No. 23-6391



IN THE

SUPREME COURT OF THE UNITED STATES

Christopher D. Thomas — PETITIONER
(Your Name)

Deb Haaland vs.
Sec. Dept. Interior, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals
Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Christopher Dalton Thomas
(Your Name)
411 little Richland Creek Rd.
(Address)
Morgantown Ky 42261
(City, State, Zip Code)
(859) 699-3254
(Phone Number)

## QUESTIONS PRESENTED

1. Are minority males who oppose discrimination and illegal activity in good-faith and terminated without cause entitled to *Equal Protection*? If so, why have the Courts offered no protection for prior EEO activity and used it to further deprive Plaintiff of his rights?

2. Should the Courts and EEOC ignore the EEOC's published "*motivating factor*" standard for all federal agencies and arbitrarily apply the "but for" standard because Defendant alleged there were "suspicions" from unknown sources? Defendant admitted they couldn't identify any misconduct whatsoever (RE 21 EEOC tr.pg.305 Wyrick Test.).

3. Testimony from England, Wyrick and police prove EEO activity Defendant concealed is the *only substantiated cause* for termination. Should the Court falsely assert "temporal proximity" is the only thing shown and dismiss the case without opportunity for a fair hearing or discovery?

4. Do employees or Plaintiffs in Title VII actions have a Constitutional *Right to Meaningful Reply and be informed of the source* of *labels* or unsubstantiated complaints imposed on them by the employer, EEOC, and the Court as outlined in *5 CFR § 315.805*? Plaintiff wasn't informed of the KPB Appeal or Clarks report, mislead about the café complaint and given no opportunity to respond to Lewis' memo. I don't believe a visitor complained about photos I never took.

5. Do agencies have a right to use police to procure false, off-duty, anonymous *reports* and enter them in an employee's work record without substantiating anything? Do unsubstantiated police reports have probative value in employment in the absence of due process?

6. Body Cam footage proves MACA police procured a rumor from Tour Guide, Chris Clark, after the interrogation on July 22. Plaintiff was never informed because a visitor never filed a complaint. How does the Court assert as fact that a visitor filed a complaint at the information booth on July 14th and attribute Plaintiff's conduct?

7. FCRP Rule 56(a) states a court shall only grant summary judgement if "movant shows there is no genuine dispute as to any material fact". Should the Court grant summary judgement when all the Defendant and Courts asserted facts are disproven or disputed?

8. How does a Court base it's decisions on "similarity in accusations" when there are no accusations against Plaintiff and the Court can't correctly cite what was said or who said it? Defendant admits "the only formal allegations in this case are those in Plaintiff's fourth amended complaint"(Def.Res. RE 145 ID#1867).

9. At EEOC Hearings is the Plaintiff entitled to Due Process concerning unsubstantiated police reports or allegations being used against them? When a Plaintiff files a charge of Gender Discrimination and Retaliation with the EEOC, do they have a right to identify or cross-examine the opposite sex?

10. Can Gender Discrimination be evidenced by Bias in complaint procedures, false rumors or reports of a sexual nature and the use of a previous gender discrimination complaint in termination?

11. In cases of Retaliation should a case be dismissed because coworkers requested, made or spread unsubstantiated hearsay complaints? Should Defendant take baseless insinuations from the transcript of an EEO complaint and use them as grounds for termination?

12. Should a Plaintiff's appeal be granted Whistleblower protection when he proves a termination was motivated by his concerns of proven illegal activity? Multiple violations are evidenced in KPB and KDA records.

13. Do Plaintiff's in Title VII actions have a *right to be painted in the best light*? If so, why have the Courts portrayed me in the worst, published fictional narratives of misconduct, and trumped-up false reports?

14. Should a Court consider the source, findings, and circumstances surrounding a police report or allegation? Or, should the Court assert every complaint and allegation against a male has probative value regardless of the substance, because a "complaint was made"?

15. Should Defendant and the Court differentiate between substantiated work related complaints from known sources and unsubstantiated off-duty police reports from unknown sources? Likewise, Should the Court take this gossip and publish formal substantiated accusations against Plaintiff?

16. An employee is terminated without cause under KRS 18A.095 and misconduct is not substantiated. Can EEO activity be used against him due to an unsubstantiated allegation in the transcript?

17. An employer terminates and slanders an innocent employee for salacious and false allegations of illicit or "inappropriate phone-use". Should a DEFAMATION claim be dismissed because the employer claims it originated with some other source they can't identify?

18. Are wrongly accused employees in minority positions entitled to protection when they oppose discrimination and testify at a hearing? If the wrongly accused aren't granted protections there is no reason to have an appeals process.

## 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:

1) Deb Haaland
Sec. Dept. Interior
U.S. Dept. Interior
1849 C. Street, NW
Washington, DC 20240

2) EPSB
300 Sower Blvd.
Frankfort, KY 40601

3) U.S. Equal Opportunity Commission
131 M Street, NE
Washington, DC 20507
and/or
Administrative Judge Aaarika Mack Brown
Indianapolis Dist. Office EEOC
101 W. Ohio St. - Suite 1400
Indianapolis, IN 46204

4) Kentucky Personnel Board
1025 Capitol Centr Drive
Frankfort, KY 40601

## RELATED CASES

1.) EPSB Administrative Action 20-EPSB-0067
(Charges for ethics violations)

2) Christopher D. Thomas vs Education Professional Standard Board & KY Personnel Board
Franklin Circuit Case # 20-CI-00007
(Ky Court of Appeals case # 2021-CA-0604 MR

3) KY Personnel Board Appeal 2013-281 (KPB Appeal)

## TABLE OF CONTENTS



## INDEX TO APPENDICES



Note! I am also seeking review of District Court Order (DN#153) dated March 14, 2022 as well as EEOC Decision and or Final Agency Decision dated Aug. 8, 2019.

**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 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 _____; 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 unknown/internet; 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 D to the petition and is KY Court of Appeals

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[✓] is unpublished.

The opinion of the Franklin Circuit Court court appears at Appendix E to the petition and is

[✓] reported at unknown/online; 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 April 4, 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: July 21, 2023, 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 _____ (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).

**SUPREME COURT OF THE UNITED STATES**
Sixth Circuit #22-5330

## STATEMENT OF THE CASE

CONTENTS OF STATEMENT



*INTRODUCTION*

The legal doctrine of the case involves the "fruit of a poisonous tree". The poisonous tree is an inaccurate Hearing Transcript of Plaintiff's Gender Discrimination complaint from 2013. The fruit is the rumors, false reports, false charges, harassment and perpetual adverse actions I've endured. The case is a real "phone-use" conspiracy, but I never used my phone and nobody really claimed I did. The truth doesn't mind being questioned, but a lie does. Somebody is definitely lying, or lying about lies, but it isn't me.

*BACKGROUND*

This case originates with a Kentucky Personnel Board (KPB) Hearing on Gender Discrimination concerning Plaintiffs' termination with KY Div. of Forestry (KDF). I was targeted for removal after raising concerns of coworker misconduct and illegal pesticide treatment. Female managers determined I was a "complainer" and went to the Assistant Director to request termination. The next morning two false written reports were procured from coworkers as a pretext. The actual statements weren't disclosed to me. The KPB record states "the next day, he learned he was being accused by the women"(DN RE 5-1 KPB App.ID#47). That's what I thought initially, but the hearing established they weren't making any accusations.

I was misled, terminated without cause, couldn't afford counsel, didn't know how to describe it. The KPB distorted the facts and didn't inform the order was published. I didn't have

the means to continue appealing a "no-fault" termination simply to prove discrimination. This has no bearing on the appeals protected status.

Plaintiff was terminated from Mammoth Cave National Park (MACA) as a direct result of the discrimination complaint (KPB Appeal) discovered in the fee office. Police, management, and employees concealed the appeal, spread false rumors and reports. The anonymous report I saw was made up. I tried to file a counter complaint and made a FOIA request upon leaving the park. I filed an EEO complaint where I discovered the previous complaint of discrimination was the real reason for Defendants actions.

Mr. Paul Curran conducted a 500 page EEO investigation and found me to be truthful in both terminations. I'd forgotten about the details of the KDF termination or was never properly informed, so I was unable to disclose all the evidence. I submitted open records requests to the KPB and KY. Div. of Agriculture (KDA) during the District Court action. After reviewing video testimony and discovering the KDF had actually been cited as a result of my report, I was able to put it all together.

I lost a teaching position at SKYCTC for issues related to my EEO investigation at the time(RE 50-4 ID#615). I lost another job when the school board (EPSB) used the protected Title VII record in Pacer and KPB appeal to bring ethics charges against me for opposing discrimination and illegal activity in the workplace (RE 100-2 ID#1114). This was due to misleading information published by the KPB. The charges obstructed the case and severely limited Claimants ability. After tens of thousands in legal fees and lost wages the charges were dropped. The Standard Form SF50 was reversed and the KDF termination was without cause, so there wasn't much I could honestly report.

I never had an opportunity for fair hearing with an impartial arbiter (EEOC dis.RE 118-2 ID#1431). I've never been properly informed or had an opportunity to examine the source of the lies the Defendant and the Courts have used to destroy my life and reputation. The District Court denied Plaintiffs motions to grant protection concerning the Title VII record during the EPSB case (RE 68). This further obstructed the case. Some of the confusion in the District Court likely stems from the fact they did not have a physical copy of the EEO investigation (ROI). I submitted the DVD of the ROI. However, I was never given a password and the Court denied

motions to obtain it. I only had one physical copy, so it was scanned and provided to the Sixth Circuit. I cannot find it in the docket.

The full extent of the Hostile Environment could not be discerned, because Discovery was blocked at the EEOC and District Court. The women who discovered the appeal, the clerk who called police, and alleged complainants were never identified. The EEOC denied protection and used the insinuations in the appeal to create a fictional narrative of misconduct. The Courts followed suit. Defendant also concealed the use of the appeal and lied in affidavits and sworn testimony. Defendant used FOIA exemptions intended for criminal proceedings to deprive Claimant of his Constitutional right to be informed and Right to Reply in employment (FOIA exemptions, RE 13-1 ID#136).

