

No. *14-354*

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ORIGINAL

IN THE
Supreme Court of the United States

Petitioner Wei Qiu

Wei Qiu
v.
Board of Education of Scott County, KY

On Petition for Writ of Certiorari to the U.S. 6th
Circuit Court of Appeals for Its Denial of Qiu's
Appeal of Her Employment Discrimination Case

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

Wei Qiu the American citizen of Chinese origin pursued Title VII of the Civil Rights Act of 1964 for the discrimination against her based on her race, color, national origin when she searched for employment with Scott in the federal court. Wei Qiu had to be a pro se because no lawyer took her small money value case. She ignorantly filed groundless motions to tell the court that Scott lied in the discovery. The court ordered her to get the magistrate judge's permission to file her pleadings. Later the court took advantage of the limit on Qiu to deny Qiu to file her 59(e) motion to alter the errors of fact and law and injustice in the order which granted Scott's summary and Qiu's sanction motion to tell the court the facts in Scott's summary were lies. Qiu's 59(e) and sanction motions were not filed into the docket.

Questions to be Answered

1. Can the court deny a litigant to file her 59(e) motion and sanction motion?
2. Did the court violate Qiu's Constitutional right to Due Process under Section 1 of Amendment XIV for denying Qiu to file her 59(e) and sanction motions?
3. Did the court violate the procedure law the Federal Rules of Civil Procedure for denying Qiu to file her legitimate 59(e) and sanction motions?

List of procedure

Wei Qiu v. Board of Education of Scott County,
KY, 5:21 cv 00197, U.S. District Court for the Eastern
District of Kentucky, Judgement entered 05/26/23;
59(e) was Denied to be filed on 08/23/23.

Wei Qiu v. Scott County, KY Board of Education,
23-5842, U. S. Court of Appeals for the 6th Circuit,
Judgment entered on April 8, 2024; Petition to
Rehear was Denied on April 22, 2024.

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Petitioner Qiu respectfully asks that a writ of *certiorari* be issued to review Order D 19 of the U.S. Court of Appeals For the 6th Circuit filed on April 8, 2024, and Order DN 111 of the U. S. Eastern District Court of Kentucky filed on 05/26/23. Qiu also asks to review Order DN 128 of the district court filed on 8/23/23 which denied the file of Qiu's 59(e) and sanction motions.

OPINIONS BELOW

Order D 19 filed on April 8, 2024, was issued from the U.S. Court of Appeals For the 6th Circuit which affirmed the district court's Order DN 111. Order D 19 is attached as Appendix B. Order D 22 denied the petition to rehear on April 22, 2024. Order D 22 is attached as Appendix D.

Order DN 111 filed on 05/26/23 was issued from the U. S. Eastern District Court of Kentucky which denied Qiu's Summary. Order DN 111 is attached as Appendix A. Order DN 128 denied the file of Qiu's 59(e) and sanction motions on 8/23/23. Order DN 128 is attached as Appendix C.

JURISDICTION

D 22, the denial of the petition to rehear, was entered on April 22, 2024, in the 6th appeal court. Under 28 U.S.C. § 1254(1), the instant case is in the

jurisdiction of the U.S. Supreme Court. The letter from the Supreme Court was dated July 30, 2024, that Qiu must file her petition before September 28, 2024.

CONSTITUTIONAL PROVISIONS, STATUTES, AND POLICY AT ISSUE

The Rule of Law, EQUAL JUSTICE UNDER LAW, no one is above the law.

AMENDMENT XIV of the Constitution Section

1. Rights nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Title VII of the Civil Rights Act of 1964 UNLAWFUL EMPLOYMENT PRACTICES SEC. 2000e-2. [Section 703] (a) Employer practices It shall be an unlawful employment practice for an employer - (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;

If an employment practice which operates to exclude Negroes cannot be shown to be related to job

performance, the practice is prohibited. GRIGGS v. DUKE POWER CO., 401 U.S. 424 (1971).

Federal Rules of Civil Procedure: Rule 11(c) Sanctions.
Rule 59(e) Motion to Alter or Amend a Judgment.

STATEMENT OF THE CASE

A. Introduction of the Case Procedure

Qiu tells the events first. The filings about the events follow her depiction of the event.

Qiu was an American citizen of Chinese origin. Qiu landed in the U.S. in the early 90s when she was 29 that she spoke with an accent. Qiu was a certified high school chemistry teacher possessing the recognition of excellence of chemistry Praxis.

Qiu applied for the chemistry teaching position Scott opened in the spring of 2020, and Scott completely ignored Qiu. Qiu applied for a chemistry teaching position Scott opened in the summer of 2020, and Qiu emailed Principal Lusby for her attention for Qiu's application multiple times. Lusby called Qiu. Having heard Qiu's accent in the call, Lusby ignored Qiu excluding Qiu from hiring again.

Qiu emailed Lusby for an explanation when Qiu received the rejection, and Lusby ignored Qiu. Qiu filed the discrimination happened to her with the EEOC.

