

No. 24-1206

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In the  
Supreme Court of the United States

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DARYAO S. KHATRI,

*Petitioner,*

v.

BOARD OF TRUSTEES OF THE UNIVERSITY  
OF THE DISTRICT OF COLUMBIA,

*Respondent.*

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On Petition for a Writ of Certiorari to the  
District of Columbia Court of Appeals

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REPLY BRIEF OF PETITIONER

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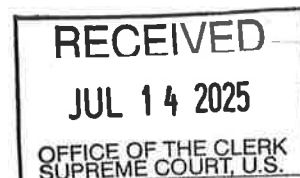
July 9, 2025

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**TABLE OF CONTENTS**

	Page
TABLE OF AUTHORITIES .....	ii
ARGUMENT .....	1
I. Contrary to What the Respondent States in Its Opposition Brief, the Petition for a Writ of Certiorari Was Filed Within 90 Days with This Court.....	1
II. Contrary to Respondent’s Assertion, UDC Faculty Are Considered Federal Employees for the Purpose of Court Cases .....	2
III. Contrary to Respondent’s Assertion, This Court Has Jurisdiction Over This Case .....	3
IV. Contrary to Respondent’s Assertion, This Court Has an Obligation to Consider Facts Which Have Come to Light in 2024 After Exhaustive FOIA Requests .....	3
CONCLUSION.....	4

# TABLE OF AUTHORITIES

Page

## CASES

<i>Colvin vs Howard University</i> , Sup. Ct. No. 21-7308 (March 2022) .....	2, 3
<i>Martin v. Howard University</i> , Sup. Ct. No. 21-7308 (2011) .....	2
<i>McDonnell Douglas Corp. v. Green</i> , 411 U.S. 792 (1973) .....	1

## STATUTES

28 U.S.C. § 1257.....	1
29 U.S.C. § 626.....	2, 3
29 U.S.C. § 633.....	2, 3
42 U.S.C. § 2000e-5.....	2, 3

## JUDICIAL RULES

Sup. Ct. R. 13.1 .....	1, 2
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## ARGUMENT

Contrary to what the Respondent, UDC, stated, the Petitioner filed this Petition for a Writ of Certiorari within 90 days as required by Supreme Court Rule 13.1. This court has jurisdiction under 28 U.S.C. § 1257 because employees of the University of the District of Columbia are considered Federal employees for the purpose of the court cases as has been the case for Howard University employees in the District of Columbia.

Additionally, the Respondent wrongfully argues that the *McDonnell Douglas* test shall apply to this case by stating, the District of Columbia Superior Court and the District of Columbia Court of Appeals determined that it is bound by a prior decision applying a *McDonnell Douglas* test and a but-for causation standard to a federal-sector retaliation case.

In addition, the Respondent argues that this court should overlook facts even if the decision of the lower court(s) was obtained based on falsehoods regarding the hiring of full-time faculty in the physics program starting during the 2022-23 academic year.

### **I. Contrary to What the Respondent States in Its Opposition Brief, the Petition for a Writ of Certiorari Was Filed Within 90 Days with This Court**

The respondent admits that the decision of the DC court of appeals was entered on January 6, 2025. A timely petition for rehearing and rehearing *en banc* was denied on January 31, 2025. A simple count will

show that the deadline to file a Writ of Certiorari will be April 29, 2025, or before.

A letter from this court will show that the writ of certiorari was filed on April 21, 2025, and placed on the docket on May 27, 2025. Obviously, the writ of certiorari was filed with the 90 days as prescribed by Supreme court rule 13.1.

## **II. Contrary to Respondent's Assertion, UDC Faculty Are Considered Federal Employees for the Purpose of Court Cases**

The District of Columbia and by extension the employees of the University of the District of Columbia are covered by the same rules as Federal employees when dealing with age discrimination. "Employees of the District government shall have certain rights to file complaints with the United States Equal Employment Opportunity Commission (EEOC) pursuant to § 706 of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5, and to pursue remedies provided for in the Age Discrimination in Employment Act, as amended, 29 U.S.C. §§ 626 and 633."

This case was first appealed to EEOC on or around June 6, 2019. If it is not a federal case, then the courts will not require that any case from the District employees shall be appealed to EEOC before it can be filed with the court system.

Moreover, this court has accepted cases from employees of Howard University, Washington, D.C. (Case # No. 21-7308, *Covin v. Howard University* and Case # No. 11-484, *Martin v Howard University*) which are like the cases from the employees of the University of the District of Columbia.

### **III. Contrary to Respondent's Assertion, This Court Has Jurisdiction Over This Case**

This court accepted and ruled in cases involving Howard University, Washington, DC (Case # No. 23-975 and Case # No. 21-7308). University of the District of Columbia is similarly situated to Howard University; they both are in Washington, DC, and they both receive subsidies from the Federal Government. Therefore, for employees of UDC, this court has jurisdiction in this case. Furthermore, employees of UDC are directed to appeal their age discrimination case to EEOC before filing cases in the courts. Specifically, as it relates to the District of Columbia employees, it states that

Employees of the District government shall have certain rights to file complaints with the United States Equal Employment Opportunity Commission (EEOC) pursuant to § 706 of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5, and to pursue remedies provided for in the Age Discrimination in Employment Act, as amended, 29 U.S.C. §§ 626 and 633.

### **IV. Contrary to Respondent's Assertion, This Court Has an Obligation to Consider Facts Which Have Come to Light in 2024 After Exhaustive FOIA Requests**

“In its decision of 2/7/2023, the District of Columbia Court of Appeals noted that “As Drs. Seyoum and Khatri acknowledge, UDC has not hired any fulltime physics faculty in the intervening years.” Obviously, this fact of not employing full-time faculty in physics after the RIF became the driver of the court's decision.

This was the case up until the academic year 2021-2022. Since then, the University has conceded that it hired two full-time faculty with benefits to teach physics classes even when this legal case is still in the courts. Therefore, the conclusion of DCCA was premature and incorrect. This information is factual, and the court must take this fact into account.



### CONCLUSION

For the foregoing reasons and based on this court decision in the case of Babb and Wilkie, this Court should grant this petition and issue a writ of certiorari to review the judgment and opinion of the District of Columbia Court of Appeals.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Daryao S. Khatri".

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