

22-740

No. 22-----

In THE
Supreme Court of the United States

Harinder Jeet Singh,

Petitioner,

v.

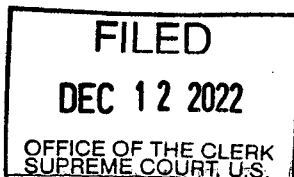
RXR 620 MASTER LEASE, LLC., RXR PROPERTY
MANAGEMENT, LLC., SECURITAS SECURITY
SERVICES

CORPORATION, EXCEL SECURITY CORP,

Respondents.

On Petition for a Writ of Certiorari
To the United States Court of Appeals
For the Second Circuit.

PETITION FOR A WRIT OF CERTIORARI



Harinder Jeet Singh
Pro- Se of Record
P.O.Box- 721025 Jackson Heights,
New York 11372
347-247-1015

QUESTIONS PRESENTED

1. Whether District Court falsified facts in its order dated 6/10/16 to favor EXCEL. and falsified facts in SJM ruling dated 3/30/21 to favor Securitas and CA2 Summary order dated 6/17/22 defending the serious abuse of District Court wrongfully?
2. Whether District Court and CA2 ignored Singh's concrete evidence as to spoliation of physical evidence by the respondents to favor them which affected all of Singh's claims against the respondents?
3. Whether District Court failed to rule on Singh's emotional distress claim in SJM order which is still pending with District Court and CA2 wrongfully defended District Court abuse?

LIST OF PARTIES

Yes, all parties appear in the caption of the case
on the cover page.

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APPENDICES

Opinion of the U.S. Court of Appeals for the Second
Circuit

Dated 6/17/22 (APPENDIX-A) ----- 1a-7a

Order of the U. S. Court of Appeals for the Second
Circuit denying rehearing and rehearing en banc,
dated 9/15/22 (APPENDIX- B) ----- 8a-9a

Opinion of the District Court for the Southern
District New York

(EXCEL) dated 6/10/16 (APPENDIX-C) ----- 10a-12a

Opinion of the District Court for the Southern
District New York

Dated 3/30/21 (APPENDIX-D) ----- 13a-40a

PETITION FOR A WRIT OF CERTIORARI

Petitioner Harinder Jeet Singh (Pro- Se) respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Second Circuit, Pet. App. A at, 1a-7a, is unpublished. The Second Circuit's order denying panel rehearing and rehearing en banc, Pet. App. B at, 8a-9a, is unpublished. The opinion of the United States District Court for the Southern District of New York, (Excel Security Corp.) Pet. App. C. at, 10a-12a is a published record. The Opinion of the United States District Court for the Southern District of New York, (Securitas & RXR) Pet. App. D at 13a-40a is a published record.

JURISDICTION

The Second Circuit entered judgment on June 17th, 2022, Pet. App. A at 1a-7a. A timely petition for rehearing en banc, which the Second Circuit also treated as a petition for panel rehearing, was denied on September 15th, 2022. Pet. App. B at, 8a-9a. This Court has jurisdiction under 28 U. S. C. 1254(1).

RELEVANT STATUTORY PROVISIONS

Section 703 of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2, provides in relevant part:

- (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.

42 U.S.C. 1981 provides in relevant part:

(a) Statement of equal rights

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

- (b) 'Make and enforce contracts' defined for purposes of this section, the term 'make and enforce contracts' includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and condition of the contractual relationship.

STATEMENT OF THE CASE

All citation to the record is from the United States Court of Appeals for the second circuit as: Reference to the Appellant's Brief as CA2 APPELLANT. Br., Appellant's reply brief as CA2 APPELLANT. REPLY. Br. and to Appellant's Appendix as CA2 APPELLANT. APP. From A-1 to A-

293. And Petitioner appendix attached herewith as Pet. App. A, B etc. at page they appear.

Most Respectfully, I, Harinder Jeet Singh (Pro- Se) in this case submit the following for the kind perusal of this Hon. Court:

In 2014 EEOC found probable cause of discrimination against EXCEL and Securitas. (CA2 APPELLANT. APP. A. 49-50 and A. 159-161).