Scott told two lies to EEOC: in the call Qiu expressed a desire to *only* teach upper level and AP chemistry students and discussed her success with teaching AP students. Qiu cracked the lie that *Qiu discussed her success with teaching AP students* in her reply: of her teaching experience of two and half years, Qiu only taught AP chemistry for half a year just before she applied for the chemistry position with Scott. Lusby called Qiu on July 14, 2020, and the AP chemistry exam report was released on July 15, 2020. On July 14, 2020, Qiu did not know her success of teaching AP students that she could not discuss it. Lusby's lie was easily cracked.

The EEOC issued the Right to Sue.

Qiu sued Scott in the federal court Eastern District of Kentucky. Scott deleted the lie Qiu cracked before the EEOC and used the other to dismiss the case. Qiu showed the two lies Scott told the EEOC and Scott deleted the cracked lie and kept the other lie to dismiss the case in the court. Qiu cracked the kept lie.

Qiu had to be a pro se because her case value was small that no lawyer would take her case, very confusing in the court. In a groundless motion, Qiu stated Lawyer Stigall was the lawyer for Scott when the case was with EEOC and she was the lawyer for Scott in the court, and Lawyer Stigall deleted the cracked lie before the EEOC and kept the other lie to dismiss the case. Lawyer Stigall filed DN 22 to state the case was ripe for an order from the court. But the case went on, and Scott told more lies in the discovery.

Qiu cracked Lusby's lie that Qiu discussed her success with teaching AP students in the call easily, but Qiu was shocked and horrified by Lusby's lie: if the call happened on July 16, Qiu could not prove Lusby lied that Lusby would have gotten away with her lie. When Scott told more lies in the discovery, Scott upset Qiu that Qiu filed groundless motions to tell the court Scott lied in the discovery like telling bad things to the police.

Magistrate Judge Atkins trusted Scott and the professionals. He issued Order DN 82 blaming Qiu ad hominem the lawyers and Scott to limit Qiu from filing her pleadings. Qiu appealed. Judge Tatenhove issued Order DN 97 which adopted Order DN 82 for judicial economy. Order DN 97 let Qiu file legitimate motions. Page ID# 1041 in Order DN 97. Order DN 97

was a great order. Qiu suddenly understood what she was doing after reading Order DN 97. Qiu appreciated Order DN 97. Qiu deserved to be limited for her groundless filings which wasted the judicial resources because of her ignorance.

After discovery, Plaintiff Qiu and Defendant Scott each filed summary motion. In Order DN 111, Judge Tatenhove granted Scott's summary. By granting Scott's summary, Judge Tatenhove denied Qiu's summary.

Judge Tatenhove was no longer impartial. In Order DN 128, Judge Tatenhove denied Qiu to file her legitimate 59(e) and sanction motions which were legitimate in the Federal Rules of Civil Procedure, making up Qiu ad hominem the lawyer and his client in her 59(e) and sanction motions that he denied Qiu's 59(e) and sanction motions to be filed into the docket. Qiu's 59(e) and sanction motions were not heard. Judge Tatenhove did not issue orders to Qiu's 59(e) and sanction motions that Qiu was not heard for the contents in her 59(e) and sanction motions.

Qiu filed the recuse to ask Judge Tatenhove to disqualify from the case because he was on Scott's side, and Judge Tatenhove quickly denied Qiu's filing of her recuse.

Qiu appealed to the 6th Circuit Court timely based on Order DN 128 which denied Qiu to file her 59(e) and sanction motions.

The appeal court avoided Qiu's qualifications for the chemistry positions. The appeal court avoided the fact that Scott completely ignored Qiu while interviewing uncertified white in the spring of 2020. The appeal court did not read Qiu's 59(e) and sanction motions. The appeal court affirmed Order DN 111 by Order D 19. Qiu filed her petition to rehear, the appeal court quickly denied Qiu's petition with Order D 22.

Qiu is appealing to the Supreme Court.

The filings of the case are in the dockets:

Wei Qiu v. Board of Education of Scott County, KY, 5:21 cv 00197, U.S. District Court for the Eastern District of Kentucky.

Wei Qiu v. Scott County, KY Board of Education, 23-5842, U. S. Court of Appeals for the 6th Circuit.

The critical filings were:

DN 8, Scott County's Motion to Dismiss. Lawyer Stigall deleted the cracked lie when it was with EEOC and kept the other to dismiss the case.

DN 9, Response to DN 8. Qiu put Scott's Position and Motion together to prove Scott tried to dismiss the case with a lie.

DN 11, Reply. Scott did not deny the two lies told to EEOC and the one lie to the court to dismiss the case.

DN 22, Scott County's Motion to ask for the court's decision for the case because Lawyer Stigall lied to the court to dismiss the case.

DN 88, Qiu's Motion for Summary Judgment.

DN 93, Scott County's Response to DN 88

DN 94, Qiu's Reply to DN 93

DN 91, Scott County's Motion for Summary Judgment. The facts of Scott's summary were Lusby's affidavits.

