

Vanessa Phillips, Pro Sé Litigant
P. O. Box 7023
Warner Robins, GA 31095
478 - 334 - 9868

DATE: Friday, May 19th, 2023

RE: Request for an Extension of Time

The Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Good afternoon Mr. and Mrs. Justices;

Enclosed is a copy of the three (3) page DENIAL for Rehearing En Banc and Panel Rehearing from the United States Court of Appeals for the Eleventh Circuit, Case No.: 22 - 10930.

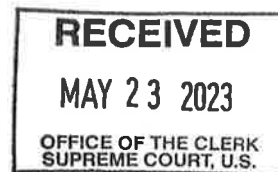
This letter is a Request for an Extension of Time, sixty (60) days, please, on the aforementioned case, that will be submitted as a Writ of Certiorari, along with the \$300.00 filing fee in a cashier's check payable to the Supreme Court.

The pro sé litigant requests an extension due to time frame to prepare and perfect bind volumes, and to obtain clarity on what " ...a 6 1/8- by 9 1/4-inch booklet format is."

Thank you,



Vanessa A. Phillips, Pro Sé Litigant



22-10930

Vanessa A. Phillips
PO BOX 7023
WARNER ROBINS, GA 31095

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

April 14, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 22-10930-AA

Case Style: Vanessa Phillips v. Macon Bibb County Government

District Court Docket No: 5:21-cv-00355-TES

The enclosed order has been entered on petition(s) for rehearing.

See Rule 41, Federal Rules of Appellate Procedure, and Eleventh Circuit Rule 41-1 for information regarding issuance and stay of mandate.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
New / Before Briefing Cases:	404-335-6135	Capital Cases:	404-335-6200
Cases in Briefing / After Opinion:	404-335-6130	CM/ECF Help Desk:	404-335-6125
Cases Set for Oral Argument:	404-335-6141		

REHG-1 Ltr Order Petition Rehearing

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-10930-AA

VANESSA A. PHILLIPS,

Plaintiff - Appellant,

versus

MACON BIBB COUNTY GOVERNMENT,

Defendant - Appellee,

MACON BIBB TAX COMMISSIONERS,

Defendant.

Appeal from the United States District Court
for the Middle District of Georgia

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: ROSENBAUM, JILL PRYOR, and GRANT, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Panel Rehearing is also denied. (FRAP 40)

ORD-46

Certificate of Service

I, Vanessa A. Phillips , certify that one (1) original, and one (1) copies of the forgoing letter requesting an extension of time (five (5) pages in all), sent via U.S.P.S. to:

The Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

AND

Macon-Bibb County Government
700 Poplar Street
Macon, GA 31201

on this Friday, May 19th, 2023.

Respectfully submitted in Good Faith,



Vanessa Phillips, Pro Sé

P. O. Box 7023

Warner Robins, GA 31095

478 - 334 - 9868

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 22-10930

Non-Argument Calendar

VANESSA A. PHILLIPS,

Plaintiff-Appellant,

versus

MACON BIBB COUNTY GOVERNMENT,

Defendant-Appellee,

MACON BIBB TAX COMMISSIONERS,

Defendant.

Appeal from the United States District Court
for the Middle District of Georgia
D.C. Docket No. 5:21-cv-00355-TES

Before ROSENBAUM, JILL PRYOR, and GRANT, Circuit Judges.

PER CURIAM:

Vanessa Phillips was fired from her job as a residential appraiser with the Macon-Bibb County Tax Assessor's Office. After she was fired, she sued the county pro se, bringing several claims under Title VII of the Civil Rights Act and the Due Process Clause of the Fourteenth Amendment. The district court determined that Phillips had failed to state a claim. We agree, and we affirm the district court's dismissal of Phillips's complaint.

I.

On February 3, 2021, a work-related incident occurred between Phillips and a taxpayer. Over the next two weeks, she was suspended and then ultimately fired. She filed for unemployment benefits from the State of Georgia, but her application was denied because she had been fired for violating her employer's policies.

Phillips filed a complaint with the EEOC, alleging that she had been fired because of her race and in retaliation for opposition to unlawful employment practices. The EEOC declined to further investigate the claim. Phillips then brought this lawsuit.

