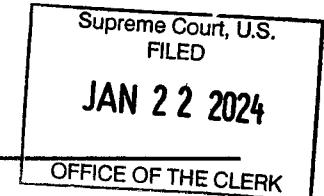


23-6574 **ORIGINAL**

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IN THE  
SUPREME COURT OF THE UNITED STATES



Deirdre Baker – PETITIONER

VS.

JEA – RESPONDENT

---

On Petition for a Writ of Certiorari to United States Court of Appeals for  
the Eleventh Circuit

---

**PETITION FOR WRIT OF CERTIORARI**

Deirdre Baker  
2517 Pine Summit Dr E  
Jacksonville FL 32211  
(904) 743-9449

*Pro Se Petitioner*

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## INDEX TO APPENDICES

### **APPENDIX A** OPINION of U. S. Court of Appeals for the Eleventh Circuit

perpetrated fraud on the court and did not apply *de novo* standard of review correctly, thereby affirming lower court's incorrect judgment.

### **APPENDIX B** JUDGMENT of U. S. District Court for the Middle District of

Florida dismissing petitioner's undisputed claims against respondent – rendered without the required magistrate's recommended disposition under Rule 72(b).

### **APPENDIX C** ORDER of the Sr. District Judge's verbatim adoption of findings prepared by respondent containing conclusory statements unsupported by citation to the record denying petitioner's undisputed summary judgment and granting respondent's controverted summary judgment – which failed to meet its initial

burden imposed by Rule 56(e).

**APPENDIX D** ORDER of U. S. Court of Appeals for the Eleventh Circuit  
denying petition for panel rehearing and rehearing en banc and no Judge in  
regular active service on the Court having requested that the Court be polled.

**APPENDIX E** NO ACTION NOTICE of U. S. Court of Appeals for the Eleventh  
Circuit on motion for reconsideration of panel order entered on October 23, 2023,  
which is appended herein.

**APPENDIX F** Motion for Judgment on the Pleadings filed by Deirdre Baker –  
denied without being served beforehand a copy of the required magistrate's  
recommended disposition with instructions for objecting under Rule 72(b)(2), thus  
deprived her of her right to appeal the final order. Below is a screenshot clipping of  
the district court docket entry to demonstrate first entry of evidence in the record:

02/26/2021	<u>32</u>	Second MOTION for Judgment on the Pleadings by Deirdre Baker. (Attachments: # <u>1</u> Attachment, # <u>2</u> Attachment)(BGR) (Modified on 3/16/2021, to edit text) (BGR). (Entered: 03/01/2021)
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**APPENDIX G** ORDER of a magistrate judge (not the required district judge

under Rule 72(a)) on a Rule 60(b)(3) objection to the previous order to intentionally delay justice and willfully allowed respondent and its counsel to fraud the district court to deprive petitioner of her substantial rights protected under the law.

**APPENDIX H** Undisputed facts of the case to determine legal consequences

09/28/2021	<u>65</u>	MOTION for Summary Judgment by Deirdre Baker. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L)(RH) (Entered: 09/29/2021)
09/30/2021	<u>66</u>	<b>SUMMARY JUDGMENT NOTICE re <u>65</u> MOTION for Summary Judgment filed by Deirdre Baker Signed by Deputy Clerk on 9/30/2021. (RH)</b> (Entered: 09/30/2021)

**APPENDIX I** Rule 60(b)(3) Motion for Relief from fraud, requesting the district court to expeditiously adjudicate petitioner's legal claim under Rule 56(e). This is the motion the OPINION of the U. S. Court of Appeals for the Eleventh Circuit on p. 9 falsely stated petitioner did not do, perpetrating fraud on the court.