DN 95, Qiu's Response to DN 91

DN 99, Scott County's Reply to DN 95

DN 82, Magistrate Judge Atkins's order to limit Qiu's filing blaming Qiu ad hominem the lawyers and Scott.

DN 86, Qiu's Objection to Order DN 82.

DN 97, Judge Tatenhove's order limited Qiu's filing for judicial economy. Order DN 97 permitted Qiu to file legitimate motions.

DN 111, Order granted Scott's Motion for Summary Judgment DN 91 and denied Qiu's Motion for Summary Judgment DN 88.

DN 113, Qiu's 59(e) Motion to alter Order DN 111.

DN 115, Magistrate Judge Atkins's order did not permit Qiu's 59(e) to be filed.

DN 116, Qiu's objection to Order DN 115.

DN 119, Qiu's Sanction motion.

DN 120, Magistrate Judge Atkins's order did not permit Qiu's sanction to be filed.

DN 122, Qiu's objection to Order DN 120.

DN 128, Order from Judge Tatenhove which adopted Magistrate Judge's Orders DN 115 and DN 120 to deny Qiu to file her 59(e) and sanction motions.

DN 121, Scott's response to Qiu's 59(e) as Magistrate Judge Atkins ordered. It was the opportunity Magistrate Judge Atkins gave Scott to defend Qiu's ad hominem on the lawyers and Scott in Qiu's 59(e).

Alas, Lawyer Salsburey did not explain DN 22 and the conflicts in Lusby's affidavits. When Lawyer Salsburey filed his response DN 121, the sanction DN 119 had already appeared in the docket. Lawyer Salsburey avoided the facts and laws in Qiu's 59(e) and sanction motions.

DN 123, Qiu's Reply to DN 121.

DN 129, Qiu's Recuse motion based on Order DN 128.
DN 130, Magistrate Judge Atkins's order did not permit DN 129 to be filed.

DN 131, Qiu's objection to Order DN 130.

DN 134, Judge Tatenhove denied Qiu's Recuse DN129 to be filed.

B. Statement of Facts

Qiu was an accented American citizen of Chinese origin. Qiu was a certified chemistry teacher with excellence of chemistry Praxis. Qiu's chemistry was at Professor Bush's level at the University of Kentucky. Qiu was a passionate educator who was able to maintain, and even instill, high standards in students. Qiu's chemistry teaching was outstanding. Qiu's personality and dedication to students made her classroom a safe place for students to learn. Qiu handled NTI (teaching online) better than most of other teachers. Qiu achieved the rate of 5 at 38% while it was 6% in Kentucky when Qiu applied for the chemistry position in the summer of 2020 with Scott. Before Qiu became a teacher, she earned a job evaluation of 4.47 for her solving the problem that repeatedly failed Ph. Ds at the College of Pharmacy at the University of Kentucky. Page ID# 631-632, 684-694 in Qiu's summary DN 88.

Qiu applied for the chemistry teaching position Scott opened in the spring of 2020. Scott ignored Qiu

interviewing uncertified white who was unqualified for the position. Page ID# 630-631 in Qiu's summary DN 88; Page ID# 979-980 in Qiu's reply DN 94.

Discovery found this position taught AP chemistry. Scott hired white Cosgrove with failed experience of teaching AP chemistry. Cosgrove failed to teach AP chemistry for Scott again. Page ID#980 in Qiu's reply DN 94; Page ID# 1001-1002 in Qiu's response DN 95; Page ID# 705 at the bottom small prints in Scott's summary DN 91.

Qiu applied for the chemistry teaching position Scott opened in the summer of 2020. Qiu emailed Principal Lusby multiple times for her attention to Qiu's application. Lusby called Qiu on July 14, 2020. Having heard Qiu's accent, Lusby hired the white Perraut on the day. Page ID# 655, 657 in Qiu's summary DN 88. Lusby ignored Qiu since the call.

Discovery found Perraut had only a reference from his teacher preparation program. Perraut did not have any reference from his jobs including his teaching job in his application; Perraut did not have his chemistry Praxis in his application; Perraut did not have any shining spot in his application. Page ID# 631, 668-683 in Qiu's summary DN 88. Perraut's application was also in Page ID# 873-888 in Scott's summary DN 91.

Lusby knew she discriminated against Qiu that Lusby told two lies to the EEOC: *During her phone interview with Ms. Q, Ms. Qiu expressed a desire to only teach upper level and AP chemistry students and discussed her success with teaching AP students.* Middle of Page ID# 33 in Qiu's response DN 9. Qiu cracked the lie that *Qiu discussed her success with teaching AP students* in her response: Qiu only taught AP chemistry for half a year just before she applied for the chemistry position in the summer with Scott. Lusby called Qiu on July 14, 2020, and the AP chemistry exam report was released on July 15, 2020. On July 14, 2020, Qiu did not know her success of teaching AP students that she could not discuss it. Page ID# 32 in Qiu's response DN 9. Lusby's lie was easily cracked.

