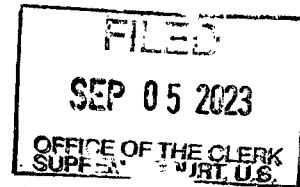


ORIGINAL

No. 23-7155



IN THE

SUPREME COURT OF THE UNITED STATES

Mary A. Kinneed — PETITIONER
(Your Name)

vs.

Memphis Light, Gas and Water RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court Western District of Tennessee
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mary A. Kinneed
(Your Name)

4217 Auburn Rd.
(Address)

Memphis, Tennessee 38116
(City, State, Zip Code)

(901) 691-7333.
(Phone Number)

QUESTION(S) PRESENTED

Did the Defendant & Appellant, Memphis Light, Gas and Water Division engage in Age Bias against the Plaintiff -

Mary Kindred, When it refused to hire her as a full time Armed security officer between 01/17/16 and 03/09/2018. Did the Defendant, M.L.G.W, engage in practices that treated the Plaintiff ~~disparately~~ when it did the following; hire a younger employee full time while Denying the Plaintiff full time employment which had been contractually guaranteed in an agreement between the Memphis City Council and M.L.G.W; when M.L.G.W violated the discovery process by refusing to answer any interrogatory questions or provide any documents requested in the Plaintiff's interrogatory and in doing so prevented the court from properly resolving this case.

Secondly, did M.L.G.W misuse the provisions of the Americans with Disabilities Act as Amended when it did not present the subject to the Plaintiff properly and ignore the submission of a requested document before summarily firing her.

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:

RELATED CASES

List of Parties

Mary Kindred

PA FSW Division

United States Court of Appeals

Attorney: Thomas Henderson Council for
PA FSW Division

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Statement of the Case

This appeal to the members of the Supreme Court is based on two issues. The first issue is a complaint of discrimination in employment based on age. The second issue is based on my employer, "Memphis Light Gas and Water Division to properly administer the provisions of the Americans with Disabilities Act as Amended and a failure to afford me all the rights to which I was entitled relating to the length of sick leave permitted.

In December 2015 I was employed as an armed security officer by CDA Security Inc. That firm had a contract with MLGW TO furnish security personnel. I was employed by CDA, Security for ten years and assigned to two MLGW sites that were across the street from each other the entire time. I worked for CDA and was an armed security officer for the entirety of my employment.

In 2015, MLGW decided to provide its own security and terminated the contract with CDA Security Inc. The Memphis City Council maintains oversight of the MLGW operations and funds its budget. In their deliberations, Memphis City Council members decided that all former CDA Security, Inc employees who had been assigned to MLGW sites would be guaranteed full time employment as MLGW employees. See Attachment #1 Minutes of the City Council Meeting, 12/15/2015. When the former CDA employees first began employment with MLGW, we were asked to agree to a thirty hour per week work schedule. It was explained that this would allow for training completing paperwork etc. to move former CDA employees into full time, 40 hour per week, assignments. I was not called in for additional training during this period of time in 2016. I assumed that this exclusion was due to my having qualified for employment based on tests and other measures, e.g., interviews that occurred before our official hire date. In exclusion from the 2016 training, the I submitted that it was an act of disparate treatment designed to disqualify me for full time employment. As the months passed in 2016 former CDA employees and new hires from outside of CDA were hired and given full time, 40 hour per week, many of these new employees were younger than I and not have as much experience as I had as an armed security officer. I inquired several times as to when I would be called in to get my paperwork for a full-time assignment. The answer was always "soon". Around October 2016 my hours were reduce twenty or fewer hours per week. The work schedule was erratic and prevented from obtaining addition employment that would help me meet my living expenses. The loss of income was so stressful that I went out on unpaid medical leave effective June 7, 2017. It became necessary for me to received regular psychological counseling from 2017 to 2022. I was required to call in to my supervisor, "Alonzo Hardy" to report whether any change such as improvement had occurred. I adhered to this requirement diligently and did not miss calling one time.

I filed an EEOC Complaint on March 21, 2018. During March 2018 filed EEOC complaint their investigation, Mr. Hardy accused me of failing to meet to comply worth the call-in procedure. That was a false accusation. No member of management accused me of failing to meet the call-in procedure prior to the EEOC interview. The upshot of the EEOC investigation was that I was given a right to sue. See Attachment 3 Dismissal and Notice of Rights.