The case is not about a "suspicion" Defendant alleges a phantom patron had. The case is about *Equal Protection Under the Law* and upholding the rights of the wrongly accused. It's about a Hostile Environment where Defendant concealed Plaintiff's "protected activity" and used it to spread lies and disseminate false police reports.

*FACTUAL DISPUTES CONCERNING GENDER DISCRIMINATION APPEAL 2013-291*

The KPB appeal invokes the highest level of protected under Title VII's Participation & Opposition Clause because it's the Hearing Transcript of a good-faith discrimination complaint. *Passantino v. Johnson & Johnson, Inc.,212 F.3d 493,506(9thCir.2000).* The KPB record states "the issue presented was whether the decision to terminate Thomas was taken against him by the cabinet as a result of illegal discrimination based on his sex"(KPB Appeal RE 5-1 pgID#49).

KPB records show Plaintiff complained he was slandered or falsely accused, not properly informed, and females were given preferential treatment (RE 118-2 ID#1434). At the hearing I truthfully testified to Disparate Treatment in complaint procedures, illegal and dangerous working conditions, coworker misconduct, and false reports. The Disparate Treatment, false reports of a sexual nature, illegal working conditions and citations establish a prima facie case of Reverse Discrimination (KPB comp. and forms RE 39-3 ID#512, RE 155-2 ID#2007-2010). With evidence obtained in open records request I can sufficiently prove I was discriminated against.

The Court erred by failing to acknowledge recent Kentucky Attorney General (AG) investigation and findings concerning the KPB Appeal. The AG took additional affidavits from the

KDF and myself. These findings take precedence over related Federal Orders and the KPB decision because they are grounded in fact and in law. For example, the Court concealed the material fact I was terminated from the KDF without cause under KRS 18A.095 and not properly notified of any allegation. The AG found as a matter of law:

> **Thomas was never put on notice that his termination was based on allegations of misconduct. In fact it was the opposite. He was told in writing he was being let go for "no cause." Thomas had a right to rely on that determination. A "No Cause" Termination should not be treated as a termination for cause a "He was told in writing he was being let go for "no cause." Thomas had a right to rely on that determination. A "No Cause" Termination should not be treated as a termination for cause" (AG Findings RE 100-1 ID 1114 April 29).**

For the Defendant have any argument in using EEO activity against me, the KDF would've had to allege misconduct and I would've had to engage in misconduct, but neither is the case here.

The Court concealed the true motive for the KDF termination evidenced by AG findings, KDA citations, the KPB Appeal itself and testimony at the hearing. I was targeted for removal for complaining "about how the division operated" and the disruptive "behavior of the (female) work crew and the use of toxic chemicals" (EPSB docs. RE 100-1 PageID#1114). We weren't getting along so Mandt (female mngr.) suggested I look *for new employment in response to the disagreements.* Before I had a chance to quit she procured false reports from two female coworkers as a *pretext*(RE 62 KPB video#1, 10:01:40). I didn't know they made written reports and testified "until I got the open records requests he was not even sure who, or what was said" (KPB Video RE 62 #1 10:13:45).

The KPB's published record states management "did not want to keep Thomas because of his constant questions and complaints about how the division operated and the manner in which the trees were treated"(RE 5-1 ID#55 KPB App) and...

> **Thomas' complaining about the work conditions in a wilderness area and *handling chemicals required to treat the trees*, had become so disruptive that she had addressed the matter of terminating him with her manager said allegation was merely an incident that raised consideration of his termination *taking effect earlier*, as it had already been decided that, as an interim employee,he was to be discharged from his position(KPB Appeal RE 5-1 ID#57-58)**

The record does not reveal what the concerns were because they're all true. Raising concerns I had a legal obligation to raise doesn't equate to "disrupting the work environment".

As a result of my report to the KDA, the Division was fined at least $600 but the only issue investigated was the licensure at the time (*Mot.Imp.*RE 133-3 ID#1734-1735,DN 70-2 ID#829). Multiple violations I witnessed and reported to the KDA, KDF or KPB include stream application (KRS 217B.190), failure to process certifications (KRS 217B.120), unsupervised and unsafe application (KRS 217B.040(28)), smoking in state vehicles (KRS 61.165) reckless driving (KRS 189.290) and false reports. This all involved the conduct of the female crew and managers. Rather than address my truthful concerns, female coworkers and managers conspired to falsely accuse Plaintiff (Mot.Und.Seal App.Cou. RE 28-29 & RE 118-2 pgID#1411).

So, here's what actually happened at the KDF. In Dec. 2013 I found myself working on an all-female crew treating Hemlock trees with pesticide. The problems began on the way to Natural Bridge State Park. I tried to get along with the crew, but it wasn't going well. Female coworkers insisted on driving. One coworker mistook the brake for a clutch and repeatedly locked up the brakes on the interstate while smoking in state vehicles. I feared for my life and considered quitting before we had even gotten to the job site. Plaintiff testified to the fact coworkers were repeatedly late or didn't show up at all (RE 62 KPB video #1:10:05).

I was disturbed by coworker applications on the stream because aquatic species are vulnerable to pesticide. We were prohibited by law to treat within 100 ft. of a stream. I questioned Mandt about this in the field and at the hearing, but she lied about it under oath (KPB Motion RE 118-2 ID#1443-1444).

Testing and certification were organized by Mandt. I'd gotten around 100% on the test, but we never received our certifications. I questioned Mandt. She lied and told me they were processed. I inquired with the KDA and filed a complaint after finding our certifications weren't processed (KDA complaint# 20140121001). KDA records from 2/10/14 reveal "Mandt failed to forward the inter-account request to KDF's Administrative Services Branch for processing"(KDA doc. App.Cou. RE 29) and "This violation (KRS 217B.120 &.090) is a result of an administrative error by the KDF coordinator (Mandt) for the HWA program"(DN 118-2 ID#1426-1428)

On or around Dec. 4$^{th}$ we had an argument because Coworkers insisted on treating the "steepest" area of the terrain while I carried all the pesticide (texts RE 118-2 ID#1436). The

crew and KPB were aware of my spine surgery, but they concealed it. Because we were unsupervised and without licensure, it was another violation. Plaintiff testified to repeated spills and climbing "very steep slopes" full of debris and water on his "hands and knees" with two jugs of pesticide (KPB vid.RE62 #1:Thomas test. 9:00-11:00). The KPB record states "the crew was not given enough training on safety procedures in avoiding exposure to the chemicals from their constant use" and other problems (KPB Appeal RE 5-1 ID#50).

I notified Mandt because I was unsure which trees to treat or how to deal with spills in remote areas (MSDS RE 39-3 ID#504). She responded "Sara knows what she is doing, please listen to her, most places we go are steep. We need to talk if you're not comfortable with it"(Mandt texts RE 118-2 Page ID#1436). I attempted to continue working and tumbled down a cliffside around 20ft. I was disrespected by coworkers and told "if you can't handle it, you should get another job" (KPB Appeal RE5-1 ID#50). Mandt came to the area, validated the safety concerns on record, stated coworkers were "showing off", then suggested I *look for new employment because we weren't getting along* (RE 62 KPB video#1 10:00:30-10:01:45). It was an untenable situation, so I intended to look when I got out of the hotel. Due to poor reception Mandt later received texts I had previously sent about my fall, determined I was a "complainer" and *targeted me for removal.*

I didn't know it at the time, but testimony from the Assistant Director (Kull) revealed female managers had addressed the matter of terminating Plaintiff in *response to my complaints* right before coworker complaints were made. Kull testified "the branch manager Diana came in and I guess it was the morning before (complaints were submitted)...She said she'd been speaking with Alice...She said we might not want to keep this employee that he wasn't working out (RE 62 KPB Video#5 0:52 & 3:21:45kull).

The next day, on Dec. 5th, I received a text from Mandt "Change of plans. Leave the park at 7 and come to the Frankfort office". I wasn't informed why (Mandt Text RE 118-2 PgID#1439). The only notice given was the termination was without cause and could appeal if I believed I was discriminated against (KDF memo DN 118-2 ID#1424). The law requires employees who are

fired for a cause to be notified in detail and in writing. I wasn't properly informed or shown coworker statements and never spoke to female coworkers or managers.

Mr. Kull asked me what happened. I thought he was talking the fall or disagreements. Nothing else happened in the field. Kull informed both coworkers were claiming I had "*made eye contact*" with them while they allegedly relieved themselves in the open work area. I explained it was a lie and filed a complaint of discrimination with the KPB the next day (KPB Comp.RE 39-3 ID#512). I complained in an email to management (KDF email RE 118-2 PageID#1435) coworkers were "lying" or Falsely Reported the Incident (KRS 519.040).

In preparation for the KPB hearing I received the complaints they made up for the first time. The statements falsely alleged "**we could clearly see each other**" and "**he had his phone in his hand and turned and walked away**"(KDF comp. App.Cou. RE 28 Pretext#1). The complaints state I went in their area while they used the restroom together by a tree (App.Br. Re 38-3).They were on opposite sides of the creek and I never left the creek-bottom. I testified "I never left my immediate area between the creek and the major trail" in the creek bottom," had no idea where they were" and "never saw them" (KPB vid. RE 62 #1 10:08-10:10 & 10:21 & 10:15:33). I later testified I believed they "set me up" in response to "previous disagreements".

The Court made it appear MACA reacted to something I told them about the appeal, but they certainly didn't tell me about what they found. I had no clue it was online at the time. The Court said I claimed they made up a story about videotaping them, but I never claimed that. The story they made up is evidenced above and by the written complaints prior to termination.