In the court, Lawyer Stigall deleted the cracked lie before the EEOC and kept the other lie *During her phone interview with Qiu, Qiu expressed a desire to only teach upper level and AP chemistry students* to dismiss the case. Line 1-2 in Page ID# 34 in Qiu's response DN 9. Qiu cracked the kept lie. Page ID# 38-42 in Qiu's response DN 9.

Lawyer Stigall filed DN 22 to state the case was ripe for a decision of the court when Qiu proved the lawyer was not honest with the example that she deleted the cracked lie and kept the other to dismiss

the case in a groundless motion. DN 22 was the iron evidence Scott and its lawyers lied materially to dismiss the case. Scott and its counsels lied materially to dismiss the case knowingly and purposefully before both the EEOC and the court. **Magistrate Judge Atkins was wrong in his order DN 82 to accuse Qiu ad hominem the professionals and Scott.**

Lusby went on to tell lies in the discovery all the way into Scott's summary DN 91 and brief D 16. Page ID# 1459-1463, 1470-1479 in Qiu's sanction DN 119, Page 1-4 in Qiu's reply D 18. Qiu the pro se was ignorant to file motions to tell the court Scott lied in the discovery. Magistrate Judge Atkins said Qiu ad hominem the lawyers and Scott in Order DN 82. Judge Tatenhove issued Order DN 97 to limit Qiu's filing for judicial economy. Order DN 97 permitted Qiu to file legitimate motions. Page ID# 1041 in Order DN 97. Order DN 97 had the facts exactly correct. Order DN 97 was a great order.

Plaintiff Qiu and Defendant Scott each filed summary after discovery. Scott's summary DN 91 was based on Lusby's affidavit and Willis's affidavit. Page ID# 757-767, EXHIBIT 7, 8 in Scott's summary DN 91. Lusby even created Willis to lie with her. Page ID# 999-1000 in Qiu's response DN 95. Judge Tatenhove granted Scott's summary by Order DN 111 avoiding Lusby's creation of Willis. In Order DN 111, Judge

Tatenhove did not hear Qiu that the facts in Scott's summary DN 91 were lies of Lusby and Willis the figure Lusby created. Page ID# 999-1000 in Qiu's response DN 95. Judge Tatenhove violated the Due Process in the Constitution that his Order DN 111 was injustice for he only heard Scott's lies.

Judge Tatenhove was not impartial after his Order DN 97. He denied Qiu's legitimate motions 59(e) and sanction to be filed into the docket in Order DN 128 by his falsified facts. DN 129, Qiu's recuse motion.

Qiu's sanction contains DN 22 which Lawyer Stigall filed because she was shy of her lie to the court. Qiu's sanction contained three affidavits of Lusby in which Lusby conflicted with herself loudly. Page ID# 1457-1494, Qiu's sanction DN 119. On the open page, Qiu's 59(e) pointed out the error of fact of Order DN 111 that Judge Tatenhove purposely avoided the fact Scott interviewed uncertified white ignoring certified Qiu for the open in the spring of 2020. Page ID# 1355 in Qiu's 59(e) DN 113. Judge Tatenhove could not grant Scott's summary not avoiding this fact. Judge Tatenhove wanted to keep the grant to Scott's summary that he could not let Qiu's 59(e) and sanction be filed into the docket. He had to violate the Due Process in the Constitution, and he did. Injustice

just so happened when Qiu was not heard shorting Due Process.

Scott's Position before the EEOC and Motion to Dismiss DN 8 before the district court containing the lies to dismiss the case were in Qiu's sanction DN 119. Page ID# 1466, 1467. DN 22 was in Qiu's sanction DN 119. Page ID# 1469. Lusby's three affidavits in which the conflicts were marked were in Qiu's sanction DN 119. Page ID# 1471-1479. The affidavit of Willis the figure Lusby created was in Qiu's sanction DN 119. Page ID# 1481-1486. The appeal court did not read Qiu's sanction DN 119. The appeal court copied Magistrate Judge Atkins's Order DN 82 and other orders. Page 4 in Order D 19, **Page 60 in Appendix B.** The appeal court ignored Order DN 97 which riding over DN 82, permitting Qiu to file legitimate motions. The appeal court cherrypicked. The appeal court took the Magistrate Judge's orders more important than the Due Process in the Constitution. The injustice was so affirmed.

C. STANDARD OF REVIEW

The following is copied from White v. Metro. Housing Auth., 429 F.3d 238, (6th Cir. 2005):

A plaintiff can establish a claim of race, color, national origin discrimination under Title VII by

producing either direct or circumstantial evidence of discrimination. *DiCarlo*, 358 F.3d at 414. "[D]irect evidence is that evidence which, if believed, requires the conclusion that unlawful discrimination was at least a motivating factor in the employer's actions." *Jacklyn v. Schering-Plough Healthcare Prods. Sales Corp.*, 176 F.3d 921, 926 (6th Cir. 1999). Once the plaintiff has produced credible direct evidence, the burden shifts to the employer to show that it would have taken the employment action of which the plaintiff complains even in the absence of discrimination. *Id.*

