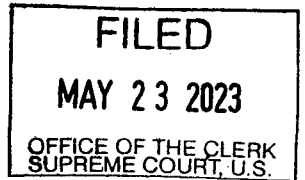


No. 22 - 7657



ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Annecia M Fort, pro se — PETITIONER
(Your Name)

vs.
United States Court of Appeals
Eleventh Circuit et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANNECIA M FORT
(Your Name)

1702 W 16TH Street
(Address)

Jacksonville FLORIDA 32209
(City, State, Zip Code)

904-294-3989
(Phone Number)

QUESTION(S) PRESENTED

Question 1: Is disclosing public safety concerns to your management (internal reporting) a protected activity?

[Under Surface Transportation Assistance Act (STAA) Whistleblower Protection Act 49 U.S.C. § 31105 (a) (1) (A) (i) (ii)]

Question 2: Is a motor carrier that requires or permits a driver with egregious violations of drive-time limits [in 49 CFR part 395] in violation of Federal Motor Carrier Safety Regulations?

Question 3: Is it legal for a motor carrier to tell a driver seeking immediate ELD Hours of Service assistance to call back the next day due to being under-staffed?

Question 4: Is it legal for a motor carrier to log into a driver's ELD account with the driver's ID and Password instead of the carrier's support account information?

Question 5: Can a motor carrier coerce a driver into changing their logs after a fatal accident?
[see witness statement]

LIST OF PARTIES

- ☐ All parties appear in the caption of the case on the cover page.
- ☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

LANDSTAR SYSTEM INC AND EACH OF ITS SUBSIDIARIES

RELATED CASES

Federal

Dho-Thomas v. Pacer Energy Marketing , ARB No. 13-051, ALJ Nos. 2012-STA-46, 2012-TSC-1 (ARB May 27, 2015)

Harrison v. Roadway Express, Inc. , ARB No. 00 048, ALJ No. 1999 STA 37 (ARB Dec. 31, 2002)

OSHA's Whistleblower Act case laws citing an Internal complaint is protected activity under 31105 (a)(1)(A): Davis v. H. R Hill, Inc., 86-STA-18, Manske v. UPS Cartage Servs., and Warren V. Custom Organics.

Nix v. Nehi-RC Bottling Co., Inc., 84-STA-1 (Sec'y July 13, 1984).

Cites V A 2 b Complaint need only to relate to safety standard- A STAA whistleblower complaint need not explicitly mention a commercial motor vehicle safety standard to be protected. "As long as the complaint raises safety concerns, the layman who usually will be filing it cannot be expected to cite standards or rules like a trained lawyer..

Dick v. Tango Transport , ARB No. 14-054, ALJ No. 2013-STA-60 (ARB Aug. 30, 2016)

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OTHER

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 B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States ~~district court~~ ^{ARB- agency} appears at Appendix A to the petition and is

☐ reported at _____; 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 _____ to the petition and is

☐ reported at _____; 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 January 11, 2023.

☐ 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: March 20, 2023, and a copy of the order denying rehearing appears at Appendix B&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. A .

The jurisdiction of this 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 _____.
A copy of that decision appears at Appendix _____.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Discrimination and Retaliation:

Surface Transportation Assistance Act (STAA) 49 U.S.C. §31105

STAA Whistleblower Act, O.S.H.A.

Title VII of the Civil Rights Act of 1964

FMCSA 49 CFR 395

STATEMENT OF THE CASE

From 2004-2015, I worked and trained other employees (including some management) in the Safety and Compliance Logbook Department at Landstar System Inc. I was in the department for more than 10 years at the time of my complaint. The Federal Motor Carrier Safety Regulations manual [part 395] was the department's bible. My training at hire stressed the importance of public safety and my responsibilities on Federal and company level. My job was to monitor logbook entries assuring they log it as they run it and run it legal. We had guidelines in place to address driver's that were out of compliance with FMCSA regulations whereas excessive repeats [10-20 acute violations] would lead to disqualification where they can no longer haul for Landstar. Landstar sold its service on a "Safety First" motto and I promoted this in my training and responsibilities.

Over time, the Electronic Logging Device (ELD) was proposed. Landstar volunteered before it was mandated. I was designated to attend ELD training to train our department on the unit. Knowledge gained: each person(s) would have their own unique login for the unit. the driver would have an account (id and password) and the motor carrier would have a support account. The motor carrier must log in with the carrier support account information to make edits. Edits must include a note (annotation) to explain the reason for the edit. In addition, the driver must confirm (certify) that any carrier edit is accurate and resubmit the records. If the driver chooses not to re-certify RODs, this is also reflected in the ELD record.

1. November 2014, following guidelines and procedures, I recommended driver M.P. be disqualified as he had 76 acute violations in the six months period required to maintain logs. Manager J.C., (reviewer) agreed with my recommendation. However, Director Mahal Cason reversed the decision "for a friend in another department " as she stated, [Landstar legal stated it was at an agent's request however, safety was obviously not the objective]. I stressed my concerns of safety to Director M.C. but followed her instructions to keep him active. A day or two later, that driver had been in two accidents. I emailed my concerns, however, she insisted on keeping the driver. I then emailed her boss V.P. Mike Cobb who then terminated the driver.
The Opinion of the court speak of "reasonable belief", however, 49 CFR 395 is law.

NOTE: The Opinion of the Court omitted Director Mahal being notified of the accidents BEFORE I went over her head to VP Mike Cobb. Permitting a driver to drive with such violations is unlawful.

2. January 2015 at about 2pm, Driver J. M, called with his ELD alerting Hours of Service violations and needed immediate assistance. Under supervisor instructions, he was told to call back the next day because we were short staffed. I reported this to Director Mahal Cason. She stated she would talk to supervisor K.S.