The Court concealed the fact KDF coworkers claims and proven false by comparing written complaints prior to termination to testimony at the hearing (App.Cou. RE 28 Pretext#1). Shewmaker testified she had nothing to do with it. They testified they weren't in the same area and I wasn't in their area. Shroll retracted the claim I'd seen her and changed her claim to assert she saw me from "very, very, far away", "too far to make eye contact" and "did not know if Thomas had actually seen her"(RE 62 KPB vid. Shroll Test.#4 1:35-1:55 & KPB Appeal RE 5-1 ID#53). This is not true either, but this was the claim. It's not an accusation. It doesn't make sense to expose oneself in the open work area and complain a coworker may have seen you from "very far away". Everything the Courts have said or published is a lie about a lie.

Coworker written statements prior to termination and video testimony was transcribed and repeatedly given to the Courts. Shrolls initial complaint is also read in the KPB video repeatedly provided to the District Court. They didn't admit they lied, but it's evidenced in the record. The KPB concealed coworkers' initial complaints and the fact they retracted the claims. KPB findings state "insufficient evidence that Appellant Thomas was seeking to observe or actually did observe a female co-worker relieving herself" in (KPB Appeal RE 5-1 pgID#10). The KPB record reveals the insinuation was "ridiculous, disgusting, false and offensive"(KPB Appeal RE 5-1 ID#51). Due to coworkers shifting testimony and ulterior motives there is no reason to believe they exposed themselves in my work area. Even if they did Kentucky law prohibits Indecent Exposure KRS 510.150.

Plaintiff filed a discrimination complaint with the KPB because he was discriminated against on the basis of sex. KPB records reveal I disclosed my KDA complaint to the KPB after finding I'd been lied to. The KPB appeal is well founded on Disparate Treatment, refusal to perform illegal acts as a condition of employment and for exercising legal rights conferred by statute. Grzyb, 700 S.W.2d at 402. Plaintiffs' truthful concerns were discarded because he is male. Although coworkers' claims were false, they were informally used as a pretext. Plaintiff testified the KDF "took the women's lies without question" and his supervisor (Mandt) never asked him what happened, never considered his concerns, and never informed of coworker complaints (Thomas test RE 62 #1 1:28:40-1:32:00*1* & #2 10:26-10:27).

What these statements prove is I was targeted due to the above concerns and the fact I wasn't getting along with Coworkers. The KDF was cited for my concerns so they are valid. As a matter of law I was terminated without a cause and not properly informed. The decision to terminate took effect before coworker complaints were made and they testified they were not making accusations. These facts invalidate the Defendants argument, the Final Agency Decision, EPSB charges and Federal Court Orders.

The KPB record is admittedly replete with misinformation. Plaintiff had a right to be portrayed in the best light, but the KPB Hearing Officer portrayed me in the worst and distorted the truth to do so. Only when an administrative agency's findings of fact are supported by

substantial evidence, are those findings are binding on the reviewing court. *Kosmos Cement Company, Inc. v. Haney, Ky., 698 S.W.2d 819, 820 (1985).*

The KPB trumped up allegations they knew were false, falsely stated the crew spray treated trees and even asserted I was recommended by my wife. I've never been married and all the pesticide was mixed in jugs on the streambank. The KPB removed factual evidence and replaced with lies prior to publication (Impeach RE 133-3 ID# 1742-1743). I testified I never left the creek bank. The KPB record states "while she was gone he sat at the truck trying to find where they could go to find a better working place with access to water to mix the chemical" (KPB Appeal RE 5-1 ID#51). The KPB further slandered me by conflating concerns of proven illegal treatment with "disrupting the work environment". This lead to the EPSB charges.

*FACTUAL DISPUTES CONCERNING MACA IN APPEALS COURT ORDER*

In 2017, I began working for Mammoth Cave on my second assignment with the DOI (RE 118-2 ID#1433) I did my job, showed up on time every day, was not involved in misconduct and received 100% performance evaluation from England. Defendant admits "The decision to terminate had nothing to do with Thomas's job performance at the Park"(Motion to Dismiss RE 122 PageID#1510). Chief of Interp., D. Wyrick, was asked "Can you identify any inappropriate behavior on my part whatsoever?" He said "NO"(EEOC Tr. RE 21 p.305). First line Supervisor, C. England was asked "was he doing his job. Was he fulfilling the normal requirements of the position?" He answered "Yes" (England Aff. RE 106-2 PageID#1133).

The Courts got everything wrong again, including the sequence of events and proven motives in both terminations (Rule 60 Mot. RE 155-1&2 ID#1959-2033). *Wolinsky v. Std.Oil of Conn, Inc* 712 F. Supp.2d46. Defendants' false reports were procured and disseminated in response to Plaintiff's "protected activity", not the other way around. The Courts distort or conceal practically every fact and build fictional narratives of misconduct. Even without Discovery, I can show every problem at MACA was caused by and/or related to the appeal which they also concealed. The male/female ratio was 3/17. The fact the appeal created a *Toxic Environment* is a matter of common sense.

The Appeals Court wrongly asserted the KPB Appeal was discovered "mere days" before termination on the 27th. However, false rumors originating in the appeal were all over the park

before myself or management was notified of any complaint. The KPB Appeal was found in at least two places (fee office & police station) well before the interrogation on July 22nd. It was found before police typed their report and sent to management. There is also proof the appeal was found before police requested the complaints and/or before they were made. Retaliation cases can't be adjudicated if the Courts won't recognize the chain of events.

Police testified fee girls complained to them about the appeal before the interrogation. For example "the *fee girls* had Q·The fee? the fee station at the VC,sells tickets. Q·Okay. A·*They had done a search and found that* (appeal) and brought it also to my attention" and "*it was prior to the interview, ma'am, yes*" (RE 21 EEOC tr.pg.96-97). Lewis testified "one of the staff just..I guess, maybe just Googling one day and found it"(Lewis Aff. RE 122-2 ID# 1568).

The rumors Defendant spread are outlined in the EEOC ruling "Complainant was accused of watching and possibly taking pictures of female coworkers as they used the bathroom"(EEOC Rul. RE 5-1 ID#85). This includes, but is not limited to the fee girls, Lewis, England, Russel, Clemmons, Peppers, the clerk and women in the housing unit. KDF coworkers testified they weren't claiming I saw or photographed them, but these were the rumors.

England and Wyrick both testified they didn't receive visitor complaints on July 13th or 14th. The only thing they received was Russel's police report in an email after July 22nd. This was after the appeal was found. For example:

> **Mr. Wyrick, did you receive a report from anyone that--Miss -that someone had- a guest had complained about Mr. Thomas' behavior in the restaurant? WITNESS:· <u>ONLY FROM THE POLICE REPORT</u> (RE 21 EEOC tr. pg.308).**

England testified "I found out after I received the Law enforcement report"(Eng.Aff. RE 106-2 ID#1175) and "Officer Doy Russell. I think he e-mailed us a copy of the law enforcement report" ·(18 U.S. Code 35). England said "I don't think I was made aware of anything until that report, and then he sent this report to us" (RE 21 EEOC tr. pg. 247 & 289).

The two statements in the police report were also made, written, or requested by police after the appeal was discovered. However, Defendant refused to release the date EEO activity was found in either place. Police testified "I don't even know the exact date that I found it (KPB Appeal) but I know that she (fee girl) had said she asked me a question, and I said I already know about it"(RE 21 EEOC tr. pg.96). The false reports were made because police requested

them from the tour guide and unidentified clerk. They were disseminated because MACA needed a pretext for termination other than the "protected activity" they were concealing. Defendant was seeking a reason for termination because the fee girls complained about the appeal, rumors were going around the park, they were concerned about their image, and police were looking at the appeal as a history of prior charges. MACAs false reports are the result of a Hostile Work Environment.

The Appeals Court Order is based on the false assertion that Haaland met her burden of "production rather than persuasion" by producing "two complaints from MCNP visitors" and showing I was not terminated for prior EEO activity. Defendant didn't identify any real complainant or produce factual accusations. They produced Hearsay statements police wrote with no discernable source other than employees that had ulterior motives. The statements DO NOT equate to factual claims from real visitors. The same employees testified the appeal was the only substantiated cause because the police reports were unsubstantiated, unrelated to employment, and they didn't know who made them. Regardless of where Defendant claims the "suspicions" originated, disseminating false or misleading reports is a crime

The Court wrongly claimed a female visitor made a complaint at the *information booth on July 14th* that Thomas had been overly friendly, almost too friendly. The first time I saw the report was 6 months after termination. I first learned about it at the EEOC two years later, but Clark changed the story. It's disproven by Body Cam footage revealing no complaint had been made concerning Clark by July22. Police claimed there was a verbal statement, but didn't know what it was. Police told me I'd "sold someone a ticket" but tickets aren't sold at the information booth. I said "I sold them a ticket?" isn't that what I'm supposed to do? Police said "you was working at the ticket booth at the time"(RE 47 Body Cam File#3 0:50). I said "what did they say that I said something?"(App.Cou. RE 39-3 Body Cam File#3 1:34). Russel stated "That's the assumption yes, but she *did not make a written statement*" (App.Cou.RE 39-3 BodyCam File#3 1:20). I testified "I'm only aware of something to do with a ticket sale"?.

Police stated "The investigation is not a head hunting thing where we *go looking* to find something wrong. Part of what we do is protect your rights"(RE 47 Body Cam File#6 6:00). Then

police admitted they were going out to look for complaints "*we've got to get* the other individual she talked to, the *tour people to actually give use a written statement*"(RE 56 Body Cam File #3 0:50 &1:20, App.Cou.RE 9). Clark's report was the result. I didn't see it until the EEO investigation. Police finally said "We need to just end this conversation"(BodyCam File #3 1:20). Clark confirmed law enforcement requested the report from him "A· Law enforcement was the next ones that contacted me to ask some follow-up questions"(RE 21 EEOC tr. p.34).