When a plaintiff proceeds on her claim using circumstantial evidence, she bears the burden of establishing a prima facie claim of discrimination under the tripartite *McDonnell-Douglas* framework. See *DiCarlo*, 358 F.3d at 414 (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802, 93 S.Ct. 1817, 36 L.Ed.2d 668 (1973)). Once the plaintiff establishes a prima facie claim, the burden shifts to the defendant to proffer a legitimate, non-discriminatory reason for the employment decision at issue. *Seay v. Tenn. Valley Auth.*, 339 F.3d 454, 463 (6th Cir. 2003). If the defendant is able to meet this burden, the plaintiff must establish that the defendant's stated reason is mere pretext for its true discriminatory motives. *Id.*

D. ARGUMENT

The Courts did not Hear Qiu That Scott Interviewed Uncertified White and Scott Excluded Certified Qiu in the Spring of 2020

Scott interviewed uncertified white and Scott excluded certified Qiu for the chemistry teaching open Posting ID 69 in the spring of 2020. Page ID# 630-631 in Qiu's summary DN 88; Page ID# 979 in Qiu's reply DN 94; Page ID# 1001 in Qiu's response DN 95. Scott did not deny this fact in any of its motions in the district court. The district court avoided this fact that Scott interviewed the uncertified white and Scott excluded certified Qiu. The district court falsified the fact by only stating *She did not get an interview for the first application*, cutting off the fact that Scott interviewed uncertified white. Line 2 in Page ID# 1343 of Order DN 111; **middle in Page 41 in Appendix A**. The district court violated Qiu's Constitutional right to due process in Section 1 of Amendment XIV for not hearing Qiu for this material fact.

Scott interviewed uncertified white and Scott excluded certified Qiu in the spring of 2020 for Job Posting 69 was in Page 4 in Qiu's brief D 12 and Page 6 in Qiu's reply D 18. Scott did not deny this fact in its Brief D 16. The appeal court avoided this fact in Order D 19. *The school hired Rhonda Cosgrove, a white*

woman, to the first position without interviewing Qiu, cutting off the fact that Scott interviewed uncertified white and Scott excluded certified Qiu. Line 6-7 in Page 1 in Order D 19; **Upper in Page 56 in Appendix B.** The appeal court avoided the fact of the absolute discrimination to affirm Order DN 111. Qiu pointed out the avoidance in Page 1-2 in her petition D 21 to rehear, and the appeal court quickly denied Qiu's petition.

The Courts were on Scott's side not hearing Qiu violating Qiu's Constitutional rights of the Due Process and the equal protection of the laws under Section 1 of Amendment XIV.

Scott was Liable for Interviewing Uncertified White and Excluding Certified Qiu

Scott directly discriminated against Qiu when making the decision to interview the uncertified white and to exclude the certified Chinese Qiu based on the consideration of race, not the qualifications of the applicants to perform the job. (in the employment decision *at the moment it was made*) *Price Waterhouse v. Hopkins*, 490 U.S. 228, 241, 109 S.Ct. 1775, 104L.Ed.2d 268 (1989). Scott did not explain that even it did not discriminate against Qiu, it still did not interview the certified Qiu in the district court and the appeal court. The decision to interview uncertified white and to exclude the certified Chinese

Qiu was the result of the consideration of race that Scott directly violated Title VII. *Jacklyn v. Schering-Plough Healthcare Prods. Sales Corp.*, 176 F.3d 921, 926 (6th Cir. 1999).

The undisputed fact that Scott interviewed unqualified white excluding qualified Chinese Qiu concluded that Scott did not hire Chinese. Page ID# 1001 in Qiu's response DN 95. Because Scott did not hire Chinese, Scott directly violated Title VII of the Civil Rights Act of 1964 UNLAWFUL EMPLOYMENT PRACTICES SEC. 2000e-2. [Section 703] (a) *Employer practices It shall be an unlawful employment practice for an employer - (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin;.* **Scott directly violated Title VII because it did not hire Chinese.**

Because Scott interviewed unqualified white excluding qualified Chinese Qiu, discrimination happened under the *McDonnell-Douglas* framework. Qiu the plaintiff (1) is a member of a protected class; (2) was qualified for the position; (3) suffered an adverse employment action; (4) was treated differently than similarly situated, non-protected

employees. *McDonnell Douglas*, 411 U.S. at 802-803. The undisputed fact that Scott interviewed the unqualified white excluding qualified Chinese Qiu set up the four elements of the *McDonnell-Douglas* framework standing well. Scott could not proffer a nondiscrimination reason. Page ID# 965-967 in Scott's response DN 93. Qiu proved that Scott's proffer (1) has no basis in fact: The interviewed were uncertified white, and the excluded were certified Chinese. The hired white Cosgrove failed the job of teaching AP chemistry for Scott in the position predicted by her failed experience of teaching AP chemistry of 10 years. (2) was not the actual reason: the actual reason was Scott considered race only to make its interview list that Scott interviewed uncertified white and Scott excluded certified Chinese. Scott's intention of discrimination was further demonstrated that Lusby hired the less qualified white Perraut for the Job Posting ID 146 on the day she heard Qiu's accent in the call. (3) is insufficient to explain the employer's action: Scott's proffered reason could not explain its excluding certified Qiu while interviewing uncertified white. Page ID# 979-981 in Qiu's reply DN 94. *White v. Baxter Healthcare Corp.*, 533 F.3d 381, 393 (6th Circuit, 2008). Qiu proved Scott failed to cover its discrimination against Qiu.