This is regarding Excel Security Corp. AKA Excel Guard Corp only. Claims against Excel is denial of promotion as Fire Safety Director/ Emergency Action Plan Director and Site Supervisor date back to 2009 in an office building as 620, 6th avenue in Manhattan New York where Singh worked for about six years. Excel is holding Singh's back pay wages since 2009 for about 14 years which Singh worked already and never got paid by Excel. The amount is about \$30,000 with additional interest since 2009 besides discriminatory compensation. The detailed explanation can be seen in (CA2 APPELLANT. Br. pages 6-12 pointing to evidence at CA2 APPELLANT. APP contained therein). District Court in its order dated 6/10/2016 (Pet. APP.C at 10a-12a attached herewith) falsified the facts in the order that there was a order in effect to file for an extension of time and for that reason the motion to extend time 34 motion is denied and the cross motion to dismiss 43 motion was granted at 57. (CA2 APPELLANT. APP. A. 5-6, 8). Later motion for reconsideration was filed at dist. dkt. 61,70,74 and the District Court denied on 9/28/2016. (CA2 APPELLANT. APP. A. 8-10). In fact, there was no order in effect to file the motion for extension of time to serve Excel and District Court falsified the fact in

the said order to favor Excel. From January 23, 2015, to December 31, 2015, Singh's former attorneys engaged in good faith settlement negotiations with Excel attorneys as Excel's attorneys agreed to resolve the matter prior to Excel appearing with the goal of avoiding the expense of litigation for their client. Singh's former attorney Michael Doran was advised at the outset and speaking with counsel for Excel that they would accept service and execute the waiver, service of the summons. They somewhat vacillated on that position at the last by December 2015. When settlement negotiations failed then Singh's former attorney filed the said motion documents. Point to be noted that some issues came up between Singh and former attorney Michael Doran and the latter chose to withdraw representation. Before motion to effectuate service was ruled the said attorney was relieved by the District Court considering dist. dkt. Entry 50 motion ruling at 54. (CA2 APPELLANT. APP. A. 7) Further Singh became Pro- Se, but the concerned attorney filed all the paperwork for the said motion for extension to serve Excel. When Singh became Pro- Se the District Court changed and falsified the facts in the said order. District Court and CA2 ignored the affidavit of Singh's former attorney Michael Doran with Exhibits attached therein that how Excel's attorneys involved in email process in settlement negotiations making him believe that should settlement fails would sign the waiver of service and refused to sign at the end dated 12/31/15 at dist. dkt. 36. (CA2 APPELLANT. APP. A. 5, 44-78). Singh's former attorney Michael Doran filed memorandum of law in support of motion to consider at dist. dkt. 61 which the District Court ignored it. (CA2 APPELLANT APP. A.8, 79-84). Excel filed

memorandum of law in opposition dist. dkt. 45 and under statement of facts first paragraph admitted that claims against Excel are fundamentally different and distinct from other Defendants. (CA2 APPELLANT APP. A. 6, 85). Singh's former attorney filed reply to memorandum of law in support of motion to reconsider at dist. dkt. 70 (CA2 APPELLANT APP. A. 9), confirmed that Singh has not violated any order of the court regarding the filing of the motion to extend the time to serve and further stated that the minute entry for the November 24, 2015, conference simply advises that the court directed the parties to submit a revised civil case management plan by 12/4/15 at dist. dkt. 37. (CA2 APPELLANT. APP. A. 5, 86). When settlement efforts failed and at the end of December 2015 upon notification from the opposing counsel that they won't sign the waiver of service, then Singh's former attorney immediately served the complaint and summons to Excel on January 15th, 2016, at dist. dkt. 46. (CA2 APPELLANT. APP. A. 6, 87).