The police report states Clark didn't know who it was, but he asked someone if they "wanted to fill out a comment card and *they stated they did not*" (LE Report RE 118-2 ID#1422). Police procured the rumor from Clark after the interrogation and backdated to July 14th to make it appear it came from a visitor. Police testified nothing was behind this report "Q:Did you ever figure out what that was about or did you ever find any evidence of wrongdoing or anything like that involving this complaint? A:NO (EEOCHr'gTr.115:11-23,RE 21).My testimony to police had effectively disproven the café complaint and they knew it wasn't true and wasn't administrative. So, they manufactured a crisis that looked employment related. Clark's report is only relevant to show pretext and the underlying animus in turning rumors into formal police reports for adverse action. *Spoilation* of Clarks report brings the café complaint in question.

The Café complaint is convoluted but it was the *pretext* in response to the appeal online. A visitor likely said something to the clerk, but didn't complain about my phone and never intended to file a police report. The complaint was initiated and procured by police and the clerk at precisely the same time "phone-use" rumors in the appeal were circulating. Hearsay statements police wrote don't prove a visitor had suspicions about my phone. They don't prove a thing about what a visitor may or may not have said. Whatever was said was not enough for a visitor to file a police report on their own volition. It certainly wasn't enough for the criminal proceedings or adverse actions police sought. There is a big difference between a complainant who goes to police and police going looking for complaints.

Police testimony is evasive, contradictory or outright false. Some of this is evidenced in rebuttals to police affidavits. There are multiple levels to the chain of custody of this suspicious

and false report. If police had real concern I was taking illicit videos of people eating sandwiches, they *wouldn't wait 9 days from the encounter in the cafeteria to question* me.

The Court cites "undisputed evidence" a complaint was made in the cafeteria. Initially police told me a visitor called them and falsely claimed I videotaped her. Investigation revealed this wasn't true. Police testified the initial report came from the hotel. Russel testified he went to the clerk and said "*I need some, some type of a statement*"(Russel Aff. RE 106-1 ID#1146). This was confirmed at EEOC "Q: *After you spoke to the clerk, what did you do next? A: I gave her a statement. She wrote down* what she was told"(EEOC Hr'g Tr. pg.78). Police claimed the Clerk not only called in the report, but left a derogatory voicemail in the phone room multiple coworkers heard. Russel testified "the Hotel *Clerk called us*" and "I went over and talked to the people in the Telephone Room, because the Hotel Clerk called and left a massage on our phone line"..."the recording was still there"(Russel Aff. RE 106-1 ID#1146-1147).

If the written statement was made on July 13th and if police actually spoke to a patron, the complaint used in interrogation was made before police met with a visitor (café comp. RE 122-2 ID#1572). The first time I saw the statement was on July 22, so it could've also been manipulated or made up by police or the clerk between July 13th-22nd. There were two written statements that said the same thing verbatim. Police wrote the field interview statement. The Clerk wrote the statement used In interrogation and obtained in EEOC discovery. Police said it came from a visitor. Police claimed they requested secondary verbal statements from a phantom visitor, and they might have, but no factual claims can be discerned from the hearsay.

The Court misrepresented what the statement actually said "Thomas approached her" and "began speaking to her and appeared to photograph or video record her with his phone". A visitor didn't say this and I didn't approach or "appear" to photograph or videotape anyone. The statement shown to me in interrogation says "I was sitting next to a gentleman who seemed off" and "he was pointing his cell phone at me and my family, including holding his cell phone down at his feet, seemingly videotaping or taking a photo"(café comp. RE 122-2 ID#1572). A visitor didn't go to police and claim this either, police wrote it on a piece of paper and said they did. Any statement taken was certainly manipulated. The Court CANNOT take hearsay speculation and ascertain factual accusations with substantive and probative value.

Theres no reason a visitor would've made this up, but MACA had motive. Police testified "she was very hesitant about giving her name or putting anything on paper"(Russel Aff. RE106-1 ID#1145). This is sufficient to show that, if true, the complaint was made because police coerced or forced the issue and a visitor didn't intend to file a police report.

When asked if they substantiated the café complaint police testified "WE DID NOT"(EEOC Hr'gTr. 181:14-17, RE 21)and "I had no proof that he did because I did not ask for his cell phone to check it"(EEOC Tr. RE 21 p.84). Mr.Curran acknowledged the complaint baseless and recorded police testimony they "could not personally vouch for the credibility of the woman in the restaurant"(ROI p.8). I was off-duty on or around July 13th and "the hotel was run by concessions, it's not part of the Park Service, they lease it (EEOC Hr'g Tr.77:7-15). Police met with me in the *phone room* to tell me they knew it wasn't true and the complainants "perception was off"(ROI Russel Reb. RE 133-3 ID#1749). Police cited concerns for their image, but they weren't concerned about the lies they spread. It didn't come from a patron.

At the EEOC Wyrick testified at length about the appeal causing concerns for their reputation. This is part of the real motive, but it was removed from the transcripts. Testimony from myself and police was also altered. Liars make good people look bad. An employer who is more concerned about their image than the truth will always side with a liar. The Court wrongly alleged the false report was protected by federal law, but they are actually prohibited by it.

The Court concealed police sworn testimony that all police involvement including interrogation, police report, and "allegations" therein were "*not administrative*" and "had nothing to do with your job" (EEOCtr. RE 21 p. 102, BodyCam RE 56). I agreed to speak to police only on these grounds (Thomas Aff. App.Cou.RE 25-2 ID#11). Police stated "Were not going to go out and tell them (mngt.) we sat here and interviewed you" (RE 47 Body Cam File #3 4:05). Police said "*were not looking into anything from an administrative standpoint. Our only job is to look into or investigate reports that come into our office and investigate if there was in fact any criminal activity.* Police told me "Were just going to investigate to make sure no criminal activity took place", if nothing took place "that will be the end of it"(RE 47 BodyCam File#1 5:20 & 6:30 File#6 2:45 & App.Cou. Dictation RE 39-3). Visitors did not go to police to report either

statement. Police made their involvement administrative when they interrupted employment and sent information to management they knew was false.

The Court distorts every statement and wrongly cites the police interrogation and "Thomas' seemingly inconsistent statements" as grounds for dismissal. My testimony is consistent but police harassment caused me to have a "panic attack" and exacerbated my anxiety disorder (Thomas Aff. App.Cou RE 25-2 ID#14) Police testimony is not at all consistent. They lied repeatedly (see below). The Court claimed "Thomas first stated he did not recall the incident, but later acknowledged he interacted with the woman"(App.Cou. p.9). None of this is really true. When questioned about videotaping people I immediately denied. When asked about speaking to someone seated beside me 9 days prior I immediately acknowledged it (see below). I didn't later recall and can't recall taking videos I didn't take.

The Body Cam speaks for itself. Here's what actually happened. Things had gotten strange prior to interrogation, but there was no mention of a complaint or my *appeal circulating around the police station, housing unit, hotel.* England told me to go to the station, but didn't inform why. When I arrived police claimed there were two allegations. They refused to tell me what they were until I signed papers putting myself under penalty of perjury, saying the weren't harassing me, Miranda Rights, and something else. This put me under *duress* because I couldn't go back to work until I knew what was going on. At that time I was not aware the KPB decision had been published and police were using it in an attempted Frame Up. They set me up.

Police concealed the "phone-use" rumors online and questioned me about rumors of illicit phone-use. At 10:30min. into the interrogation, police asked me if I'd been videotaping people and I denied it because it's a lie "Do you remember a female sitting in there with two children, sitting in there, she also felt that you *were videotaping her and her kids*" (RE 47&56 Body Cam File #1 10:20-38). I responded "No, I was not, absolutely not. I don't have, I have no idea. NO, THAT SOUNDS ABSURD. No, that sounds perverse and absurd" (RE 47 Body Cam File#1 10:40 & Thomas Aff.Jan.19 p.238).

At 10:45min. Russel asked if I remembered speaking to someone in the café 9 days prior or "Should've been about last week". I immediately responded "I do remember talking to somebody when I was eating lunch or dinner"(Body Cam File#1 10:45-11:30). I said "I got no

idea about no videos, No, I didn't even see the woman until I sat down" (Body Cam File #3 6:35)and "Tell them I said its disgusting and asinine" (Body Cam File#6 1:31). Police couldn't inform of Clarks report because they hadn't yet procured it. I was extremely upset when I left.

The Court infers my conduct was inappropriate because I came back to the station and "refused to provide a written statement". I didn't come back and refuse to provide a statement. I came back to file a formal *written complaint* because it is a lie and said visitor took numerous unsolicited pics of me (Body Cam File #6 8:30-8:55). Police refused to take it. Russel asked me to write about "the children" and I rightly refused because they were characterizing me as some sort of pervert (RE 39-3 App.Cou.Dict.ID#4). I had every right to do so while under duress and without proper information. The Courts assertion that I didn't is abhorrent and in facilitation to a crime. I was under no obligation to tell police anything. There was no need to write a response because my response is on video. Police were concealing Claimants "protected activity" and using it to build a false case against him. The Court cannot manipulate every statement and blame the employee for their reaction to police harassment and outrageous lies.

I repeatedly stated "can I file a complaint" and "If her complaint turns out false *can I file a counter complaint*?" Because I didn't have a lawyer, police said "That's something you have to discuss with your lawyer" (App.Cou. RE 39-3 BodyCam File#3 6:20-6:35 File #6 8:45). The Clerk didn't need a lawyer to make her report. I testified I was unable to function properly or go back to work and didn't know what do. A comment card in the ROI reveals I was unable to function or communicate an introductory tour when I tried to return days later (ROI Thomas test.). I intended to file a formal complaint when I calmed down but I was terminated and never informed of the source.

This visitor didn't really complain about my phone, but did take numerous unsolicited photos of me which made me feel unsettled. Police stated "*she actually took pictures of you. These are the pictures she took of you the day you were sitting at the table*". (Body Cam File #1 12:50-13:10, photos 118-2 ID#1417see). I responded "She was actually taking pictures of me. I didn't take pictures of her, but she was taking pictures of me. What was she doing taking pictures of me?"(RE 47 Body Cam 8:30-8:45).