Scott discriminated against Qiu for interviewing unqualified white and excluding qualified Qiu which

was tremendous disparate treatment. Only more qualified applicant was hired that discrimination did not happen. *White v. Columbus Metropolitan Housing Auth*, 429 F.3d 232, 243, 244, 245, 247, 248 (6th Cir. 2005). *If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited.* *GRIGGS v. DUKE POWER CO.*, 401 U.S. 424 (1971).

The courts avoided the fact of discrimination that Scott interviewed uncertified white and Scott excluded certified Qiu to grant Scott's summary and affirm the grant. The courts did not hear Qiu violating Qiu's Constitutional rights to Due Process and the equal protection of the laws in Section 1 of AMENDMENT XIV. The courts violated the Rule of Law to falsify fact to favor Scott. Thus the injustice of Order DN 111 and D 19 happened.

Scott Discriminated against Qiu for Hiring Perraut on the Day Lusby Heard Qiu's Accent in the Summer of 2020

Lusby hired Perraut on the day she heard Qiu's accent excluding Qiu from hiring. Page ID# 655, 657 in Qiu's summary DN 88. Perrant's application was in Page ID# 668-683 in Qiu's summary DN 88. Perraut's application was also in Page ID# 873-888 in Scott's summary DN 91. There was not any shining point in Perraut's application like Qiu's excellence of

chemistry Praxis. Perraut did not have a reference from his jobs including his teaching job. The comparison of the qualifications of Qiu and Perraut:

1. Qiu possessed the excellence of chemistry Praxis. Perraut did not present his chemistry Praxis in his application only because it was not good.
2. Qiu had Professor Bush's reference in which Qiu's chemistry was at Professor Bush's level. Perraut could not be close to Qiu with his master's degree.
3. Qiu had references from the schools she taught. Perraut did not have a reference from his jobs, including his teaching job.
4. Qiu achieved 5 rate 38% of AP chemistry exam, and Qiu presented it to Lusby in the email on July 20, 2020. Page ID# 652 in Qiu's summary DN 88. Perraut did not achieve so.

The above facts were in Page ID# 684-694, 668-683 in Qiu's summary.

Qiu set up her *prima facie*. Plaintiff Qiu (1) is a member of a protected class; (2) was qualified for the position; (3) suffered an adverse employment action; (4) was treated differently than similarly situated, non-protected employees. *McDonnell Douglas*, 411 U.S. at 802-803. Page ID# 631-635 in Qiu's summary DN 88.

Scott disputed the 4th element. Scott did not prove the hired white Perraut was more qualified than Qiu for the position, or Scott did not compare the qualifications of Perraut and Qiu for the position. Page ID# 967-970 in Scott's response DN 93. Scott failed to prove the hired Perraut was more qualified to perform the job of teaching chemistry. Scott argued based on Lusby's affidavit in Ex. 7. The small print in the bottom of Page ID# 967 in Scott's response DN 93. Lusby told lies to dismiss the case since the case was before EEOC which led Lawyer Stigall filed DN 22. Lusby's affidavit could not be taken as evidence. *Falsus in uno.* Scott's response directly failed because it took Lusby's affidavit as evidence.

The Lawyer inserted Chinese accent in the deposition to fake Lusby had no intention to discriminate against Qiu's accent. Page ID# 968-969 in Scott's response DN 93. Lusby demonstrated her intention to discriminate against Qiu by her action: she hired Perraut as soon as she heard Qiu's accent. Page ID# 655 (Lusby's call was on July 14), 657 (*On July 14, 2020, the position was filled by Dylan Perraut*) in Qiu's summary DN 88.

Qiu replied in DN 94. Qiu proved that Scott's proffer (1) has no basis in fact: Qiu discussed the problem that Perraut had no reference from his jobs was a red flag. Qiu compared the qualifications of Perraut and Qiu to perform the job which concluded

Qiu was superior to Perraut to perform the job. Page ID# 981 in Qiu's reply DN 94. Qiu was strong to teach general chemistry, and Qiu was satisfied to teach chemistry. Page ID# 982, 989-991 in Qiu's reply D 94. (2) was not the actual reason: Qiu proved Lusby intended to discriminate against Qiu with Lusby's history of discrimination against Qiu, and Lusby hired the less qualified Perraut on the day she heard Qiu's accent. Page ID# 981, 982, 992-993 in Qiu's reply D 94. (3) is insufficient to explain the employer's action: Lusby hired Perraut on the day she heard Qiu's accent in the call possessing her history of discrimination against Qiu. Lusby demonstrated she was ingrained to discriminate against Chinese. Page ID# 981, 982, 992-993 in Qiu's reply D 94. Therefore, Qiu proved Scott pretexted to cover its discrimination against Qiu. *White v. Baxter Healthcare Corp.*, 533 F.3d 381, 393 (6th Circuit, 2008).