The county moved to dismiss the complaint, and the district court found that Phillips had filed an impermissible shotgun pleading and ordered her to file an amended complaint. She did so, alleging discrimination on the basis of race, malicious persecution, malicious prosecution, and violations of due process—and seeking over \$800,000 in damages and reassignment and reprimand of two county employees. On the county’s motion, the district court dismissed the amended complaint. The court reasoned that Phillips had failed “to allege facts that support her claims for relief” but only offered “legal conclusions couched as factual allegations.” It then walked through each of Phillips’s claims, finding them all deficient. Phillips appealed.

II.

We review a dismissal for failure to state a claim *de novo*, accepting the complaint’s factual allegations as true. *Wildes v. BitConnect Int’l PLC*, 25 F.4th 1341, 1345 (11th Cir. 2022). To survive a motion to dismiss, a complaint must plead “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice. . . . [W]e are not bound to accept as true a legal conclusion couched as a factual allegation.” *Id.* (quotation omitted).

Phillips’s Title VII claims are a textbook example of legal conclusions couched as factual allegations. She asserts that she was

“thoughtlessly suspended and terminated” because she is “not White” and “from a different culture.” But she never provides any specific allegations that would suggest that she was actually fired because of her race, and not because of the February 3 incident. Nor does she allege any facts to suggest that she was fired because she engaged in a protected activity, as is required to state a Title VII retaliation claim.¹ And as for her Title VII malicious prosecution claim, no such claim exists, and we—like the district court—cannot see how to reframe it as a viable claim.²

Phillips’s Due Process claims fare little better. She claims that she was entitled to notice and a hearing before her termination. But—as Phillips herself recognizes—an individual is only entitled to due process before being fired if she has a property interest in continued employment. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 576–78 (1972). And state law determines whether such a property interest exists. *Id.* “Under Georgia law, a public employee has a property interest in employment when that employee can be fired only for cause.”

¹ Like the district court, we liberally construe Phillips’s claim for “malicious persecution” under Title VII as a retaliation claim.

² Across several of her claims, Phillips appears to advance a theory that the county allegedly provided false information that led to the denial of her unemployment benefits. But even if we liberally construe these accusations of “malicious prosecution,” “defamation,” “vilification,” and “denial of due process” as advancing a single legal theory, she has still alleged no facts that—if true—would prove this theory.

22-10930

Opinion of the Court

5

City of St. Marys v. Brinko, 324 Ga. App. 417, 420 (Ga. Ct. App. 2013) (quotation omitted). If an employee may be fired at will, then that employee has “no property interest protected by the due process clause.” *Id.* (quotation omitted).

Phillips herself states that “the state of Georgia is an At-Will employer,” and she does not allege that she had any contractual protections from being fired at will. Instead, she appears to argue that she was entitled to due process because the county gave a reason or “cause” for her termination. But “for cause” refers to a legal protection, not to whether the employer explained a firing decision. An employee does not suddenly acquire a property interest in her employment just because her employer chooses to explain its reasoning for firing her. Phillips has not alleged facts suggesting that she had a property interest in her job, and she therefore failed to state a claim that she was entitled to due process.

Finally, Phillips argues that the county violated her Due Process rights because she was denied unemployment benefits. But the county did not deny her unemployment benefits—the Georgia Department of Labor did. The Georgia Department of Labor’s absence from this case alone forecloses this claim.

* * *

A federal lawsuit cannot proceed unless the plaintiff alleges specific facts that would demonstrate that the defendant violated the law. Because Phillips failed to meet this standard, we **AFFIRM** the district court’s dismissal of her complaint.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.,
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 30, 2022

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 22-10930-AA

Case Style: Vanessa Phillips v. Macon Bibb County Government

District Court Docket No: 5:21-cv-00355-TES

Electronic Filing

All counsel must file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Although not required, non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing are available on the Court's website.

Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Pursuant to Fed.R.App.P. 39, Costs Against Appellant.

Please use the most recent version of the Bill of Costs form available on the court's website at www.ca11.uscourts.gov.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call T. L. Searcy, AA at 404-335-6130.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jenifer L. Tubbs
Phone #: 404-335-6151

OPIN-1A Issuance of Opinion With Costs