The Court wrongly stated female coworkers complained that I seemed "creepy" and made them feel uncomfortable. This is hearsay, but the fact they testified on my behalf is not. They said "he was always nice to me" and "he was a good employee" and it seemed I was getting the "run around" (coworker statement RE 17, ROI p.488). Fee girls complained to police about the document online, not about me. Police interviewed female coworkers in the fee office and they said "none of them had any work problems with him. He just seemed kind of odd to'em"(Russel Aff. RE106-1 PageID 1150). I'm off due to my medical condition. Regardless, derogatory name calling doesn't equate to poor conduct.

The Court wholly misconstrued the termination memo (RE 118-2 ID#1419) and wrongly asserts convicted felon, Leslie Lewis, had authority over criminal investigations she had no knowledge or involvement in. She testified "*law enforcement had told*, when *they told me* about it...I had nothing to do with it. It was just..they were just letting me know about the incident and that they were investigating it and they would let me know-you know, how to proceed" (Lewis Aff. RE 122-1PageID#1547). The Court act as if she conducted the interrogation. Lewis' memo centers around lies of illicit phone-use and "zero tolerance" sexual harassment policy. The memo states my behavior is "totally inappropriate". Management was asked if they saw the Body Cam and they said "NO" (RE 21 EEOC tr. pg. 317). Management responded to the misleading report Russel wrote, not the actual interrogation or to visitors.

I didn't really say what the Court or Lewis' memo claimed either, so everything the Court said about the interrogation is wrong. The Court claims I told police "I don't even think she was attractive" I almost said that, but didn't. I said "I don't even think she's *attr*...I don't even know what she looks like? So, I never even really saw what she looked like, she was sitting at the table, if that's even her?"(Body Cam File #6 0:31). I didn't particularly like the individual and don't know who they are. It was none of their business because they didn't have *Reasonable Suspicion* I committed a crime and no right to interrupt my employment in the first place. There is no law against using a cell phone, but they said they would've made an arrest if I'd taken a picture of someone or something. I didn't photograph anyone, I was off duty trying to eat, and the café isn't operated by MACA.

I'd given truthful statements under penalty of perjury that the complaint was fabricated. England handed Lewis' memo to me as I was kicked out of the housing unit. I was never properly informed and given no time to respond to anything or speak to Lewis (Fourth Am.Com. RE 118, PageID#1387). England testified "I remember giving you the termination later, and said we can take this off your record and just give you a standard-there's a standard termination letter for seasonals, and *you refused that*"(EEOC tr. pg. 254). Police had already told me it wasn't related to employment and knew it wasn't true (ROI Russel Reb. RE 133-3 ID#1749). I told him it was a lie and cited police in the phone room. I recalled him saying he knew it wasn't true, but he later denied.

I filed a FOIA request upon leaving the park and later filed an EEO complaint. I've attempted to file charges numerous times, filed complaints against MACA police with the Parks Service, and even gone to the FBI to file charges. Since then I've lost at least two additional jobs, been charged with ethics violations and suffer emotional distress every day. I face constant risk of harassment, assault, or being banned from public places due to the lies published.

The Courts stated management "was not concerned about the fact Thomas previously complained of gender discrimination" and only concerned about "similarities in accusations" between KDF coworkers vacated complaints and the police report. The accusations have no factual basis, so, this doesn't substantiate their claims it substantiates mine. This proves *more than a casual connection between the protected activity, MACAs false reports, and adverse action.* It connects insinuations in protected activity online (pretext#1) to MACAs insinuations (pretext#2). This doesn't link behaviors or two real accusations, it links one lie to another. The KPB record states "she said he got on his phone and turned and walked away". This isn't true either but sufficient to show there is no link between real accusations. The link between the lies online and the report management received occurred before the report was made.

The Court cited England in what he thought was an accusation in the appeal "gave credence" to the police report. Underlying animus caused by the appeal was driving the false reports themselves and driving police to make them. Management can't make credibility determinations because they didn't know the source of any statement. They had no involvement or authority over the police interrogation or EEO activity. Management had no idea

what KDF coworkers actually said because their complaints aren't cited in the transcript. They were never formally used in termination and retracted on video in 2014.

Above statements also prove Gender Bias. Defendant sided against Plaintiff because he is male, with no consideration of the truth or the protected nature of the appeal. Defendant simply saw an EEO complaint, sided with the opposing party because they are female, and drew prejudiced conclusions. The bias happens by default because no real person ever accused me of photographing or videotaping them, it's all conjecture. There was also no comment card for management to consider with either anonymous police report. Because I was never informed or not properly informed, my side and/or the truth, couldn't be considered in either termination.

Police made numerous *false or misleading statements* in the interrogation, in affidavits under oath, and in EEOC testimony. Police lied about the confidential nature of the interview, how the interview started, who made the call, how they obtained both reports and how the reports got to management (see above). Mr. Curran, asked Russel if he presented the report to management. He testified "I did not"(RE 106-2 Russel Aff. pgID#1162). At the EEOC he testified he didn't disclose his report (EEOCtr. DN 21 p.92-96). Management all testified they reacted "only to the police report" in Russels email (RE 21 EEOC tr. pg. 289). Russel made it appear management found out about his report from me "so, Chris told his boss himself" (RE 106-1 ID#1164). I hadn't even seen the police report at that time.

Police gave false testimony claiming they casually asked me to speak to them "So, we went over and I talked to him. I asked him, I said, "Hey, can you come over, and we'd like to talk to you?"(Russel Aff. RE 106-1 ID#1151). England and I both testified, police called him and he told me to go to the station. Police lied about the appeal because they concealed it. During the interrogation police lied about how they received the café complaint. They told me a visitor had called them directly but never mentioned the Clerk or Hotel (App.Cou. RE 39-3 Body Cam Dict. 8:45-950 File #1). Russel falsely testified during the interrogation he explained to me "the *hotel had contacted* us", but the clerk or hotel is never mentioned on video(RE 106-1 ID#1153). Russel lied about the lies he compiled. The Courts asserted facts are based on his hearsay testimony.

Mr. Curran, found me to be truthful in both terminations (App.Cou. ROI pg.3-4). All relevant coworkers testified there was no misconduct in the initial investigation and at the EEOC (Mot.Rel. Ex. RE155-2 ID#2005, EEOC tr. RE 21 p.181, p.234, p.305 & England Aff.RE 106-2 & Ex.RE 118-2 ID#1412). England was asked "Were you able to substantiate ANY complaints against me or find ANY evidence of wrongdoing in my behavior?" He said "NO" (EEOC tr. RE 21 pg.234) and "Q· With respect to the visitor complaints (i.e. rumors), was there any specific behavior that was identified to you that Mr. Thomas engaged in that made the visitors feel uncomfortable? A· No. I have repeatedly testified under oath or under penalty of perjury in the ROI, with the AG, KPB, or EEOC and will continue to do so.

This all substantiates the discovery of the appeal was the first thing that happened, police involvement is not attributable to employment, the reports amount to rumors, didn't really come from visitors, and police knew they weren't true. I was misled by police and my Constitutional Right to Meaningful Reply are violated (5CFR 315.805). Police and management were using "protected activity" in attempts to build a false criminal and employment case against Plaintiff. Discriminatory and Retaliatory animus was the real reason police procured off-duty reports and sent them to management for adverse action.

*MOTIVE*

Police, management, and employees spread false reports of everything from illicit phone-use, to apartment break-ins, uncomfortable feelings and smirky, friendly, or creepy behavior. The appeal motivated England, Wyrick, and Lewis in termination. The "fee girls" complained to police about it. I was restricted from training, volunteer, and gym opportunities accessible to female coworkers. I was run out of the science bldg. when trying to volunteer, avoided by coworkers, had unsolicited pictures taken of me and my vehicle, employment was interrupted, my schedule was changed, records were falsified, and I was harassed by female coworkers in the Dollar Store.

Wyrick and England's testimony at the EEOC proved the Gender Discrimination Complaint online was the "but for" or *only substantiated cause* for termination.

> **Mr. Thomas asked you if that document motivated you-all to play any role in your decision to terminate him, okay?· And you said that, yes, you took that document into consideration, correct? A· YES. (EEOC tr. p. 267).**

On p.258 of the EEOC transcript England was asked "was the *appeal* used as additional motivation to terminate me"? He said "***YES***". According to England "I'll go with the incident at the park and the complaint (i.e. police report) and then the *previous incident with the State*. I think this together is how we came to the decision" (RE 21 EEOC Hr'g Tr. 256:4-7). When England testified to the incident and complaint he was referring to the statements in Russel's report, but there are no real complainants behind them. MACAs off-duty police reports or anonymous speculations have no basis in reality. Management didn't have any personal knowledge of the police interrogation or either report. The appeal itself is the only real cause.

EEOC testimony concerning motive from Wyrick and police was altered. I recalled police and the AJ saying the appeal showed a history of "accusations" but this also appears altered. Police testimony at the EEOC was evasive because they were concealing the fact the appeal motivated the criminal investigation. The insinuations in the appeal aren't the motive because that was the pretext. They weren't formally used because they didn't have substantive value. They don't now either.

The KPB Appeal is the real motive for the "criminal investigation". Police initiated a criminal investigation and procured misleading statements in response to Plaintiff's discrimination complaint. There was no evidence I committed any crime and no other reason police would go out of their way to compile lies. Police looked at Plaintiffs complaint of discrimination as if it was a history of prior charges. I recalled police testifying to a history of accusations. The transcript state "I mean, it (EEO complaint) shows that there was a complaint (accusation) against you"(RE 21 EEOC tr. p. 112). Plaintiff asked police "Q:was that (appeal)being added to alleged complaint ·history and *motivating you to interrogate me*?· Was that (I said appeal) complaint being also used to interrogate me?" Police responded:

> **A· If you're asking me -every document we get ·just gives us the information toward the individual. It's not that we take one piece over top of anything·else. It's just we're looking to see what does this tell me about this individual.· And some things, like,·we may get somebody that's arrested for something, but then later on the charges are not -- you know, you're not -- you're found not guilty.· So we have to look atall those facts.· And so if you're asking me if I read through prior to the investigation to try to get an idea of your background, yes, I did. (RE 21 EEOC tr. pgs. 112-113)**

The KPB Appeal is Plaintiffs charge of discrimination, not a charge against me.

