says "we have asked Marquetta [Bryan; former A.P.S. Attorney] to move forward with the charge letter". A charge letter was issued 125 days later on February 20, 2017 (see Apppendix D.4).

I presented to the courts, briefs and evidence that Atlanta Public Schools PURPOSELY WAITED, what was close to 120 days, to inform me of **any** charges against me. Why wait four months to file charges or **any** written acknowledgment of wrongdoing? My logical answer is "the wait" was pretext for unlawful retaliation to keep Ms. Jordan from using the *temporal proximity* defense if she decided to fight for her career at court!

Because September 27, 2016 Teacher Jordan Returned from the Protected Activity of Medical Leave, **if charged and fired at the October 2016 time, Plaintiff Jordan could have used the "*temporal proximity*" defense, among other valid defenses**. That I had only been to work 3 days when an *alleged* incident occurred and Teacher Jordan managed to maintain the *Ethics Resolution Policy* (See Appendix D.5) stating "...if a potential ethical violation arises, notify immediate supervisor (Assistant Principal is on record stating he could not address my alarm because he was "on the phone" Appx.D.4) and Office of Employee Relations (Ms. Hoover was contacted)... in good faith will not be subject to any reprisal (retaliation)...". Atlanta Public Schools did not respect that I reported a student having a violent outburst. I was not asked for an Incident Report nor allowed to speak with the Lead Special Education Teacher to inquire of that student's I.E.P. Behavior Plan. I asked was not asked to sign a Professional Development Plan for acknowledgement of any wrongdoing, I was asked by Ms. Hoover to "Resign or be Terminated" and when I

avowed that "I do not know what I did wrong", I was reassigned to Telework from Home (see Appendix D.6).

I felt secure that Atlanta Public Schools would see that I had ensured Student *and* Teacher safety. I tried to mention to school personnel that the classroom holding Students with Severe/Profound Behavior Disorders did not have an Emergency Call Button -- a safety hazard. I mentioned to Ms. Hoover that I had just returned from Family and Medical Leave – she issued me ADA Paperwork. Upon leaving her office, I was simply instructed to check my email daily (no work was ever emailed), with no mention of proceeding with terminating my contract.

February 20th, Superintendent Carstarphen issued a Notice of Charges citing me for "3 unauthorized, unexcused absences" "July 29th, August 1st, August 2nd 2016". Two of those dates were Approved and Protected Family and Medical Leave Dates ("August 01, 2016 to September 26, 2016"; see Appendix D.7), the other date listed as "unauthorized", July 29, 2016, Teacher Jordan, *pro se*, was at an Offsite Training Day for Teachers (see Appendix D.8). Still, I was dismissed (see Appendix D.9) February 28, 2017 on the grounds of "job abandonment" "neglect of duties" "insubordination" "other…".

When the February 2017 Notice of Charges' Confirmation Signature returned to A.P.S. *unsigned* due to my Temporary Change of Address submitted to U.S. Postal Service, A.P.S. did not show mercy to reschedule the February 28th 2017 Hearing.

Despite other contact information being on file, no one called my number, nor emailed me, nor called an emergency contact allowing me to fight for my career! A career that should not have been on the line because of my Family and Medical Leave Participation. Weeks later I received the rerouted notice, I called A.P.S. Headquarters, and found out that I was already fired.

133 days from the time that Atlanta Public Schools made a written notation that they were intending to fire me (Appx. D2 and D.3), they did. Again, why wait so long to file a NOTICE of charges? Why not file charges immediately so that an investigation could have been started? Why use the false reassignment to Telework? I proclaim once more that Atlanta Public Schools is liable for the pretext of unlawful Retaliation, deliberately waiting more than 90 days to issue a notice of charges to keep employee Crystal Jordan from using the *temporal proximity* defense for the Family and Medical Leave Prohibited Act {29U.S.C§2615(a)(1)(2)} of discharge from employment; announced to be 'automatic proof of "retaliation"' is the temporal proximity defense, signed to case law by the Justices trying the case of *Rodney Jones v. Gulf Coast Health Care 11th Cir. (2017).*

The Georgia Department of Labor and Georgia Professional Standards Commission stated Jordan should have been given a warning or reprimand with an opportunity to comply prior to firing for the alleged incident. An incident I clearly did not intend to cause and made every correct effort to rectify.