STATEMENT OF THE CASE

After reviewing the counsel notes, I printed them out in the event I had to revisit the issue. After Director Mahal Cason met with Supervisor Kim Sellers, the counsel notes of driver J. M. were altered. In retaliation, I was falsely accused of causing conflict and reprimanded.

NOTE: The Opinion of the courts stated Director Cason stated the incident didn't violate any regulations. However, 49 CFR 395 conflict with that determination. Also, print outs of the original notes and altered notes were included in evidence submitted to the courts.

3. August 2015, Driver Hurddrobneck's electronic logs were requested in an audit. Her logs were in the wrong duty status. Management coerced an employee I trained to log into the department's demo unit with THE DRIVER'S id and password to edit the logs [coercion:49 CFR 386, 49 CFR 390]. Out of concern, the employee brought her concerns to me and I reported it to V.P. Mike Cobb. Management denied this took place. However, I had direct access to the report and was able to show V.P. Mike Cobb they were not being truthful. [CFR 395.22]

NOTE: The Opinion of the Court omitted the fact that Landstar logged into the driver's unit from the departments demo unit with the driver's login information instead of the carrier support account to make the edits. [document of proof submitted in evidence]. The court cited I could have made a colorable argument that Landstar violated 49 C.F.R. section 395.30(d) but the regulation was not in effect at the time. However, the Supplemental Notice of Proposed rulemaking: Privacy-FCMSA-ELD-PIA-FINAL-SIGNED-040314-PDF was published. In addition to that, no reasonable person would use another person(s) or company's ID and password due to security standards. Landstar was clearly in violation. With or without a regulation in place.

The Opinion of the court said to establish protected activity, I had to show that I reasonably believed Landstar violated a motor vehicle safety regulation. In accordance to FMCSA regulations, I believe that was established. Also, in Dick v. Tango, STAA does not require a whistleblower to complain about a specific safety regulation. Rather, the complaint must be "related to" safety regulations. STAA. Goggin v. Administrative Review Board, No. 97-4340 (6th Cir. Jan. 15, 1999) OSHA's Whistleblower Act case laws citing an Internal complaint is protected activity under 31105 (a)(1)(A): Davis v. H. R Hill, Inc., 86-STA-18, Manske v. UPS Cartage Servs., and Warren V. Custom Organics.

In Clean Harbors Environmental Services, Inc., v. Herman, __ F.3d __, No. 97-2083, 1998 WL 293060 (1st Cir. June 10, 1998) (case below 95-STA-34), the First Circuit held that the STAA, 49 U.S.C. § 31105(a)(1)(A), protects an employee who has filed purely intracorporate complaints about alleged violations of federal law.

STATEMENT OF THE CASE

Complaints were made because I know the law, I taught the law and followed the law. Public Safety was my target. My management know the law but intentionally did not adhere to the law for personal reasons and gain. Throughout the transcript and deposition submitted to the courts, they acknowledged there were concerns but forced me out of the department citing the department was unhealthy for me. As a result, retaliation attacks included: I was continuously reprimanded for trivial things, false accusations, poor performance reviews to justify their projected discharge, pay increase affected by poor performance reviews, I was forced out of the department, I was asked to resign but refused, I was suspended and forced to apply for positions in other departments, a team meeting was called demeaning my character and labeling me as a troublemaker while indirectly instilling fear of reporting what they believe to be a violation of both FMCSR and company rules, my team members were scared to be seen speaking or talking to me in fear of retaliation.

I filed a complaint with OSHA the day of my suspension. OSHA received my file while I was suspended. The file contained a post-dated disciplinary document stating I was discharged showing they had no intentions on allowing me to return to Landstar. However, in hopes I would drop my case, a manager was forced to abandon an already selected candidate and hire me instead. Upon my being hired, her instructions were "now get rid of her".

Out of fear, my peers continued to report violations to me. Attached to evidence submitted to the courts was a statement from one of my former co-workers, Erica Ortiz. A driver involved in a fatal crash was coerced into changing his logs to protect Landstar. E.O., the counselor was threatened by management, that if she did not process the false logs, they would login with her information and change it themselves. She resigned due to our training that violations of FMCSA regulations could result in prison time.

When Landstar received the statement, the Director involved suddenly resigned stating she found better opportunity. However, she approached a former co-worker, Ivory Kennedy and accused her of going to her boss.

REASONS FOR GRANTING THE PETITION

An opinion ought not to be an expression of mere will, it ought to be an effort of reason to discover justice. -Justice Frankfurter

I pray the Supreme Court review the tangible evidence in its entirety and grant the petition holding companies like Landstar accountable for their actions.

The STAA Whistleblower Act was extended to protect people in my position (working in the safety department of a trucking company) in the trucking industry. Public safety is the purpose FMCSR are in place and should be followed by all. Landstar is a prominent trucking company however, they are not above the law.

Carriers' that permit such behavior is a threat to public safety and should be held accountable to the extent of law. Landstar was fully conscious of their behavior completely discarding safety. As the opinion of the court stated, "no reasonable person" would make these choices. The courts should recognize acts of deleting information, coercion and untruth clearly displays intent. Also, if the courts found no actual violations, my complaint should warrant a "Good Faith Effort" clause.

To make an example of companies that behave in such manner. All evidence provided are time and date stamped documents (email, computerized documents, log reports, performance reviews, etc) showing clear proof of my claim. However, the courts opinion reflects Landstar's hearsay responses.

There are not many case laws published directly associated with my case that I could find. I pray The Supreme Court grant the petition and show peers in my position that our loyalty and commitment to FMCSA safety regulations and the trucking company we work for is not in vain.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Annecia M Fort

Date: May 23, 2023