**DISTRICT COURT FALSIFIED THE FACTS IN
ORDER DATED 6/10/16**

**IN REFERENCE TO MOTION FOR
EXTENSION OF TIME TO SERVE EXCEL.**

District Court completely erred in seriously abusing the discretionary powers in balancing the four factors in the scale of Justice. Four factors were favoring Singh, but the court chose to favor Excel and impose dismissal, the harshest of all penalties upon Singh. In the said order page 11a-12a second paragraph (PET. APP. C at 10a-12a attached herewith), court weighed in the conference of November 24, 2015,

where court directed Singh to make a request for an extension of time by 12/4/15 were false statements on the part of court as the minute entries of that conference dated 11/24/15, speaks contrary to that effect at dist. dkt. 37 page 3 (CA2 APPELLANT. APP. A. 5, 90), attorney Doran explaining court about extension of time to serve Excel and court replied to, you can do it by letter motion. On the same page also advised court that he was advised at the outset and speaking with counsel for Excel that they would accept service and execute the waiver, service of the summons. They somewhat vacillated on that position as of late. On page 4 last two paragraphs (CA2 APPELLANT. APP. A.91), the court asked to submit a revised civil case management plan. On page 5 last paragraph (CA2 APPELLANT. APP. A.92), the other Defendants said that they have no objection to add the additional party. On page 6 lines 14-20 (CA2 APPELLANT. APP. A. 93), the court understood that Excel's liability is different than other parties. On page 7 (CA2 APPELLANT. APP. A.94), attorney Doran explaining efforts made at serving Excel to court and after that on the same page lines 21-25 court said you can write to the court for the extension of time and even the other parties object, the court will proceed to consider the application. Attorney Doran thank the court. Also, on page 8 (CA2 APPELLANT. APP. A. 95), the court referring to revised schedule plan and set the date for that task. So, the court's mentioning of page 7-8 in its order dated 6/10/16 (Pet. APP. C. at 10a-12a attached herewith), page 12a First Paragraph (Pet. APP. C. at 10a-12a attached herewith), about the said minute transcript is false in reference to extension of time to serve Excel.

**SUMMARY ORDER OF CA2 DATED JUNE 17TH,
2022 SIMPLY DEFENDING SERIOUS ABUSE
AND FALSIFICATION OF DISTRICT COURT.**

(Pet. APP. A at 1a-7a attached herewith), pages 5a-6a ignored Singh's concrete evidence as stated above to defend District Court serious abuse of judicial powers and wrongfully agreeing with District Court.

ARGUMENT

As described above, if the District Court has not erred like this in its order dated 6/10/16 than the Singh's motion for extension of time to serve Excel at dist. dkt. 34 would have been granted. (CA2 APPELLANT APP. A.5, 18-19).

CONCLUSION

For the foregoing reasons, Petitioner Singh respectfully request this Hon. Court to grant the writ for certiorari as review of this Hon. Court is very much warranted in this case in the interest of delivering truthful justice. Excel is holding Singh's back pay claims since 2009 for more than about 14 years and continuing which Singh already worked and never got paid by Excel.

STATEMENT OF THE CASE

Most Respectfully, I Harinder Jeet Singh, (Pro- Se) Petitioner submit the following for the kind perusal of this Hon. Court:

When respondents filed documents for SJM, very cleverly asked District Court to extend the trial date. (CA2 APPELLANT. APP. A. 14, Dist. dkt. Entries at 125-126). And after that District Court changed and engaged in falsifying the facts at SJM to favor

respondents and upon appeal CA2 engaged in defending the abuse of District Court.

This is regarding the claims against Securitas Security Services Corp. and RXR Property Management, LLC only, for failure to hire Singh upon return from the approved vacation back in September 2012. The District Court lost the sight of facts and evidence that Singh adduced. In the same Building 620 6th avenue in New York City where Singh worked for about six years and was Fire Safety Director/ Emergency Action Plan Director and Site Supervisor and was overseeing a work force of about 20 personnel at the said location. When Singh went on approved vacation Singh was working for Quality Protection Services Inc. in the month of August 2012 and was to return to work on 9/11/12. During this course of time Securitas took over at the said location. Upon return Securitas failed to hire Singh and used false statements that all positions filled to cover up their falsity, pretext and lies. When Singh came back and applied with Securitas at that time positions were still open in 2012 and beyond 2013. Singh's position was given to Damon Lindsay an African American who was outside from Singh's protected class. Among the workforce Singh was the only person not hired by Securitas.

