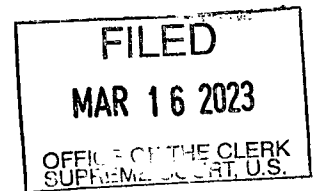


22-7610
No. _____

ORIGINAL

In The
Supreme Court of the United States



OTHNIEL EVANS MARAGH,

Petitioner,

v.

ROOSEVELT ISLAND OPERATING CORPORATION,
CHARLENE INDELICATO, ECLAUDIA MCDADE,
MUNESHWAR JAGDHARRY, JOHN MCMANUS, RUDOLF
RAJABALLEY, SEAN SINGH, STEVEN FRIEDMAN, NANCY
ZEE, JOHN, AND JANE DOES 123

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

OTHNIEL EVANS MARAGH

pro se

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Mt. Vernon, New York 10550

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QUESTION(S) PRESENTED

1. Is it ethical or legal for the Southern District Court of New York's Judge, Jesse M Furman to disregard every shred of evidence presented by the Plaintiff/Appellant? Judge Furman claims that "This internal complaint appears to be the document filed at ECF No. 185-10, but, as there is no "foundation from a witness with personal knowledge" authenticating the document, the Court cannot and will not consider it." Judge Furman used two of his own cases to substantiate his opinion." Page 5 footnote 6 of the OPINION AND ORDER. This internal complaint is the catalyst which precipitated every event in this case including this Petition For A Writ Of Certiorari.
2. Should evidence presented to the Defendant's counsel at their discovery be blatantly ignored by Judge Furman because it does not substantiate his and the Defendants' narrative. Page 25, footnote13 of the OPINION AND ORDER. "The audio recording and the transcript Maragh submitted can and will remain under seal, both for the reasons Defendants gave previously, *see* ECF No. 204, and because the court did not rely on these materials in any way." Here Judge Furman makes it emphatically clear that he is bias and unethical.

3. Should the United States Court Of Appeals For The Second Circuit designate evidence as inadmissible, when it was not deemed inadmissible by The Southern District Court Of New York? “The District Court concluded, in fact that the audio recording and transcript were inadmissible, and therefore declined to rely on them in granting summary judgment.” Page 5 – 6 of the United States Court Of Appeal For The Second Circuit’s Summary Order. Yes, Judge Furman did not rely on the audio recording or the transcript; however, at no point during this proceeding, did Judge Furman classify the audio recording and the transcript as inadmissible. This panel consisting of Debra Ann Livingston, *Chief Judge*, Amalya L. Kearse, and Michael H. Park, *Circuit Judge* are the only individuals who have.

4. Should the United States Court Of Appeals For The Second Circuit violate its ordinances and mandates? “This Court reviews orders granting summary judgment *de novo*, “resolv[ing] all ambiguities and draw[ing] all reasonable inferences in the light most favorable to the nonmoving party,” Page 2 of the Summary Order. This aspiration, condition and objective have not been met in this case. On the contrary, the United States Court Of Appeal For The Second Circuit blatantly misrepresented the facts of this case and appeal. The United States Court Of Appeal For The Second Circuit, instead created ambiguities, by drawing unreasonable inferences; in its quest to favor the

moving party. Thereby denying the Appellant/nonmoving party his constitutional rights and due process of law.

5. Should the Southern District Court of New York and The United States Court Of Appeal For The Second Circuit, seal, designate as confidential and protective and blatantly disregard evidence? This occurred in this case to fulfill this requirement. "Summary judgment is appropriate only if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ.P. 56(a). A genuine dispute exists "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Page 2 -3 Summary Order."

LIST OF PARTIES

[x] All parties do not appear in the caption of the case on the cover page.

A list of all the parties to the proceeding in the court whose judgment is the subject of this petition is as follow:

The Roosevelt Island Operating Corporation, Charlene Indelicato, Claudia McDade, Muneshwar Jagdharry, John McManus, Rudolph Rajaballey, Sean Singh, Steven Friedman, Nancy Zee, John and Jane Does 123,

Defendants – Appellees,

Frances Walton, The Roosevelt Island Operating Board of Directors, Howard Polivy, Katherine Grimm, Michael Shinozaki, Fay Freyer Christian, Margaret Smith, David Kraut, Mary Beth Labate, Darryl Towns, in their official and individual capacities,

Defendants.