## TABLE OF AUTHORITIES CITED

Cases	Page(s)
<i>Burlington Industries, Inc. v. Ellerth</i> , 524 U.S. 742, 765, 118 S. Ct. 2257, 141 L. Ed. 2d 633 (1998)	13-14
<i>Celotex Corp. v. Catrett</i> , 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)	6, 7, 14, 18
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<i>Vance v. Ball State University</i> , 570 U.S. 421, 133 S. Ct. 2434, 186 L. Ed. 2d 565 (2013)	Q, 8, 18

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28 U. S. C. § 453	3
28 U. S. C. § 1254(1)	3
28 U. S. C. § 1291	3
28 U. S. C. § 2111	4
42 U. S. C. §§ 2000e to 2000e-17	4, App H, at p. 2
Fla. Stat. § 768.72	4
Fla. Stat. § 768.73	4
Rule 56	4-5
Rule 60	5
Rule 72	5

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 incorrect judgment below that willfully subjects petitioner to the deprivation of her entitled damages and substantial rights protected by the Constitution and laws of the United States causing concrete injury as demonstrated in her motion for leave to proceed *in forma pauperis*, declaration, and attachments appended thereto.

**OPINIONS BELOW**

The opinion of the U. S. Court of Appeals for the Eleventh Circuit appears at Appendix A to the petition and is unpublished.

**JURISDICTION**

The date on which the United States Court of Appeals for the Eleventh Circuit decided my case was August 28, 2023. A timely petition for rehearing was denied by the U. S. Court of Appeals for the Eleventh Circuit on \*October 23, 2023, and a copy of the order denying rehearing appears at Appendix D.

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

\*The U. S. Court of Appeals for the Eleventh Circuit on November 14, 2023, issued

no action notice on a timely<sup>1</sup> petition for reconsideration of the panel order on October 23, 2023, and a copy of the notice appears at Appendix E, with the motion for reconsideration appended filed on November 13, 2023, herein. This was petitioner's final warning that the U.S. government's actions are unlawful, and that redress is required as a matter of law.

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<sup>1</sup> Per 11th Cir. R. 27-2 Motion for Reconsideration. A motion to reconsider, vacate, or modify an order must be filed within 21 days of the entry of such order. 10/23-11/13 = 21 days.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Civil Rights Division U.S. Department of Justice explanation of 18 U.S.C. § 242 – This provision makes it a crime for someone acting under color of law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. It is not necessary that the offense be motivated by racial bias or by any other animus.

Defendants act under color of law when they wield power vested by a government entity. Those prosecuted under the statute typically include police officers, sheriff's deputies, and prison guards. However other government actors, such as judges, district attorneys, other public officials, and public school employees can also act under color of law and can be prosecuted under this statute.<sup>2</sup>

**The text of 18 U.S. Code § 242 - Deprivation of rights under color of law:** Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; ...

**The text of 28 U.S. Code § 453 - Oaths of justices and judges:** Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, \_\_\_\_, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_\_ under the Constitution and laws of the United States. So help me God."

**The text of 28 U.S.C. § 1254(1) - Courts of appeals; certiorari; ...:** Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

- (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

**The text of 28 U.S.C. § 1291 - Final decisions of district courts:** The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the

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<sup>2</sup> See MISCONDUCT BY LAW ENFORCEMENT & OTHER GOVERNMENT ACTORS at <https://www.justice.gov/crt/statutes-enforced-criminal-section>, other government actors such as defendants, judges, and district attorneys.

United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in sections 1292(c) and (d) and 1295 of this title.

**The text of 28 U.S.C. § 2111 – Harmless error:** On the hearing of any appeal or writ of certiorari in any case, the court shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

**The text of 42 U.S. Code §§ 2000e-2(a)(1) and 2000e-3(a) - Unlawful employment practices** appears at Appendix H, p. 2.

**The text of 42 U.S. Code § 2000e-2(a)(2) - Unlawful employment practices:** (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

**The text of Fla. Stat. § 768.72(1) and (2)(a) - Pleading in civil actions; claim for punitive damages:** (1) In any civil action, no claim for punitive damages shall be permitted unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. The claimant may move to amend her or his complaint to assert a claim for punitive damages as allowed by the rules of civil procedure. The rules of civil procedure shall be liberally construed so as to allow the claimant discovery of evidence which appears reasonably calculated to lead to admissible evidence on the issue of punitive damages. No discovery of financial worth shall proceed until after the pleading concerning punitive damages is permitted.

(2) A defendant may be held liable for punitive damages only if the trier of fact, based on clear and convincing evidence, finds that the defendant was personally guilty of intentional misconduct or gross negligence. As used in this section, the term:

(a) “Intentional misconduct” means that the defendant had actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.