**DISTRCT COURT FALSIFIED THE FACTS AT
SUMMARY JUDGMENT ORDER AND
IGNORED SINGH'S CONCRETE EVIDECE TO
FAVOR SECURITAS AND COURT OF
APPEALS SECOND CIRCUIT DEFENDED THE
DISTRCT COURT WRONGFULLY AND
IGNORING SINGH'S EVIDENCE IN TOTALITY.**

Singh was covered by union 32BJ agreement with Securitas for the said location and Securitas must hire Singh upon his return from approved vacation (CA2 APPELLANT. APP. A. 100, 101 item 1, 102 item 1, 103 item 6).

**DISTRICT COURT AND UPON APPEAL
SECOND CIRCUIT IGNORED SPOILIATION OF
PHYSICAL EVIDENCE BY SECURITAS
BECAUSE POSITIONS WERE STILL OPEN IN
2012 AND BEYOND 2013 TO FAVOR
SECURITAS. SPOILIATION OF PHYSICAL
EVIDENCE EXISTS IN RECORD OF THIS
CASE WHICH WAS IGNORED BY DISTRICT
COURT AND SECOND CIRCUIT.**

In destruction of the physical evidence by Securitas, there was a conference held on 9/5/18 and relevant pages of the transcript shows Singh's explanation to the District Court that how physical evidence contained in the record books of year 2012 were intentionally and unlawfully destroyed by the Securitas, to conceal the truth (CA2 APPELLANT. APP. A. 141- 148). District Court agreed that the relevant documents in the case were destroyed (CA2 APPELLANT. APP. A. 144 Lines 18-20). Further the District Court was convinced and agreed about the material fact that upon Singh's return from approved vacation there were openings in the concerned building (CA2 APPELLANT. APP. A. 145 Lines 7-10). District Court asked Singh when he could go to trial and set the trial date as February 4th, 2019 (CA2 APPELLANT. APP. A. 145-146). Opposing Counsel confirming the availability of the witnesses for the trial date and pretrial order from the court (CA2 APPELLANT. APP. A. 147). District Court agreed that Singh's rights are valuable and needed to

be protected by a good attorney (CA2 APPELLANT. APP. A. 148). Singh explained that how he was differently treated in comparison to the similarly situated individuals and was to discover several relevant, admissible, and material facts from the record books (CA2 APPELLANT. APP. A. 144). Securitas failed to have a litigation hold on the documents. Securitas was going by the preferences and favoritism in filling the positions and Singh was singled out in comparison to the similarly situated employees. That the evidence was destroyed with a culpable state of mind and assume that the destroyed evidence would have harmed the Securitas position. This was sufficient to deny the Summary Judgment motion. Securitas, intentionally withheld, hid, altered and/ or destroyed evidence relevant to Singh's failure to hire case. According to Second Circuit directives that the intentional concealment, interference with or misrepresentation of evidence is sufficient for the spoliation claim. Willful destruction of evidence by Securitas, designed to disrupt Singh's case.

**AFTER THE STATED CONFERENCE
DISTRICT COURT GRANTED SINGH'S
MOTION TO INCLUDE EVIDENTIARY FACTS
AT DIST. DKT. 98 AT 104 (CA2 APPELLANT.
APP. A. 11- 12). DISTRICT COURT AND
SECOND CIRCUIT IGNORED THIS TO FAVOR
SECURITAS.**