Only the qualifications of the applicants' to perform the job were acceptable, all other reasons were declined. *White v. Columbus Metropolitan Housing Auth.*, 429 F.3d 232, 243, 244, 245, 246, 247, 248 (6th Cir. 2005). *If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited.* *GRIGGS v. DUKE POWER CO.*, 401 U.S. 424 (1971). Scott violated Title VII because it hired the less qualified white Perraut over the more qualified Chinese Qiu.

Lusby Lied all the Way

Lusby hired Perraut on the day she heard Qiu's accent. Page ID# 655, 657 in Qiu's summary motion DN 88. Lusby knew she discriminated against Qiu that she told two lies to EEOC to escape: ... *Ms. Qiu expressed a desire to **only** teach upper level and AP chemistry students and discussed her success with teaching AP students.* Page ID# 33 in Qiu's response DN 9. There were only Lusby and Qiu in the call that Lusby told the lie carefree.

Lusby had not known there was solid evidence to crack her lies. The call was on July 14, 2020. Page ID# 655 in Qiu's summary DN 88. The AP chemistry exam report was released on July 15, 2020. Qiu did not know her success in teaching AP students on July 14, 2020 that she could not discuss it. Lusby's lie was easily cracked before the EEOC.

In the court, Lawyer Stigall deleted the cracked lie and kept the other lie to dismiss the case. Page ID# 33, 34 in Qiu's Response DN 9. Qiu cracked the kept lie Lawyer Stigall used to dismiss the case. Page ID# 38-42 in Qiu's Response DN 9. Lawyer Stigall filed DN 22 to state the case was ripe for a decision from the court when Qiu proved Lawyer Stigall was not honest taking the foregoing as an example in a groundless motion.

Lusby went on to tell more lies in her affidavits, and Lusby even created Willis to tell lies with her in Scott's summary D 91. Page ID# 999-1000, 1007 in Qiu's response DN 95.

Scott did not deny it tried to dismiss the case with lies knowingly in any of its motions in the district court. Scott did not explain DN 22 in any motions in the district court. Scott did not explain the conflicts in Lusby's affidavit in any motions in the district court.

Order DN 111 granted Scott's summary DN 91 avoiding Qiu argued Lusby lied and Lusby created Willis to lie with her in Scott's summary DN 91 in her response DN 95 (Page ID# 999-1000, 1007). The district court did not say Qiu made nonsense in her response. The district court did not hear Qiu. The district court violated Qiu's Constitutional right to Due Process. The district court took Lusby's lies and the figure Lusby created Willis's lies to grant Scott's summary DN 91. Bottom in Page ID# 1346 in Order DN 111; **Bottom in Page 46 in Appendix A.**

Qiu proved Scott lied in the appeal court. Page 10, 11 in Qiu's Brief D 12. Scott did not confront Qiu in its brief D 16. Qiu further proved Scott lied all the way into its summary DN 91 and brief D 16 in her reply D18. Page 1-4 in Qiu's reply D 18. Order D19 affirmed Order DN 111 not hearing Qiu argue that Scott lied all

the way into its brief D 16. The appeal court did not say Qiu made nonsense in her brief and reply. The appeal court did not hear Qiu. The appeal court violated Qiu's Constitutional right to Due Process.

Qiu Did Not Ad Hominem the Lawyers and Lusby; Scott's Summary DN 91 and Brief D 16 were False Documents

Magistrate Judge Atkins ordered Scott to respond to Qiu's 59(e) to defend itself from Qiu's ad hominem at the end of Order DN 117, trusting Scott and its lawyers very much mistakenly. When Lawyer Salsburey filed his response DN 121, Qiu's sanction motion already appeared in the docket. Lawyer Salsburey avoided DN 22 and the conflicts in Lusby's affidavits in his defense DN 121.

Magistrate Judge Atkin blamed Qiu ad hominem the lawyers and Lusby that Qiu should be limited from filing her motions in his order DN 82, trusting the professionals too much. Qiu did not ad hominem the lawyers and Lusby that Lawyer Salsburey could not confront Qiu in his response DN 121 avoiding the facts and laws in all Qiu's motions including the groundless ones. Qiu the pro se ignorantly filed groundless motions to tell the court Scott lied in the discovery. Qiu could not find out what ground was in the court until she guessed it out in Order DN 97 which ruled

Qiu's appeal on Order DN 82. Order DN 97 limited Qiu's filing for judicial economy, and Order DN 97 permitted Qiu to file legitimate motions. Page ID# 1041 in Order DN 97. Order DN 97 had the facts exactly right and limited Qiu fairly. Order DN 97 was a great order.