**The text of Fla. Stat. § 768.73(1)(c) - Punitive damages; limitation. —: (c)** Where the fact finder determines that at the time of injury the defendant had a specific intent to harm the claimant and determines that the defendant's conduct did in fact harm the claimant, there shall be no cap on punitive damages.

**The text of Rule 56(a) - Motion for Summary Judgment** appears at Appendix H, p. 3.

**The text of Rule 56(e)(3) - Failing to Properly Support or Address a Fact:** (3) grant summary judgment if the motion and supporting materials — including the facts considered undisputed — show that the movant is entitled to it;.

**The text of Rule 60 – Relief from a Judgment or Order (b) Grounds for Relief from a Final Judgment, Order, or Proceeding.** On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

**The text of Rule 72 – Magistrate Judges: Pretrial Order. (a) Nondispositive Matters.** When a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, the magistrate judge must promptly conduct the required proceedings and, when appropriate, issue a written order stating the decision. A party may serve and file objections to the order within 14 days after being served with a copy. A party may not assign as error a defect in the order not timely objected to. The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.

**(b) Dispositive Motions and Prisoner Petitions.**

(1) *Findings and Recommendations.* A magistrate judge must promptly conduct the required proceedings when assigned, without the parties' consent, to hear a pretrial matter dispositive of a claim or defense or a prisoner petition challenging the conditions of confinement. A record must be made of all evidentiary proceedings and may, at the magistrate judge's discretion, be made of any other proceedings. The magistrate judge must enter a recommended disposition, including, if appropriate, proposed findings of fact. The clerk must immediately serve a copy on each party as provided in Rule 5(b).

(2) *Objections.* Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. A party may respond to another party's objections within 14 days after being served with a copy. Unless the district judge orders otherwise, the objecting party must promptly arrange for transcribing the record, or whatever portions of it the parties agree to or the magistrate judge considers sufficient.

(3) *Resolving Objections.* The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

## STATEMENT OF THE CASE

In *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986), this Court held that a party moving for summary judgment show only that the opposing party lacks evidence sufficient to support its case. This is a summary judgment record as of September 28, 2021, where plaintiff is the movant supported by 174+ pages of evidence she filed in the record as early as February 26, 2021, to support her claims of employment discrimination based on her race – to which defendant admitted all true and did not demonstrate any issues of fact for trial and thereby failed to meet its initial burden imposed by Rule 56(e). As of September 28, 2021, there is no evidence in the record from the defendant at all. See the movant's motion (D.C. Doc. No. 65) at Appendix H.

In response (D.C. Doc. No. 75) defendant did not offer a legitimate reason for the pay disparity nor the three challenged adverse employment actions (discipline 41 days following complaint, demotion 9 days following complaint, and termination within two hours of final complaint). On page 10, defendant stated, "Plaintiff's own record evidence shows that there are, in fact, no issues of fact." Below is a screenshot clipping of the defendant's conclusion on page 11:

### IV. Conclusion

WHEREFORE, for the foregoing reasons, JEA submits that Defendant's Motion for Summary Judgment should be denied.

DATED this 1<sup>st</sup> day of November, 2021.

The nonmovant admitted all facts true and instructed judge to deny its motion for summary judgment filed 34 days later on November 1, 2021. Below is a screenshot clipping of the plaintiff's conclusion on page 7 of (D.C. Doc. No. 76):

Accordingly, as Defendant agrees that "Plaintiff's own record evidence shows that there are, in fact, no issues of fact", page 10, the law as applied to the undisputed material facts mandates judgment for Plaintiff.

DATED this 12<sup>th</sup> day of November, 2021.

No sur-reply was filed by the defendant to the above reply to its response to her summary judgment motion. Pursuant to Rule 56 and this Court's precedent on Title VII, defendant's subsequent motion must be denied. See text of Rule 56(e) p. 5, and *Celotex Corp.*, at 322, n. 3. Quick, easy, and impartial judgment for the plaintiff that should have a decision 30-60 days later, right? Well, not quite.