Lewis said the KPB Appeal was "sexual harassment" in mediation (RE 21 EEOC tr. pg.354). England testified she was motivated by the appeal and "you know, *with her discussions, I think that added to the discussion* we were having"(RE 21 EEOC tr. pg. 255). Lewis had no personal knowledge, but she also spread the false information (Lewis memo RE 118-2 ID#1419). England's testimony from pages 270-280 in the EEOC transcripts describe some detail about management conversations to terminate in response to Plaintiffs "protected activity".

*PRETEXT*

Defendant procured and spread false reports because they needed a pretext for termination to cover up the use of Plaintiffs "protected activity". Phantom visitor complainants are merely scapegoats. The double hearsay reports are unsubstantiated, unrelated to employment, have no basis in fact and no relationship to my conduct. The criminal investigation & interrogation where police procured the statements were not administrative. The police report management received was made after and in response to the appeal.

There are NO accusations against Plaintiff and there never were. KDF coworkers never claimed I photographed or videotaped them. MACAs reports are not real visitor claims, but if they were it would mean someone said I *appeared* to take photos I didn't take. A visitor didn't file a report, Clark did. Defendant admitted the statements don't amount to accusations and changed their claims to assert an unknown visitor had "suspicions" about my phone and "recorded suspicions of Plaintiff's state female coworker"(DN 149 p.3, Mot.Diss. DN 122 ID# 1537). Defendant can't prove anyone had the suspicions because they are rumors, insinuations and lies by definition. This is sufficient to show pretext

Defendants gossip and shifting speculations are without any discernable source and unworthy of credence. *Jolly v. Northern Telecom Inc.,766 F.Supp.480,493-94(E.D.Va.1991).* Websters defines a rumor as "talk or opinion widely disseminated with no discernable source" and that's what the statements are. England testified "I don't know, you know, it's kind of, like, rumors, but, you know, I don't remember who exactly said it" (EEOC RE #21 pg.236). *Emmel v. Coca Cola Bottling Co. of Chicago, 95 F.3d 627.* The Contradiction between a 100% performance evaluation from England and the proffered reasons also indicates pretext. *Perfetti v. First Nat.Bank of Chicago, 950F.2d 449, 456(7 Cir.1991).*

Clark himself testified none of his initial statements were really true at the EEOC which proved Prior Inconsistent Statements (Rule 613). Clark testified a visitor didn't decline to fill out a comment card as indicated in his report. He said he was told they would come back the next day to fill out a card, but they never came back "Q: And that's what she said she was going to fill out the next day? A: Yes, ma'am" (RE 21 EEOC tr. pg. 33). His ridiculous story shifted again when he later testified he wasn't told a "guy named Chris" was "smirky" and "almost too friendly". He claimed "somewhat snarky" and "way overly friendly" instead (RE 21 EEOC tr. pg.30-31). On pg. 45 of the EEOC transcripts I testified I'd never been notified of Clarks report because it wasn't investigated and Clark never gave an affidavit.

The fact that police, management, and employees concealed the appeal from before the interrogation and tried to cover it up in the ROI indicates pretext. The first pretext (rumors of "phone-use") in the appeal were used to fabricate MACAs pretext (rumors of "phone-use"). The appeal was used to fabricate the Standard Form SF50 which was later reversed (18 U.S. Code 1002). For example:

> **"REASON(S) FOR TERMINATION: INAPPROPRIATE BEHAVIOR WITH PHONE CAMERA TOWARDS PARK VISITORS"(DN#118-2 ID 1415-1420)**

The amended cause reads:

> **"CORRECTS ITEM 45 TO READ: AS FOLLOWS"....**
> **SF-8 (NOTICE TO FEDERAL EMPLOYEE ABOUT UNEMPLOYMENT INSURANCE)**
> **'THANK YOU FOR SERVICE TO THE NATIONAL PARKS SERVICE" (DN 118-2 ID 1415)**

This falsity of the above reason and the fabricated complaints give rise to an inference Defendant is covering up the true motive which is the Appeal. *Reeves v. Sanderson Plumbing Products, inc. 530 U.S. 133, 147(2000).*

The question remains whether or not the rumors in the appeal were used to fabricate the café complaint itself? All attempts to identity of the Clerk and alleged complainant were blocked at the EEOC and District Court so I'm limited to what I can prove without trial (EECO Disc.RE 118-2 ID#1431-1432). First, I needed to pin down the date the appeal was discovered in both places to prove Defendant used the appeal to fabricate the complaint (RE122-2 ID#1572). The date remains in dispute because Defendant refused to release dates of discovery. If it was found after the café complaint, Defendant would have released dates to exonerate themselves. The Court wrongly asserted the appeal was found after July 13th, but even if it was, the animus in disseminating a false report and procuring Clarks still goes back to the appeal.

There was a brief interaction in the cafeteria but I was the only one being photographed likely because I "seemed off" due to my medical condition. Because my schedule was changed, I may or may not have had a random encounter in the café. I testified I told the individual in the café I worked at the park (ROI App.Cou. ThomasAff.). Assuming a visitor talked to the clerk, the clerk and police would've known I was the employee with the "allegation" online when the clerk called police and the fee office to report lies of illicit "phone-use". The Hostile Environment related to the appeal is the only logical *motive* for the clerk to spread lies all over the park. Police lied so their testimony is inadmissible. There is no reason alleged visitor would've taken numerous unsolicited photos of me, then falsely reported to police I photographed her. This didn't happen.

Defendant used the insinuations of potential "phone use" in the appeal to manufacture the complaint or manipulate a visitors verbal statement. Police likely used the appeal to question or coerce the clerk or visitor, the clerk may have made it up, or police could've manipulated the report. I don't have any reason to videotape people under the lunch table and couldn't do it if I was paid a million dollars. It's asinine.

*RESPONSE TO APPEALS COURT*

If the District Order had any merit the Appeals Court wouldn't have changed everything. The Appeals Court Order is substantially better, but every asserted fact is also refuted by fact. The District Court lied about my conduct and performance in both terminations, trumped up false police reports and published it. The fraud must be stopped. Not only has this further deprived me of my rights, but it's undermined the integrity of the Court and corrupted the appeals process.

The Court omitted the fact Defendant concealed prior EEO activity in termination. The Court wholly misrepresented all three false reports including the chain of custody, how they were obtained, what the statements actually said, who made them, and what the factual findings actually are. The Courts concealed the proven motives, illegal activity, stated reasons, and documents actually used in both terminations and concealed the vacated SF50. The Court directly misrepresented the non-administrative interrogation on video also.

Defendant did not meet her burden of production because they failed to prove a complaint was filed with Clark and failed to prove anyone had suspicions about my phone. The police reports were made in an illegitimate criminal investigation motivated by "protected activity". The government has no right to use police to disseminate false reports and deprive innocent people of anything without Due Process of law. Comparison of police affidavits to Body Cam footage and EEOC testimony proves they lied. Police testified they requested written statements from the Clerk after receiving a call from the Clerk who had also left an obscene voicemail in my work area (see above). The Defendant and Courts admission in using use KDF coworker allegations is an admission to using the discrimination complaint in termination.

The Court falsely states "Thomas cites no evidence to support his allegation" that Clark had fabricated the complaint made by a visitor on July 14th. I proved was it was a rumor, a *visitor didn't fill out a comment card*, I wasn't informed, police requested a report from Clark after July 22nd, and Clark's testimony shifted at the EEOC. Police claimed there was a verbal statement at the ticket booth, not information booth. These facts invalidate the Courts argument without going into detail about how both reports were initiated by employees or reciting testimony that police lies are not attributable to my job.

MACAs false, off-duty, hearsay police reports cannot be admissible to use against Plaintiff under evidence Rule (403) because it creates unfair prejudice against Plaintiff. The source of the reports were never identified to examine motive. I proved the circumstances of preparation behind both reports showed much more than a lack of trustworthiness. The underlying animus in disseminating false reports all related to the appeal (Hearsay Rule 803 6(e)). I proved Defendant had no credibility because they had no personal knowledge of the KDF termination or any alleged event in the café or ticket booth. They have no witness (Rule 602). Police only claimed to interact with one alleged complainant, but management did not know the source of any statement. I showed Lewis was imprisoned (Rule 609) for felonies she committed during that time and the KDF manager was responsible for multiple illegal pesticide treatments. To the extent I've had discovery, I showed Defendants speculations are PRETEXT.

With both reports, the Court manipulates materially false statements obtained in criminal proceedings unrelated to employment and imposes them on Plaintiff. While it is

partially true I said the alleged complaints were false, I didn't just say it, I truthfully testified under oath and under penalty of perjury repeatedly. The factual findings also indicate and prove the complaints are false, but the Courts have concealed them. My testimony is substantive because it is true. I can prove my case to a jury, but I'm denied the right.

The Court didn't acknowledge the true motives or stated reasons for either termination. The findings above prove the KDF termination was without cause. The underlying motive involved my concerns of coworker misconduct and illegal treatments. The Court concealed the fact that the KPB Appeal is the only substantiated cause for the criminal investigation or termination at MACA. The Standard Form SF50 was falsified .The Court wholly misconstrued Lewis' memo referencing a police interrogation she had no knowledge of.

The Court claims even if proven false, Defendant honestly believed the "conduct" was inappropriate. Then the Court changes it's asserted reason for termination, not that Defendant believed my conduct was inappropriate, but that Defendant "honestly believed Thomas' *conduct concerned park guests*". If that was true then employment records would simply say they believed my conduct may have concerned park guests. The only conduct in question involved fabricated allegations "inappropriate phone-use" as evidenced by the Body Cam footage, the SF50, and Lewis memo. Police and management both told me they knew I wasn't taking videos of people. They cited concerns for their reputation due to the appeal, not the lies they spread. Defendants shifting feelings (i.e."unsettled") and speculations are not claims of poor conduct. Even if someone believed it was true, it was only because the truth or males side was never considered, further evidencing *gender bias*.