Singh requested the District Court to consider those relevant, admissible, and material facts in subsequent proceedings in the case, but the court ignored them to favor Securitas, in the ruling of SJM (CA2 APPELLANT. APP. A. 105- 106 items 1 to 5). If District Court applied the above which would have

resulted in denial of the SJM, and the case proceed towards trial. It is well settled in the Second Circuit that Gross Negligence to preserve and produce documents could suffice. The above shows that the Securitas discriminated against Singh because of his race, national origin, and retaliation unlawfully and intentionally. In review of appeal Second Circuit ignored the same to defend District court's serious wrongfulness. District Court went contrary to its own order dated 9/17/18 in granting the motion to include evidentiary facts as stated above. Thus, District Court granting of the SJM, was utterly inappropriate and on appeal Second Circuit failed to act. Detailed explanation can be seen in (CA2 APPELLANT Br. at 17 item 4, 18). With reference to (CA2 APPELLANT APP). As contained therein which Second Circuit ignored.

POSITIONS WERE OPEN BEYOND YEAR 2013.

Pleadings are still pending in District Court to be ruled upon and the SJM is thereby inappropriate and should have been denied. Second circuit did not act on appeal for the same. Dist. dkt. 105- 109 and 111 (CA2 APPELLANT APP. A. 11- 13, 126- 140).

**DISTRICT COURT ORDER DATED 3/30/21 (Pet. APP. D. at 13a-40a attached herewith). AND
OPINION OF THE U.S. CA2 (Pet. APP. A. at 1a-
7a attached herewith) ARE WRONG.**

In the said District Court order from beginning to end described that there was no open position when Singh returned from vacation and applied wrongfully to all of Singh's claims. CA2 order repeated the same and wrongfully defending the serious abuse of

judicial powers of District Court. If applied properly the case should proceed towards trial.

**DISTRICT COURT FAILED TO RULE ON
SINGH'S EMOTIONAL DISTRESS CLAIM IN
SJM WHICH IS STILL PENDING IN DISTRICT
COURT AND CA2 IGNORED THIS TO DEFEND
DISTRICT COURT'S SERIOUS
WRONGFULNESS TO FAVOR SECURITAS
AND THEREFORE SJM RULING IS
INAPPROPRIATE BY ANY MEANS AND THIS
HON. COURT'S REVIEW OF THIS CASE IS
VERY NECESSARY.**

Singh suffered emotional distress and was under the treatment for insomnia associated with depression from doctor for about one year backed by all medical record. Singh took prescribed medication and Expert Witness evaluations were done and District Court did not rule on this claim in SJM to favor Securitas and claim is still pending in District Court and hence ruling of SJM is very defective and this Hon. Court review the same to deliver truthful justice. This can be seen in (CA2 APPELLANT Br. pages 18-19 at item 5 with reference to evidence contained in Appendix as shown therein).

**DISTRICT COURT AND CA2 IGNORED ALL
OF SINGH'S DIRECT AND CIRCUMSTANTIAL
EVIDENCE AS SECURITAS AND RXR LYING
100 PERCENT.**

Detailed explanation can be seen in (CA2 APPELLANT Br. page 20 item no. 9 to page 23 as pointing to evidence as contained therein).

**SINGH'S RETALIATION CLAIMS WERE
IGNORED BY DISTRICT COURT AND SAME
BY CA2 TO FAVOR SECURITAS.**

Detailed explanation can be seen in (CA2 APPELLANT. Br. pages 19-20 item no. 6 pointing to evidence as contained therein).

REASONS FOR GRANTING THE PETITION

Singh is fighting this case collectively for about 14 years and continuing and Respondents never amicably ready to compensate Singh for his damages. District Court erred very seriously in this case and the CA2 panel did the same to defend the abuse of District Court.

**THE DISTRICT COURT AND CA2 PANEL
DISREGARDED SINGH'S DISPUTED FACTS
WITH EVIDENCE AND AUTHORIZES
DISCRIMINATION PROHIBITED BY TITLE
VII.**

As explained above in reference to EXCEL only that District Court erred seriously in dismissing Singh's meritorious claims against EXCEL in reference to service on EXCEL as there was no order in effect as a deadline to file for an extension of time to serve Excel and District Court falsified facts on order and CA2 panel went to defend the abuse of District Court.