Below is a screenshot clipping of the district court docket following plaintiff's reply to defendant's response to her summary judgment motion:

11/15/2021	<u>77</u>	CASE Reassigned to Magistrate Judge Laura Lothman Lambert. New case number: 3:20-cv-889-HES-LLL. Magistrate Judge James R. Klindt no longer assigned to the case. (RH) (Entered: 11/15/2021)
11/19/2021	<u>78</u>	<b>ORDER of Recusal. Signed by Magistrate Judge Laura Lothman Lambert on 11/18/2021. (REL)</b> (Entered: 11/19/2021)
11/19/2021	<u>79</u>	CASE Reassigned to Magistrate Judge Patricia D. Barksdale. New

Fast forward to over four months later...

**Error of Law:** On March 28, 2022, without the magistrate entering its required recommended disposition and thus parties were not served a copy to file any objections, the lower court entered a final order denying the undisputed

motion for summary judgment and granting the disputed one. **See** Rule 72(b) on p. 5, Index description of the final ORDER (D.C. Doc. No. 98) which appears at Appendix C to the petition. **The same day**, the JUDGMENT was entered dismissing the undisputed claims against JEA. **See** description in the Index (D.C. Doc. No. 99) which appears at Appendix B to the petition, and text of 42 U.S.C. §§ 2000e-2(a) and 3(a) at Appendix H to the petition p. 2. This flagrant violation of the law was objected to the district court via a Rule 60(b) motion that was denied (D.C. Doc. Nos. 100 - 101). On appeal, the district court's decision was affirmed – rendering JEA not liable for its supervisor's harassment that culminated into multiple tangible employment actions. **See** the Index description of OPINION. Again, this flagrant<sup>3</sup> violation of the law was objected to the circuit court via a (1) petition for panel rehearing, (2) petition for rehearing en banc, (3) motion for stay, and finally (4) a motion for reconsideration. All were denied and no action was taken on the motion for reconsideration – which was the petitioner's final warning that the actions of the U.S. federal government are unlawful and requires redress (**See** Appendix E to the petition).

**U.S. Federal Government's Willful Acts and Omission Affected Outcome**  
Petitioner filed three dispositive motions in the district court (two of which were

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<sup>3</sup> This Court's binding precedent *Vance v. Ball State University* was cited in; her response on district court docket 80 pp. 5-6, her opening brief on appeal p. 21, during oral argument (time stamp 8:12-8:58), her petition(s) for rehearing circuit court dockets 37 pp. 2, 8, & 39 p. 7 – denied because no judge (*including the district judge sitting by designation whose ruling is being challenged*) requested that a poll be taken, and her motion for stay 42 pp. 3, 6.

supported by evidence) and two Rule 60(b)(3) motions for relief from fraud that had a substantial prejudicial effect on the decision below. Keep in mind that district judge **Marcia Morales Howard** was cognizant within six months of filing suit that petitioner was the true prevailing party because defendant had nothing in the record when petitioner's first motion for judgment on the pleadings ("MJP") was filed. See Index description of Appendix F to the petition. Yet the district court still granted respondent six extensions of time to intentionally delay justice and willfully allowed respondent and its counsel to fraud the district court by inserting and weighing fabricated evidence provided by the defendant, submitted to the court by its counsel Ms. Ariel P. Cook – to which **Sr. U.S. District Judge Harvey E. Schlesinger** inserted it as a screenshot into his final order and relied on it to make its ruling. See 18 U.S.C. § 242 and 28 U.S. Code § 453 on p. 3, and p. 16 of final order which appears at Appendix C to the petition. This fraudulent document was not in the record as of September 28, 2021, when the case became a summary judgment record and was documented on p. 1 of petitioner's second Rule 60(b) motion for relief (D.C. Doc. No. 100). In the table below, the petitioner demonstrates the district court's **willful** acts or omissions that deprived her of substantial rights. Her first MJP filed on January 29, 2021, was deemed moot by magistrate James R. Klindt. The table shows her second MJP, her motion for summary judgment ("MSJ"), and two Rule 60s – all of which were denied. District Judge Marcia Morales Howard's family member was appointed to the JEA Board<sup>4</sup> the same

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<sup>4</sup> JEA's website at [https://www.jea.com/About/Board\\_and\\_Management/](https://www.jea.com/About/Board_and_Management/)

day the MSJ was filed<sup>5</sup> but did not recuse herself until nearly one month later after petitioner's Rule 60(b) motion was filed and the case became appealable.