If the allegations of phone-use were removed from the interrogation, employment records, and café complaint itself, it would boil down to nothing. Fabricated allegations of voyerism is the only thing that has destroyed my reputation. The EPSB charges were based on charges that I failed to report accusations of videotaping women and children which is all a lie.

The Court omits the fact that police actions were always a primary source of my harassment complaint. I did not list police individually because they fall under Defendants actions. In initial complaints I talked at length about police harassment the fact they were "overzealous to prosecute male employees" and "characterizing me as a pervert". I wrote "So

police had confiscated numerous photos taken of me without my permission and basically tried to frame me for photographing her"(RE 34 2nd Comp. ID#421-426). Disseminating false reports is a crime, so I am seeking criminal charges for any or all involved. The Court also left out the false rumors of apartment break-ins Clark concocted at the EEOC (Second Comp.RE 31 ID#423).

*CLAIM SUMMARY*

Concerning *RETALIATON*, the Court makes the outrageous assertion that "Thomas cited nothing more than temporal proximity between the discovery of his complaint against the KDF and termination". Without trial or discovery I proved the appeal was the only substantiated cause for cause for termination. In whole or in part, all police and management actions were driven by the appeal. Management all testified they were all motivated by the appeal. Police testimony was evasive, but sufficient to prove the appeal motivated the criminal investigation.

The Court states "Thomas did not produce direct evidence of Retaliation". Disseminating false, misleading reports in response to an appeal is direct evidence. How many times did England and Wyrick have to testify to the direct evidence that prior EEO activity online or "the previous incident with the state" found online (RE 21 EEOC tr. pg.256) was a primary factor before the Court would recognize it? England was asked "was the *appeal* used as additional motivation to terminate me"? He said "***YES***" (EEOC tr. pg.258). Management and police were all in conversations about the appeal, so management probably knew police actions were corrupted.

The EEOC guidelines on Retaliation evidence employers often spread false rumors and reports in response to these appeals. The lies spread are often similar to those in an appeal. The Courts Order proves the insinuations in the appeal used were used to "give credence" to more insinuations. Prior EEO activity drove the complaints before they were made. A Plaintiff can't unravel every detail behind a conspiracy without Discovery.

Concerning the *GENDER BASED DISCRIMINATION,* the use of Claimants Gender-Based Discrimination complaint against him, is another form of Gender Discrimination. *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, (2005). The Fourth Circuit found employers who spread false rumors or reports of a sexual nature DO engage in Discrimination on the basis of sex. *In Evangeline J. Parker v. Reema Consulting Services, Inc.* No. 18-1206 (4th Cir. 2019). When

agencies use these lies to demonize and discriminate against men or women, it's a form of Gender Discrimination.

Much like the Parker case, the circumstances of MACAs false rumor's invoked sex stereotypes (i.e. safety) regarding minority males or males with disabilities. The false reports are a safety issue for Plaintiff, not the other way around. Defendant claims the hearsay "suspicion" stem from anonymous sources, but that only defines it as rumors. The fact that police turned gossip into formal reports does not lend credibility to it, or prove it came from a visitor.

*DISPARATE TREATMENT* is proven out by extreme gender bias in favor of females in complaint procedures and adverse action. Defendant or the Courts repeatedly stated *"the only thing that matters is the women's accusations."* This is an admission that the Courts decision is based on lies. There is no consideration of credible evidence or factual findings. My testimony is factual and true. It is not considered because I am male. The accusations aren't real, they're pretext. The male is presumed guilty by default and because a complaint was alleged to have been made by a female. Defendant or the Court can't prove the hearsay came from female visitors, can't substantiated anything, and can't correctly cite what was said or who said it.

Anything that looks like an allegation is trumped up, recorded as formal accusation and attributed to my conduct. It makes no difference if it's the pretext in an EEO complaint or rumors spread in response to an EEO complaint. There is no process where the truth is considered. I was not properly informed of what the allegations are or who made them. Then forced to take responsibility and report the lies I was never properly informed of (EPSB). I was never shown KDF coworker complaints or Clarks report and mislead about the café complaint. To date, I have no reason to believe any visitor actually complained about my phone.

Prejudice is often defined as harm resulting from a preconceived opinion with no consideration of fact. This level of prejudice could be understood by role reversals. If female employees were immediately terminated for misconduct concerning any type of complaint or rumor alleging to come from a male. The allegation itself equates to misconduct, so, there would be no need to properly inform the woman. Employers wouldn't be required to disclose the source or substantiate anything.

Imagine a female in a minority position who complained of discrimination after raising concerns of illegal application and false allegations. She was terminated without cause, never properly informed, and the allegations were retracted and dismissed. Employees or agency police conceal the appeal, spread false reports, or simply say a unknown male said something derogatory. If she tried to appeal, the Courts deny protections, use the appeal to accuse her of being accused and further deprive her of her rights. She would be unable to apply for employment, charged with ethics violation, further discriminated against, then face constant harassment due to all the lies published. This all happened to me.

*DISPARATE IMPACT* is referenced by zero tolerance polices improperly used with any sort of rumor or false report outlined in Lewis'memo. It is further evidenced by denial of due process and presumption of guilt in complaint procedures.

Concerning *HOSTILE WORK ENVIRONMENT*, The Court found "no evidence that the harassment he complained of was sufficiently severe or pervasive". This is absurd. Police and management harassment was so severe it not only "interfered with an employees work performance" it stopped it entirely from July 22-27th and resulted in termination. The slander and harassment were pervasive, threatening, and humiliating, left me traumatized, resulted in additional job losses and court cases (i.e. SKYCTC and EPSB). It exacerbated diagnoses of PTSD for the last six years(medical RE 66-8 ID#748). and rendered me unemployable for the rest of my life.

The procurement, dissemination, fabrication, and manipulation of false and misleading police reports of a sexual nature is not only severe, it's criminal. Defendant concealed prior EEO activity in attempts to frame me for inappropriate phone-use. Police harassment severely interrupted employment entirely at the start of the criminal investigation, caused me to have a panic attack, and resulted in termination. The hostility is described under motive above. Defendants lies and denial of due process does not detract from the hostility, it adds to it.

Concerning *DEFAMATION* the Court alleges Defendant isn't responsible for the false reports they wrote, spread, or manufactured themselves including Lewis, police, Clark, and the Clerk. The Court alleges Defendant is not responsible for the Standard Form SF50, but the information came from MACA. 18 U.S. Code 35 makes imparting false information a crime. The

Court alleges that employers are free to fire male employees for misconduct concerning any derogatory allegation of a sexual nature without evidence. So long as the employer alleges it came from an unknown female, the Courts will not require the employer to substantiate anything or identify the source. Because the employee is male, he is presumed guilty, denied Due Process, and denied protection concerning prior EEO activity.

Concerning *ADA* Claims I alleged that my disabilities were a "motivating factor", and by any logical account they were. The hearsay report from the café said I seemed "off" and if I came off that way to a visitor that would also be due to my medical condition involving spinal cord injuries and PTSD. Coworkers told police I seemed "odd" but they couldn't put their finger on it and that is due to my medical condition. Police harassment and wanton slander in employment records greatly exacerbated diagnoses of PTSD and chronic anxiety for six years.

*CONSTITUTIONAL RIGHTS* violations by, EEOC, EPSB, KPB and the Courts involve the fact I have been denied any opportunity for a fair hearing with an impartial arbiter for six years. I've been denied Due Process. I've been denied Equal protection or any protection concerning a good faith discrimination complaint. Rather than uphold the law and portray the Plaintiff in the "best light", the judges manipulate every fact and publish fictional narratives of misconduct.

Concerning *DUE PROCESS*, the Court wrongly asserted my claim was that I "was not told the identity of two visitors who filed complaints against him"(App.Cou. pg.2). Defendant improperly used FOIA exemptions 6-7c (RE 13-1 ID#136). Police testified their reports stem from a criminal proceeding which was not administrative. The Constitution demands due process for the accused in all criminal proceedings. Plaintiffs in Title VII actions or federal hearings are also entitled to Due Process concerning police reports or allegations. There is no reason to have hearings if the wrongly accused can't examine the source. If Defendant is going to use an allegation against them, the employee is entitled to discovery. It's a fundamental principle of fairness.

*DISCOVERY ABUSE* occurred at the level of the EEOC and District Court, so the full extent of the toxic environment couldn't be discerned. The AJ blocked discovery attempts to identify the clerk who made the call, fee girls who discovered the appeal or complained to police, or any alleged complainant (EEOC Disc. RE 118-2 ID#1431). The EEOC did not allow any cross of

females at the Gender Discrimination Hearing. Defendant never disclosed the password for the DVD of the EEO investigation.

Employees have a *CONSTITUTIONAL RIGHT TO MEANINGFUL* REPLY *including advanced notice in detail and writing* concerning any allegation, police report, or *label* imposed on them by the employer(4thComp. RE 118 ID#1396-1398). A meaningful reply requires that accused person know the source of the allegation. I was misled by police and shocked when England handed me Lewis' memo as I was leaving the park. I had no opportunity to digest or respond to anything. In cases of Retaliation if an employee is not afforded the opportunity to examine the source of lie, they cannot necessarily prove it's falsity or link it to an appeal. *Arnett v. Kennedy,* 416 U. S. 134, 416 U. S. 214.

The *EQUAL PROTECTION CLAIM, U.S.C. 1981,* involves the fact I've been repeatedly conspired against, slandered, and deprived of employment by Defendant, the EEOC, the EPSB, and the Court because I opposed discrimination and illegal activity in the workplace.
A primary claim against the EEOC was they violated Equal Protection rights by refusing to recognize the KPB Appeal is Plaintiff's formal complaint of gender discrimination and construing it as formal accusation against me. The Courts followed suit. Every time the appeal is used against me, it violates Plaintiff's rights to Equal Protection. The appeal is protected by federal law because it is a reasonable, good-faith complaint of discrimination.