STATEMENT OF THE CASE

Had Plaintiff's District Court Judge referred to the Family and Medical Leave Act Laws, he would have realized that during the reading of his verdict, he was steadily admitting the law was broken:

1. "....when it *paid her inconsistently*..." {Document 172, Volume 4, Page 5, Line 4; **Violation of 29 U.S.C § 2614(a)(1)(B)**}
2. "....when her *health benefits were cancelled*..." {Doc.172, Vol. 4, Pg. 4 (5,6); **Violation of 29 U.S.C § 2614(c)**}
3. "....when it *reassigned her to telework*..." {Doc 172, Vol.4, Pg 8 (line 8); **Violation of 29 U.S.C § 2614(a)(1)(B)**}
4. "....when it *reported her to the Georgia Professional Standards Commission*..." {Doc.172, Vol.4, Pg 9 (17,18); **Violation of 29 U.S.C § 2615(a)(1)(2)**}

(Appellant Jordan's Brief II, Pages 5 and 6)

While listing the broken F.M.L.A. Laws (see Appendix D.9), how could District Court Judge Boulee come to the incorrect conclusion that Atlanta Public Schools was not liable for damages while they violated EVERY Right Protected under F.M.L.A. law? He read that he believed EVERY defense that Defendant Atlanta Public Schools gave him. Including the "computer glitch" defense that "randomly deleted random employees' medical benefits", yet the Benefits Supervisor admittedly did not fix the

glitch to restore *my* medical benefits. So, I appealed to the Court of Appeals for the Eleventh Circuit, pleading that they review the actual F.M.L.A. LAW, as it is written:

"According to the Family and Medical Leave Act {29 USC §2617(a)(1)(A)(iii)}, finding ***"reasonable grounds"*** *for F.M.L.A. Violations does not dismiss Defendant, Appellee, Respondent Atlanta Public Schools from "LIABILITY", it simply reduces the amount of damages due to the affected employee, Plaintiff, Appellant, Petitioner Crystal Jordan."* (Appellant Jordan Brief II, Page 2)

Medical Leave Act under "ENFORCEMENT" Section, awaiting judicial interpretation matching the intent of the Legislators who wrote the law. It reads...

Section 107 [29 U.S.C. § 2617] ENFORCEMENT

(a) CIVIL ACTION BY EMPLOYEES

(1) ***LIABILITY***

(A) for damages equal to –

(i) the amount of –

(I).....

(II).....

(ii).....

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), *except that if an employer who has violated section 105 [2615] proves to the satisfaction of the court that the act or omission which violated section 2615 of this title was in good faith and that the employer had* ***reasonable grounds*** *for believing that the act or omission was not a violation of section 105 [2615],* such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively."

I argued that *even if* the district court *and* court of appeals felt there were **reasonable grounds** for Atlanta Public Schools' *many* Family and Medical Leave Act Violations, the law says to "...reduce the amount of liability to the amount and interest determined under clauses (i) and (ii) respectively{29USC§2617(a)(1)(A)(iii)}." A calculated relief amount of ≈$544,000.

The courts agreed that I engaged with Protection of F.M.L.A. Activity (Appdx.D.7), the courts agree A.P.S. broke the laws Protected with F.M.L.A. Statues, yet somehow the courts gave the opinion that Employer A.P.S. is not liable for the damages (eviction, suspension of teaching certificate, medical debts, and more) because Crystal Jordan, *pro se*, didn't prove the employer broke the law with intent of "RETALIATION". I'm saying I *did* prove Retaliation (see Appendix D.10 and D.11) by bringing to the courts' attention the INTENTIONAL WAIT to file charges after conversations to fire me had been started 100+ days prior and10 days after my return from approved medical leave. That the intent to fire me happened within a *10 day temporal proximity* of my return from protected medical leave, and according to case law of *Rodney Jones v. Gulf Coast Health Care 11th Cir. (2017),* that should have qualified for pretext for unlawful retaliation. And Atlanta Public Schools should have been found liable to pay *all* categories of enforcement, calculated at $3,814,215 worth of damage to Crystal Jordan's Career.