MLGW proceeded to misuse the Americans with Disabilities Act as Amended to terminate my employment. I was contracted January 8, 2018, in response to an inquiry I had made about an entry of "Minus forty hours" on all my paystubs. My pay stubs also reflected an entry of FTE which stood for Full Time Equivalency. That entry meant that the number of hours I worked a week was combined with the number hours another employee worked total forty hours per week. The entry for my annual salary was

\$37,440.00. This amount equaled full time forty hours per week at \$18.00 per hour. It was my inquiries about entries on my paystubs that eventually led to what was purported to be an RDAA Interactive process. Initially, after my inquiring about an entry over my paystub- FLSA. The call was made to the payroll department. One and half hours after that call, my supervisor, Mr. Hardy advised me that I had do in person meeting scheduled for January 10, 2018. That call was made on January 8, 2018. I was unable to attend the meeting due to illness. Another meeting was scheduled for a week later, but I could not make it due to inclement weather. No one answered my inquiry about the minus forty entry. After the second meeting was cancelled. I was informed that we could conduct the meeting by telephone and its purpose was to furnish a specific return to work date and to conduct something on the order of a job interview. He noted that the medical coordinator was not present. At no time did Mr. Hardy or Mr. Eric Conway mention ADAA Interactive Process. See Attachment 4 Plaintiff's Opposition to Statement of Undisputed Material Facts.

It should be noted that the Supervisors reiterated that a specific return to work date must be furnished. My psychological counselor, Ms. Stoney sent a second email specifying a return date of April 1, 2018, that same day. MLGW ignored receipt of the second statement which specified a return to work of April 1, 2018. It was unfair of MLGW to terminate my employment without having allowed me to try to return on the date given by counselor. Their actions reflected that the ultimate purpose was to fire me.

One especially egregious aspect to my case was that the defendant was permitted to violate the rules of discovery by failing to answer the interrogatory sent to them and refusing to furnish any documentation requested. Over the course of time, this complaint has pended MLGW has offered three different reasons for their not furnishing the requested information and data. The reason given for their (MLGW's) for their refusing to comply with discovery requirements was because this plaintiff has failed to mean a deadline of February 26, 2021 to complete discovery. MLGW did not identify the magistrate who issued the alleged deadline. No copy of such a statement can be founded in the file. An examination of the document that which MLGW referred, item 62, reflect a deadline to complete discovery of March 29, 2021.

MLGW is the custodian pf records that can confirm the allegations regarding hiring practices that reflect a difference between the way this plaintiff was denied full time employment as compared with other applicants, some of whom had fewer qualifications.

This case has been pursued with all the due diligence of which I am capable. It is not a frivolous matter to be denied full time employment when by any standard I was entitled to it. MLGW has failed to present any valid reasons for refusing me full time employment. The only apparent distinction between others who were hired as fill time employees and me is that I was older.

The employer, Memphis Light Gas and Water division has dealt with me desparingly and refusing full time employment in so doing I was denied access short term disability, FMLA, and acquitted earnings that had been approved and guaranteed. The court is requested to find the employer in violation of the age discrimination act of 1967 and the American Disabilities Act as amended.

I respectfully request the U.S. Supreme Court to accept this case for review.

ver. 11-1

Reason for Granting the Petition
The State Court and Appeals Court in
Overlooking the Contractual Agreement dated 12/2016
between MFGW and CDR to hire the contracted
Employee to In house MFGW I was hire as
a full time Security Guard per security Manager
Mrs. Maria Mason Documentation were sent as
evidence the Federal Court error is not
seeing as truth in my case I feel that all
the errors should speak for itself such as
a Definite "return to work date" were given ^{04/04/18}
and not an estimated date my doctor
plainly stated if they ^{were} an update before I
return on April 1, 2018 just contact her
there was no emphasis that the my return
Date would change another error the
completion of the EEOC Documentation in this case
should Dismissal and Notice of Rights to Suit. I
Don't understand when the court stated the EEOC
a copy is in the case file and it stated this does
not certify that the respondent /MFGW is in
compliance with the statutes I thought that
was their position to determine if they are in
compliance or not, another error Refusing to
completing the discovery process, refusal to
turn over documents nor answer the Interroga-
tories that I sent them & now the Magistrate
judge stated in his recommendation under 28 USC
page 10 of 27 OVER

1915(e)(2) allowing me to proceed with
her/my failure to accommodate and retaliation
claims under ADA and her disparate-treatment
under the ADEA on page(s) of the cause of
Appeal document, also "28 U.S. 1915(e)(2)(C)
all is truth I really need proper representation.
M&GW never ^{see} proof of me having enough
hours for FML nor Unum short term
disability in which I was eligible for, I
asking, mercy and help to grant fair
and righteous decision to grant my
Petition.

Respectfully Submitted
Mary Kinder

02/07/24

(Addendum)

Reason For Granting The Petition

Up under the ADA leave policy to protect your job the objective in providing leave as a reasonable accommodation is to allow a qualified employee with a disability the job protected time that is needed to manage their medical impairment in order to return to the workforce whether that be within three weeks, six months, or twelve; my supervisor had me calling in every weeks with my status. The name was Al Hardy their are many errors in my case that hasn't been properly adhere or correction made. My supervisor proved the case nor gave me the document I needed for the Recovery process.

Mary Kinked

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dwight Knobell
Date: 09/05/2023