Type	Judge initials	Act or omission 18 U.S.C. § 242
2 <sup>nd</sup> MJP	JRK and MMH	No magistrate's recommended disposition with instructions for objecting under Rule 72(b)(2).
MSJ	JRK, MMH, LLL, PDB, HES	JRK granted JEA's sixth extension of time via fraud, then outside his jurisdiction under Rule 72(a), decides the Rule 60(b)(3) objection. Retired to recall ten days later.  MMH as required under Rule 72(a), failed to vacate JRK's order and request magistrate's recommended disposition with instructions for objecting under Rule 72(b)(2), failed to grant judgment for plaintiff as a matter of law.  LLL within three days of being sworn in recused herself instead of entering required recommended disposition under Rule 72(b)(2).  PDB did not enter magistrate's recommended disposition with instructions for objecting under Rule 72(b)(2).  HES inserted and weighed inadmissible fabricated evidence, then same day -without providing opportunity to object, rendered biased incorrect final judgment via fraud.

<sup>5</sup> The next day during plaintiff's 3<sup>rd</sup> deposition on September 29, 2021, **Ms. Ariel P. Cook** introduced and was made aware of the fraudulent misrepresentation of evidence provided by defendant's representative **Maryanne Evans**. See Doc. Nos. 74 – Ex. 3, p. 51, 74 – Ex. 4 pp. 61 and 68, and Doc. No. 100 pp. 13-14. JRK also held telephonic proceeding during depo.

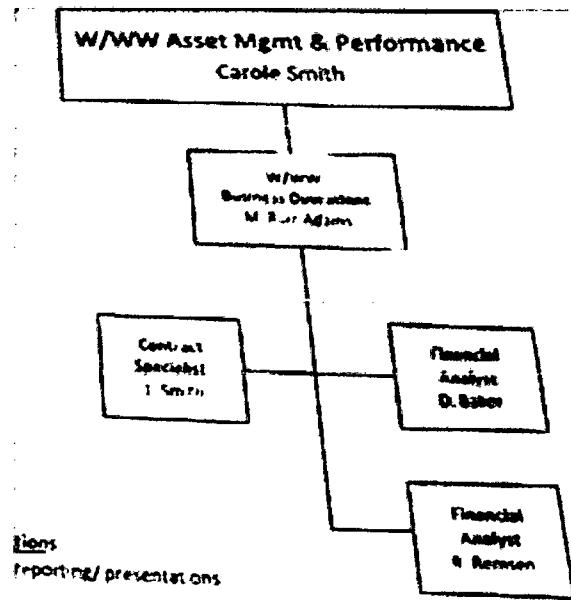
## **Judicial Misconduct at Summary Judgment Stage**

**Who:** This case is before the Court because of documented fraud perpetrated on the court through evidence falsification by defendant's representative Maryanne Evans with its counsel Ariel P. Cook's collusion, judge Schlesinger, his prior clerk Laura J. Boeckman, and the writing judge per curiam panel member of the United States Court of Appeals for the Eleventh Circuit. **See** 28 U.S. Code § 453 p. 3. **How:** Sr. U.S. District Judge Harvey E. Schlesinger adopted verbatim defendant's unsupported false allegation of "intervening misconduct" with no citation to any evidence in the record (because none exists), specifically stated eight times in his final order (D.C. Doc. No. 98) that plaintiff had no evidence, and prejudicially denied plaintiff's MSJ to procure judgment for defendant via fraud. **See** screenshot clippings in the Index, 18 U.S.C. § 242 on p. 3, and pp. 16 and 20 of the final order which appears at Appendix C to the petition. When petitioner filed her Rule 60(b) motion for relief from fraud (D.C. Doc. No 100) pointing to judge Schlesinger's errors with screenshot clippings from petitioner's direct evidence of her comparator on the pay discrimination claim because of her race – that she filed in the record on August 13, 2021, he denied her relief sought and stated "she is simply dissatisfied with this Court's determination against her" on p. 2 (D.C. Doc. No. 101). Below are two separate screenshot clippings from petitioner's motion (D.C. Doc. No. 100, pp. 6 and 8) beginning with proof of her comparator that he falsely stated she did not have on p. 6 and on p. 8 is a listing of each instance in the order of his false statements of "no

evidence" which does not include the omission of petitioner's protected activity when she reported Carole Smith's inappropriate behavior on June 18, 2019:

Case 3:20-cv-00889-HES-PDB Document 100 Filed 04/08/22 Page 6 of 25 PageID 1870  
USCA11 Case: 22-11335 Document: 16 Date Filed: 06/08/2022 Page: 205 of 228

bulleted list documentation in which "independent analysis" was completed – which does not list the "Summary Findings" undated document (review of job description(s)) this court relied on in violation of Fed. R. Civ. P. 56(c)(1)(A).



The bottom right of the team's November 29, 2017, (Doc. No. 98 at 15) **Financial Analyst Role & Responsibilities** meeting shows both D. Baker [Plaintiff] and her white peer – R. Remsen, were identified as identically performing the same work functions outlined on page 11:

"Plaintiff offered no evidence to support her contention." (*Id.* at 3)  
"[Plaintiff's] claims are based on conjecture and assumption – not proof or evidence. (*Id.* at 12)  
"Plaintiff presented no direct evidence of discrimination, nor does she present a convincing mosaic of an inference of intentional discrimination. (*Id.* at 14)  
"Plaintiff...has offered no evidence a similarly situated employee was treated more favorably than her based on race." (*Id.* at 15)  
"Plaintiff must point to evidence, and she has not done so. (*Id.* at 17)  
"Plaintiff has not shown direct evidence nor a convincing mosaic of retaliation. (*Id.* at 18 n.4)  
"Plaintiff has no other evidence of retaliation and cannot show temporal proximity; her claim fails as a matter of law." (*Id.* at 20 n.5 footnote omitted)<sup>4</sup>

On appeal, the denial of petitioner's **undisputed** motion for summary judgment was supposed to be reviewed *de novo* conclusion of law, with no deference to the lower court's findings or conclusions. However, the opinion does not reflect the movant's undisputed facts of the case that establishes defendant's liability – and thus made deference to and affirmed the lower court's incorrect biased final judgment, adopted the lower court's unsupported false allegation of "intervening misconduct" with no citation to any evidence (because none exists), and omits review of final order (D.C. Doc. No. 68) which allowed the fraud on the court. See 18 U.S.C. § 242 on p. 3, and 28 U.S.C. § 2111 on p. 4. Appendix I to this petition is the objection that the U.S. federal government falsely<sup>6</sup> stated it lacked jurisdiction because (D.C. Doc. No. 70) allegedly didn't exist, perpetrating fraud on the court. See pp. 8-9 of circuit docket entry 39 which is attached to petitioner's motion for leave to proceed *in forma pauperis* as proof that the U.S. federal government was made aware and still refused to reverse the incorrect judgment. "The question before an appellate Court is, was the *judgment* correct, not the *ground* on which the judgment professes to proceed." *McClung v. Silliman*, 6 Wheat. 598, 603 (1821).

### **U.S. Federal Government's Intentional Delay of Justice**

This Court in *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742, 761, 118 S. Ct. 2257, 141 L. Ed. 2d 633 (1998) stated that ("If the plaintiff can show that she

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<sup>6</sup> Adopted false report by attorney Ms. Laura Boeckman – *prior clerk to the same judge's decision being challenged*, during oral argument (time stamp 20:28-22:00) via writing judge per curiam.

suffered an economic injury from her supervisor's actions, the employer becomes strictly liable **without any further showing . . .**") (emphasis added) (internal citation omitted). Thus, when petitioner filed her **undisputed** motion on September 28, 2021, she made prima facie showing that she is entitled to summary judgment as a matter of law as she established a prima facie case of race discrimination and of retaliation on three accounts with evidence – suffering economic injury, that should have been resolved by the lower courts.