This is regarding Securitas and RXR where District Court falsified in the order as stated above that upon Singh's return from vacation all positions were filled and hid the fact of destruction of physical evidence, granting of motion to include evidentiary facts and to consider in subsequent proceedings like SJM ruling as to open positions. Singh was covered under the

union 32BJ agreement with Securitas to must hire Singh from return from vacation. Singh's emotional distress claim is still pending in District Court to be ruled upon making SJM ruling very inappropriate. Singh's circumstantial evidence were ignored as Securitas and RXR were lying 100 percent to hide the truth. The falsified facts at Summary Judgment Order of District court affected all claims of Singh against Securitas as positions were still open when Singh came back from vacation in August of 2012 and beyond 2013 and Securitas failed to hire Singh with intentional and unlawful discriminatory motive and retaliation. Singh made a prima facie case which CA2 panel ignored to defend District Court (CA2 APPELLANT Br. pages 23-24 pointing to Appendix for evidence as contained therein).

THE PANEL DECISION CREATES INTRA-CIRCUIT CONFUSION AND CONFLICTS WITH OUT-OF-CIRCUIT PRECEDENT EVEN UNDER AN IMPERMISSIBLY NARROW UNDERSTANDING OF TITLE VII.

No circuit court will allow that at oral argument Appellant is not allowed to speak and put forth his position in front of the panel Judges and even won't allow that an Appellant is not allowed to rebut after the conclusion of the opposition attorneys. Singh's fundamental rights were violated when on oral argument day dated 6/7/22 Judge Lohier did not let Singh explain his position or rebut the opposition attorneys and adjourned the court. Opposition attorneys were one hundred percent lying and in Summary Order the CA2 panel incorporated those lies to favor respondents and defend the serious abuse of District Court.

District Court and CA2 panel ignored Singh's direct and circumstantial evidence where respondents were continuously lying where a reasonable Jury could infer discrimination from respondents shifting explanation for not hiring Singh. The circuits courts have recognized that when an employer changes its asserted grounds for an adverse action, a Jury may infer that the actual reason was discrimination. *Squyres v. Heico Cos., L.L.C.*, 782 F. 3d 224, 234 (5th Cir. 2015). As the Supreme Court has explained, "the factfinder's disbelief is accompanied by a suspicion of mendacity) may, together with the elements of the prima facie case, suffice to show intentional discrimination." *St. Mary's Honor Ctr. V. Hicks*, 509 U. S. 502, 511 (1993). A reasonable Jury could make that inference here. (Detail Explanation in Singh's CA2 APPELLANT Br. page, 20 item 9 to page 23). The concerned CA2 panel did not act on that. No circuit court or United States Supreme Court will allow this to happen.

Moreover, no other circuit has concluded, as the CA2 panel did in defending the serious abuse of judicial powers in Singh's case.

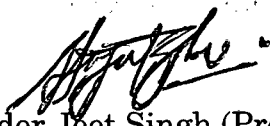
The issue presented is important and recurring. The CA2 panel decision is far reaching consequences for the cases filed under Title VII and going contrary to the laws that the congress established for fair and equal treatment for all in the workplace stating zero tolerance for the discriminatory practices of the concerned employers who snatched away once of a lifetime opportunity from Singh, the rejected job applicant. The CA2 panel decision is deterring individuals in future to file claims under Title VII and seek Justice for their damages and no circuit court or United States Supreme Court will allow this

to happen. There could be no serious dispute, then that the issue presented here is important and ripe for this court's re- evaluation and thus warrants Writ for Certiorari consideration.

Conclusion

Motivated errors of law or fact resulting in a denial of Justice. Spoliation of record as stated above with evidence should warrant dismissal of defenses of the respondents. Petitioner Singh respectfully prays that negated evidence that was critical and severely hampered the constitutional rights of Singh's equal protection and due process of the law, request this Hon. Court that the petition for Writ for Certiorari should be granted in the interest of Justice.

Respectfully Submitted,



Harinder Jeet Singh (Pro- Se).

P. O. Box- 721025 Jackson Heights,

New York 11372

(347-247-1015).

Date: 1/28/23