The Atlanta Public Schools used many "lawyer tricks" to keep relevant players uninformed of Ms. Jordan's Return from approved medical leave, and kept those same relevant players ignorant of how their position upholds federal employment law restorations (Transcript of Witness Testimonies are available; approved at Government Expense). Payroll Supervisor Sandra Burgess was unaware of the F.M.L.A. Right to "equal pay" and it led to Employee Jordan's sporadic, reduction of pay (see Appendix D.12), a Violation of 29U.S.C§2614(a)(1)(B). Employee Relations Director George Williams was unaware of the F.M.L.A. Right to "equal position" when it assigned Telework from Home (Appx. D.6), also a Violation of 29U.S.C§2614(a)(1)(B). Benefits Supervisor Jeff Thomas was unaware of the F.M.L.A. Right to Maintained Health Benefits when Crystal Jordan's Employer Health Benefits were cancelled 2016 and never reinstated (see Appendix D.13), a Violation of 29U.S.C§2614(c). The relevant players, Superintendent Carstarphen, The School Board, and The Professional Standards Commission were unaware of Teacher Jordan's F.M.L.A. Protection from the Prohibited Act of Interference and Discrimination of *Due Process* that could lead to an unlawful discharge of employment {29U.S.C§2615(a)(1)(2)}.

Eligible Employee Crystal Jordan should not have been fired from her teaching position using Protected F.M.L.A. Dates to cite "job abandonment" nor from A.P.S. failing to initiate *due process* of the Ethics Resolution Policy to request an Incident

Report, have employee sign for acknowledgement of any wrongdoing, filing a notice of charges before 120 of the alleged incidents. Those lawyer tricks should have alerted the courts that Atlanta Public Schools does not have respect for the Judicial Process nor the United States Citizens that laws are created to protect.

Atlanta Public Schools needs to be told *ignorantia juris non excusat* (ignorance of the law excuses not), that ignorance of the Family and Medical Leave Act is not an excuse for their many violations and that they are liable to pay Petitioner Crystal Gayle Jordan the full requested amount for relief of damages $3,814,215 because pretext for unlawful retaliation **was** found, citing Rosenbaum's *temporal proximity* defense of case *Rodney Jones v. Gulf Coast Health Care 11th Cir. (2017).*

REASONS FOR GRANTING THE PETITION

"THE LAW OF THE LAND" a common phrase referring to my questions of "case law" versus "THE LAW". Case law is from one judge, at one location, for one time, yet "THE LAW" is from CONGRESS starting with a committee of Elected Representatives, presented to Senators of *Every* United State, signed to law with the pen of a Global Ambassador, an Executive, our United States President, for the sake of "We the People, For the People". Not to purposely trump Judicial Authority, yet to strengthen. And because a house (Government) divided against itself will not stand, interpretation of "THE LAW" **must** coincide with the Findings and Purposes of those who wrote and signed it to law.

The Findings and Purposes of the Family and Medical Leave Act of 1993 {29U.S.C§2601}is to avoid economic instability for *temporary* family and medical reasons, whether foreseen or not. When approved for medical leave, one's right to "equal pay", "equal position", "maintained health benefits", "employment" is Protected for an extended term of 90 days upon return to work. And if an employee is fired within 90 days of return to work from Family and Medical Leave, courts may confidently cite *Rodney Jones v. Gulf Coast Health Care 11th Cir. (2017)* to judge that the employer terminated employment with the pretext of unlawful Retaliation. AND that despite the court's discretion to say violations of THE LAW occurred because of *reasonable* defenses, THE LAW says the *Employer is still liable* to pay damages, whether grounds are *reasonable* (≈ $544,000) or *retaliatory* (≈ $3,814,000).

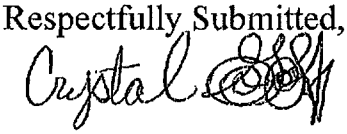
I want the Supreme Court of the United States of America to righteously use Judicial Authority to overturn the district court and court of appeal's decision not to find Respondent Atlanta Public Schools liable for breaking the Family and Medical Leave Act Law Rights and Protections. Uncover Atlanta Public Schools' lawyer's tricks. "9nterpret" correctly that "Retaliation" is not the only way to prove an employer is liable to pay for damage for F.M.L.A. Violations. Calculate a reasonable relief of damages to be paid (include liquidated damages, Frontpay, and Pensions; {29USC§2617(a)(1)(A)(iii)}), so that Teacher Crystal Jordan may return to economic stability.

Announce that "case law" interpretations shall not overthrow the findings and purposes of "THE LAW", as it is written.

CONCLUSION

The Petition for a writ of certiorari should be granted. Please consider Calling for, Housing, and Reviewing Judgement Deficiencies for the Federal, Civil Employment Lawsuit *Crystal Jordan vs. Atlanta Public Schools.*

Respectfully Submitted,



Crystal Gayle (Stinson) (Stone) Jordan

March 17, 2023