**See** text of 42 U.S.C. §§ 2000e-2(a) and 3(a) at Appendix H to the petition p. 2.

“If [JEA] has not fully discharged this initial burden of production, its motion for summary judgment [Doc. No. 74] must be denied...” See *Celotex Corp.*, at 332 (emphasis added). Therefore, the district court erred when it granted defendant summary judgment – procured via fraud, as it was not entitled. It was simply used as a “tool for harassment” to fraud the court with fabricated evidence and assert unsupported false allegations that both lower courts relied on to make its ruling – causing economic injury. “If a supervisor takes an adverse employment action because of race, causing the employee a tangible job detriment, the employer is vicariously liable for resulting damages.” See *Burlington*, at 769.

**JEA intended to cause harm Fla. Stat. § 768.73(c).** The resulting damages as stated during oral argument (time stamp 8:13 – 10:10) on August 15, 2023, are compensatory damages which include economic damages and back pay (\$472,571.77), front pay (\$1,275,262.45), and \$500,000 for emotional distress

caused by JEA in the amount of \$2,247,834.22 (before applicable prejudgment interest on the back pay portion). Under Fla. Stat. §§ 768.72(2)(a) and 768.73(c), \$22,500,000.00 in punitive damages are supported by the same subject prior precedent *Charles v. Leo*, 96 Mass. App. Ct. 326, 135 N.E.3d 252 (App. Ct. 2019) decision cited in petitioner's operative complaint<sup>7</sup> (D.C. Doc. No. 30, p.5-6), her MSJ (Doc. No. 65, pgs. 19-20), her Reply (Doc. No. 76, pg. 7), and her Brief pg. 10. She also paid \$505 for an appeal permitted by law as of right to reverse the lower court's intentionally incorrect decision, but it failed to do so.

Petitioner's prestigious employment was terminated on **June 28, 2019**, the same day that she was approved for her home equity line of credit to make home improvements. However, because of the intentional delay of justice she had to use the line of credit to cover bills for her household of seven as documented in her motion for leave to proceed *in forma pauperis* instead of making the needed home improvements. Although she is eligible for another line of credit from her increased equity, it requires proof of income – which petitioner does not have because JEA discriminated against her because of her race and will not provide a job reference. See text of 42 U.S. Code § 2000e-2(a)(2) on p. 4. Furthermore, because judge Schlesinger falsely stated there was “intervening misconduct” with no citation to any evidence in the record (because none exists) – **because it did not happen**, it is affecting petitioner's current employment status. This concrete irreparable economic harm and injured

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<sup>7</sup> See text of Fla. Stat. § 768.72(1) on p. 4.

reputation from both the respondent and the court of appeals is directly traceable to the erroneous decision below.

Other than petitioner's race (See D.C. Doc. No. 31, p. 5), JEA did not articulate any other reason for its employment actions taken with respect to petitioner (pay disparity between petitioner and Ruth Remsen, nor the three challenged adverse employment actions (discipline 41 days following complaint of pay disparity, unwarranted demotion 9 days following complaint of supervisor's harassment, and discriminatory termination)) in response to her MSJ.

JEA admitted all petitioner's asserted facts (Doc. No. 65) true, thus this case is decided *de novo* conclusion of law with no further proceedings as there is no dispute as to any material facts petitioner asserted, and the record shows that she is entitled to a judgment as a matter of law. See text of Rule 56(a) which appears at Appendix H, p.3. It is also petitioner's prayer pursuant to Court Rule 43.7 if this Court would consider this case an extraordinary circumstance to adjudge double cost for JEA's frivolous defense.

As a matter of law, the district court's ruling must be **REVERSED** with no further proceedings as this is a summary judgment record which already includes petitioner's calculated damages caused by JEA.

of law. **See 28 U.S. Code § 453 – Oaths of justices and judges.** Petitioner has explained *what* happened, *who* the government actors are, and *how* their willful acts and omissions affected the outcome of the case. **See 28 U.S. Code § 453.** Will the U.S. Federal Government's willful acts and omission that affected the outcome of this case be suppressed or will it be publicly reviewed by the Supreme Court of the United States?

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Denice Baker

Date: January 21, 2024