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 A to the petition and is

☐ reported at NA; 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 B to the petition and is

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

☐ For cases from **state courts**: NA

The opinion of the highest state court to review the merits appears at Appendix NA to the petition and is

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

The opinion of the NA court appears at Appendix NA to the petition and is

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

TABLE OF AUTHORITIES

STATUTES AND RULES

42 U.S.C. 1983 _____

28 U.S.C. 1254(1) _____

OTHER AUTHORITIES

Maragh v. RIOC, No. 21-2129, U.S. Court of Appeals for the Second
Circuit. Judgment entered October 25, 2022.

Maragh v. RIOC, No. 16-CV-7530, U.S. District Court for the Southern
District of New York. Judgment entered August 5, 2021.

Maragh v. RIOC, No. 21-2129, U.S. Court of Appeals for the Second Circuit
Petition for Rehearing or Rehearing En Banc, November 8, 2022
Petition Denied, Judgment Entered December 16, 2022

RELATED CASES

- *Maragh v. RIOC, No. 16-CV-7530*, U.S. District Court for the Southern District of New York. Judgment entered August 5, 2021.
- *Maragh v. RIOC, No. 21-2129*, U.S. Court of Appeals for the Second Circuit. Judgment entered October 25, 2022.
- *Maragh v. RIOC, No. 21-2129*, U.S. Court of Appeals for the Second Circuit
Petition for Rehearing or Rehearing En Banc, November 8, 2022
Petition Denied, Judgment Entered December 16, 2022

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 10/25/22.

☐ 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: 12/16/22, 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 NA (date) on NA (date) in Application No. A NA.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**: NA

The date on which the highest state court decided my case was NA.
A copy of that decision appears at Appendix NA.

☐ A timely petition for rehearing was thereafter denied on the following date: NA, and a copy of the order denying rehearing appears at Appendix NA.

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

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

STATUTE INVOLVED

42 U.S.C 1983 provides, in pertinent part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or the **District of Columbia**, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

STATEMENT OF THE CASE

The Plaintiff commenced this legal action on September 26, 2016. The Plaintiff seeks monetary relief and damages for injuries that the Plaintiff, has sustained because of the Defendants' unlawful acts and omissions, including race (African American), gender (male) and age (youthful) discrimination, retaliation, exposure to a hostile work environment and wrongful termination. The Defendants' conduct was willful, malicious, done in bad faith, with a deprave indifference to the Plaintiff's rights, reckless and negligent. The Plaintiff was discriminated against based on his race and gender, in violation of Title VII of the Civil Rights Act 1964 ("Title VII"), and the New York State and New York City Human Rights Law ("NYSHRL" and NYCHRL," respectively).

The Plaintiff has made numerous attempts to gain access to the Department of Labor (DOL) Report, generated by Ms. Ahnya Mendes, the Affirmative Action Administrator. The Plaintiff's Internal Complaint of discrimination was investigated by Ms. Ahnya Mendes, a state employee. Ms. Mende's investigations and findings were never disclosed to the

Plaintiff. The Plaintiff FOIL requested the report generated by Ms. Mendes, on two separate occasions and the Plaintiff never received the report. However, the report is currently a part of the Defendants' Motion for Summary Judgement. The same report along with the Internal Investigation Report (the Public Safety Report) generated by Jack McManus were used to separate the Plaintiff from both of his jobs at RIOC. The Plaintiff has been given access to both, report because the Defendants desires to utilize the reports to harm the Plaintiff further. To reiterate the Plaintiff has never seen the Department of Labor (DOL) Report and/or the Internal Investigation Report (The Public Safety Report) until it was sent to the Plaintiff by Ms. Holly Roger counsel for the Defendants. The Plaintiff received the reports six years after FOIL requesting them. This is a major perversion of justice.

The third Amended Complaint was submitted to the court by Mr. Keith Szyzepanski, the Plaintiff's lawyer, without the Plaintiff's consent. Judge Furman is cognizant of this fact. The details surrounding Keith Szyzepanski departure from the case is one of the sealed documents in this case.