1st Amend. *RIGHT TO PETITION is* violated because I've been deprived of my right to hearing with an impartial arbiter and Discovery at the EEOC and District Court. Every proceeding has been extremely prejudiced against males and driven by Gender Bias. The Courts manipulate and publish false reports and all sorts of wanton slander. Most all the Courts asserted facts have been refuted even without Discovery. Plaintiff successfully established a prima facie case of Retaliation and Reverse Discrimination.

Claims under *U.S.C. 1001 & 42, U.S.C. 1983, 1985* involve false statements, Conspiracy to Violate, and Deprivation of Rights. The 1985 claim involves the fact police and management concealed Plaintiff's "protected activity" and used it to procure, disseminate, or fabricate misleading reports they knew were false. Police had no right or authority to interfere with

Plaintiff's employment and management had no authority over police actions. The actions of the EEOC, EPSB, and the Court are in furtherance of the conspiracy.

The 1983 Claim involves the fact that government agencies and judges have repeatedly used a good faith complaint of discrimination to deprive me of my constitutional rights outlined above and right to employment. EEOC transcripts were altered and the AJ chose a room without a device to access the body cam footage. There is *Fraud On The Court* in all these proceedings. Related rulings evidence fictional narratives of misconduct based on the first pretext. I estimate I can prove 50-100 False and misleading statements (U.S.C. 1001) in Defendants police reports, employment records, EEOC testimony, sworn affidavits by police (see above) and Lewis, in published rulings at the KPB, EEOC, or District Court (App. Cou.RE 39-2 False Statements ID#1-10). 34 pages is not enough space to describe it. The combined substantive value of all of these rulings together is far less than nothing. Clark's testimony at the EEOC proved his report was false and he made additional false statements of apartment break-ins.

The EEOC and the Courts are becoming purveyors of gossip and lies rather than justice. The appeals process has reached a point of abject corruption. Patterns of judicial misconduct are evidenced at every level. It has poisoned the appeals process entirely. This six years of appeals has been the most overtly prejudiced, corrupt, dishonest and illegitimate ordeal I have ever encountered. Judges at the KPB, EEOC and District Court don't uphold the peoples constitutional appeal rights. They use their position to deprive the people of these rights under color of law. They obstruct the process, slander in extreme forms, lie about practically every issue, and sign their lies into law. Fraud in the Courts must not be tolerated. Justice demands these tyrants or the agencies they represent are held to account.

*ACTION REQUESTED FROM THE COURT*

I'm asking the Court to acknowledge the truth herein. The KPB Appeal is a reasonable, good-faith complaint of discrimination and warrants protection. I was terminated without cause, not properly notified, and hearing established there was no accusation. The agency was later cited as a result of concerns I raised. The KPB Appeal was more than a motivating factor in the MACA termination. Defendants' "complaints" were written and requested by police who did not have Reasonable Suspicion for criminal investigations. There is no probative value in

baseless hearsay police reports. I was not involved in misconduct. I didn't photograph anyone. The SF50 was falsified and reversed for that reason.

I'm seeking criminal charges for any or all parties involved imparting or conveying false information and manipulating or using false police reports. There should be additional criminal charges for lies in sworn affidavits, published orders, alteration of transcripts, deprivation of appeal rights, and Obstruction of Justice.

*CONCLUSION*

The Petition for Writ of Certiorari should be granted. Rather than discern the truth, the Courts have manipulated and concealed it. I don't need to mispresent the truth because I am a truthful witness. I could not be defeated given a fair trial because my testimony and claims are fully supported by fact, law, and all credible evidence. It is validated by KDF coworker testimony on video, AG & KDA findings, body cam footage, employment records, and affidavits or rebuttals in the ROI.

The fact is, the case against me is completely made up and this will never change. Defendant cannot identify any real accuser because there never was one and a jury could see this. The Defendant and Courts argument is based on lies about lies and lies within lies. If I don't succeed, it only means the case was obstructed and my claims weren't addressed because the facts weren't addressed.

Resubmitted on Dec.21, 2023,

12/21/23

Christopher D. Thomas

## REASONS FOR GRANTING PETITION

1. The standard for Retaliation published by the EEOC is *"MOTIVATING FACTOR"* for all federal agencies. My appeal was premised on that standard. I was not involved in misconduct and MACA admitted it. The Courts apply the "but for" standard & cite rumors linked to the appeal as the real reason. My claim meets both standards because the appeal is the only substantiated cause. The Courts must adhere to the standard advertised.

2. The Kentucky Attorney General further investigated the KDF termination in EPSB action 20-EPSB-0067. The AG found as a matter of law I was not given proper notice of any allegation and was terminated "without cause pursuant to 101 KAR 3:050, Section 1(3)" a "No Cause Termination should not be treated as a termination for cause"(RE 100-1 ID#1122). The Courts conceal this and claim I was terminated for allegations of misconduct KDF coworkers never even made, attribute them to my conduct, then site similarity in made-up accusations based largely on the Courts own conjecture.

3. In *Asbury Univ. v. Powell, 486 S.W. 3d 246* Powell didn't succeed with her first complaint of discrimination. However, the KY Supreme Court found her actions in opposing discrimination were protected by federal law and the appeal could not be used against her. If the decision is not reversed, the case will be used to further discriminate against any employee who is slandered, opposes discrimination in good-faith and truthfully testified at a hearing. There must be clear a distinction between EEO complaints that can and can't be used in adverse action.

4. Plaintiff's *Right to Petition* is violated because I was denied a fair hearing with an *impartial arbiter* at the EEOC and District Court, denied Protection for the Appeal, denied Due Process and denied the right to be painted in the "best light". The EEOC and the Court denied Discovery to identify the clerk or any alleged complainant. Three patently false reports which had previously been vacated were trumped up and imposed them on me because I am male. After six years in the Courts, I have never been afforded an opportunity to investigate the source of the lies that have destroyed my life and reputation. The EEOC altered transcripts and rigged the hearing. Because the AJ had seen the body cam video, she chose a room where it could not be accessed. Manipulation of every fact and deprivation of constitutional appeal rights is an *Obstruction of Justice*. The MACA termination was a Frame-Up. The lower courts actions are in furtherance of a conspiracy.

5.The *Equal Protection Clause of the 14th Amendment* guarantees Equal Protection. The Defendant, EEOC, EPSB and the Courts have repeatedly denied any protection concerning prior EEO activity and used it to justify adverse action and egregious slander. Title VII only requires an appeal is in good-faith to warrant protection and the KPB Appeal certainly is. The Courts allege the KPB Appeal is not protected because I was accused, but the Hearing established coworkers were not making accusations. Baseless insinuations found in an EEO compliant don't justify Retaliation. The first complaint of discrimination lead to Defendants criminal investigation, false reports, termination. That lead to additional terminations, charges by the EPSB, and false convictions published by the Ky Court of Appeals and District Court.

6. The *5th and 14th Amendment* prohibits the government from depriving its citizens of "life, liberty, or property without due process of law". Procedural Due Process requires the person must be given notice, the opportunity to be heard, and a decision by a neutral decision-maker. The EEOC and Courts actions were not neutral by any stretch. The rulings evidence Gender Bias and "contempt prior to investigation" in the most extreme form. I was either not notified at all or never properly notified in both terminations concerning the allegations the Courts use.

7.The judges in lower courts have taken a unanimous stand against the truth, against every fact, and against the law. Other than minor details like places of employment, everything the Courts say is a direct misrepresentation and omission of material fact or lie. The lower Courts Decisions are based on shifting hearsay and driven by Gender Bias. The Courts use of anonymous, fabricated evidence has undermined the integrity of the Court and corrupted the Appeals process. The Courts either cannot or will not differentiate fact from fiction.

8. Government agencies and the Courts are systemically discriminating against minority males. The case is of national importance because there is no fair appeals process for wrongly accused employees. Males are an increasing minority, not only in healthcare and teaching, but on forestry crews and at the Parks Service. Baseless insinuations of any kind are construed as formal accusations and he's presumed guilty by default. Employers can make up or use any false allegation a sexual nature and the employee is cancelled from employment all together. There need not be a real accuser, the employer just has to allege there is or someone said something. If he tries to appeal opposing discrimination results in more discrimination.

9. Decisions published by the KPB, EEOC, and District Courts are illegal because they're fraudulent and in facilitation to multiple illegal or criminal acts. Appeals Courts decisions are much the same. Imparting and conveying false information is a crime. The Dissemination, use, fabrication, publication and manipulation of false police reports is also a crime. MACA police and management procured and disseminated false reports in response to Plaintiff's "protected activity". The conspiracy began with the false information and reports published by the KPB. Administrative Hearing officers or judges who published the lies, did not have a right to do so. Plaintiff has a legal right to have fraudulent information corrected or removed from internet.

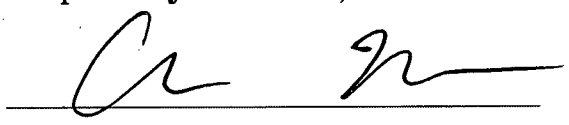
10. This case can be used to restore a legitimate appeals process in government agencies and the Courts. I estimate that I can prove 50-100 lies in sworn affidavits, transcripts, employment records and Court Orders signed into law. The EEOC needs to be investigated. The Deprivation of appeal rights and fraudulent publications by judges must be stopped.

11. The case can be used to restore legitimate employment practices in adverse actions. Employees must be properly notified in detail and in writing of allegations being used against them (5CFR 315.805). There must be a clear line between what kinds of "allegations" can be used in adverse action and those that can't. If an employer can't properly inform or substantiate anything the employee should be fired without cause or not at all. I faced two years of ethics charges for failing to report lies I was never informed or not properly informed of.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 10/11/23