The Plaintiff has never threatened, nor has he ever exhibited any behavior which could ever be vaguely misconstrued as threatening, aggressive or harassing in the workplace. The Plaintiff worked on

projects that required cooperation and input from other staff members such as Nancy Zee and Steve Friedman. Nancy Zee and Steve Friedman behaved as if the required interaction between them and the Plaintiff was an inconvenience and an irritant. They behaved as if the Plaintiff had entered their home unannounced. Nancy Zee and Steve Friedman were comfortable and complacent at RIOC, they acted as if they were at home. The Plaintiff was treated as if he was a nuisance when he asked a work-related question.

Nancy Zee and Steve Friedman would tell the Plaintiff to "get away from me" and "get out of here." These threatening, harassing, disrespectful, aggressive, and humiliating conduct by Nancy Zee and Steve Friedman towards the Plaintiff were condone and encouraged by Charlene Indelicato, Muneshwar Jagdharry and Claudia McDade. This occurred frequently. Their conduct and behavior epitomized a hostile work environment.

Any organization is as good as the individuals making the decisions for that organization. RIOC has a culture of discrimination in every capacity because discrimination is encouraged. The perpetrators of discrimination are also protected by RIOC.

Race, age, and gender are the most polarizing issues not only in the U.S.A. but globally. It is impossible to be silent about race or gender, especially when the Plaintiff is an African American male. The Plaintiff, Othniel Evans Maragh and Don Lewis, General Counsel for RIOC were fired by Charlene Indelicato because of their race and gender. They are both African American men. Don Lewis was terminated via email and locked out of his office. Lewis v. RIOC 16-CV-03071.

The Plaintiff might add that they were both replaced by women. The fact is the conduct never ceased, the individuals engaged in the activities throughout the Plaintiff's tenure, including the Plaintiff's last day on Friday, September 26, 2014. Charlene Indelicato as Your Honor knows is a lawyer. She placed the Plaintiff on Administrative leave for over 300 days to assert the claim," that conduct that occurred prior to 2014 is time barred and cannot support the Plaintiff's Title VII claims." The Plaintiff was on Administrative Leave from September 29, 2014, to December 4, 2015. The Plaintiff was told by Charlene Indelicato to wait by the phone. This is and was cruel and unusual punishment for being an African American Male.

Every exchange and encounter an African American male experiences, race and gender is always front and center. The disrespectful, disparaging, belittling way the Plaintiff was spoken to by Jagdharry was a

catalyst for his internal discrimination complaint; however, racism, sexism and agism were the motive. The disrespectful, disparaging, belittling, and yelling was intrinsically a reference to race, age, and gender.

The Plaintiff conducted no discovery because at every juncture in this proceeding the Defendants compromised and paid off all representative the Plaintiff acquired. The Plaintiff had to contend with a representative who was loyal to the Defendants and not the Plaintiff. Keith Szczepanski was essentially RIOCS' representative and not the Plaintiff's. The Defendants were more interested in throwing the Plaintiff peanuts in exchange for nine years of labor for the State of New York. Magistrate Wang and Davide M white, the Director of the Conflict Management Program at Seton Hall University both engaged in the same tactics. They both represented the Defendants and not the Plaintiff.

REASON FOR GRANTING THE PETITION

This Court should Grant Certiorari to resolve the unethical and biased way the Petitioner's case and appeal were handled by both Courts and all parties involved. There must be some balance and semblance of justice. The Plaintiff plays Table Tennis, Forrest Gump, the 1994 film, level Table Tennis. The Plaintiff doesn't know about this Court and the individuals who serve this court and this great Country; but the Plaintiff loves when his opponents are capable and competent.

There is no free lunch. It is not sustainable to have a Judicial System so completely rigged. That situation is extremely boring and no growth producing. A child epitomizes the human natural state of growth and expansion. From the moment a child enters this physical plane, growth and expansion begins and continues in an obvious way. This is a lifelong process. Therefore, when an institution that is established to serve humanity serves itself and perverts justice; an implosion is imminent.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Othniel Evans Mawzy

Date: 3/19/23