The appeal court did not hear Qiu's 59(e) and sanction motions. The appeal court copied Magistrate Judge Atkin's Order DN 82 and other orders. Page 4 in Order D 19; **Page 60-61 in Appendix B.** The appeal court took Magistrate Judge Atkins's orders more important than the Due Process in the Constitution. The appeal court avoided Judge Tatenhove's Order DN 97 which permitted Qiu to file her legitimate motions riding over Order DN 82. The appeal court cherrypicked for Scott. The appeal court violated Qiu's Constitutional rights to Due Process and the equal protection of the laws in Section 1 of Amendment XIV.

Lawyer Salsburey signed DN 22 with Lawyer Stigall. Lawyer Salsburey knew to avoid DN 22 and the conflicts of Lusby's affidavits in his response DN 121 which was the opportunity Magistrate Judge Atkins gave to beat Qiu.

Still, Lawyer Salsburey built his summary DN 91 based on Affidavit of Joy Lusby (EXHIBIT 7) and

Affidavit of Amie “Creshen” Willis (EXHIBIT 8). (Willis was the figure Lusby created to cover her discrimination against Qiu, see Qiu’s sanction DN 119.) Page ID# 703, 704, 705, 706, 707, 708 in the FACTS part of Scott’s summary DN 91. Lawyer Salsburey knowingly filed the false document Scott’s summary DN 91. Qiu argued Lusby lied in Lusby’s affidavits and Lusby created Willis to lie with her in Qiu’s response DN 95. Page ID# 999 - 1000, 1009 - 1015 in Qiu’s Response D 95. Order DN 111 took Lusby’s and Willis’s affidavits as a legitimate non-discriminate reason, not hearing Qiu’s argument that Lusby and Willis the figure Lusby created lied in their affidavits. Page ID# 1346-1347 in Order DN 111; **Page 46-47 in Appendix A.** Order DN 111 granted Scott’s summary DN 91 the false document not hearing Qiu’s response.

Still, Lawyer Salsbury built his brief D 16 based on Affidavit of Joy Lusby and Affidavit of Amie “Creshen” Willis in the appeal court. Page 16, 17, 18, 19, 20, 21, 22, 23, 24 in STATEMENT OF THE CASE part of his brief D 16 and Page 36, 37 in ARGUMENT part of his brief D 16. Qiu argued that Lawyer Salsburey knowingly built his summary DN 91 and Brief D 16 based on Lusby’s affidavit of lie and Willis’s affidavit of lie in her reply DN 18. Page 1-5 in Qiu’s reply D 18. The appeal court affirmed Order DN 111 not hearing Qiu’s reply.

**Order DN 111 Falsified the Facts to Get
Cosgrove and Perraunt were More Qualified
than Qiu; Order D 19 did not have Qiu's
qualifications**

Order DN 111 brushed Qiu's qualifications: it only mentioned a part of Qiu's qualifications brushing, cutting off the part it did not like. For example, it only stated Qiu's rate of 5 scores on AP exam, avoiding to state Qiu's rate of 5 scores on AP exam was 38% while it was 6% in Kentucky; it only stated a job evaluation, not stated a job evaluation of 4.47. Page ID# 653, 685 in Qiu's summary DN 88, Page ID# 1347, 1348 in Order DN 111; **Bottom of Page 47 and second half of Page 48 in Appendix A.**

Order DN 111 took Lusby's lies and the figure Lusby created Wllis's lies as Scott satisfied its burden to conclude the hired Cosgrove and Perraunt were more qualified than Qiu. Bottom in Page ID# 1346 in Order DN 111; **Bottom in Page 46 in Appendix A.**

Order DN 111 falsified the facts to conclude Cosgrove was more qualified than Qiu. Nude original facts: Cosgrove did not have success in her experience of teaching AP chemistry in her application. Page ID# 980, 984-986 in Qiu's reply DN 94; Page ID# 1001-1002, 1018-1020 in Qiu's response DN 95. Cosgrove failed teaching AP chemistry in the position

for Scott again that the AP chemistry ceased. Page ID# 705 (small print at the bottom) in Scott's summary DN 91. Lusby degraded the AP chemistry into duel because AP chemistry was too difficult. Of course, the things are very difficult if you do not have the skill to do. Order DN 111 falsified the nude, original facts that Cosgrove was awful for the position of teaching AP chemistry as *She also alleges*. Middle in Page ID# 1347 in Order DN 111; **From Bottom Line 8-7 in Page 47 in Appendix A.**

Order DN 111 falsified facts to conclude Perraut was more qualified than Qiu. The nude, original facts: Perrant did not have a reference from his jobs including his teaching job which was his last job. Perraut did not present his chemistry Praxis only because he was not proud of it. Perrant's application was in Page ID# 668-683 in Qiu's summary DN 88. Qiu proved Perraut's less qualifications in Page ID# 631 in Qiu's summary DN 88; Page ID# 981 in her reply DN 94; Page ID# 1004 in Qiu's response DN 95. Order DN 111 falsified the nude, original facts of the lousy qualifications of Perraut as *her belief, she states*. Line 3, 4 in Page ID# 1348 of DN 111; **Middle in Page 48 in Appendix A.**

The nude, original facts of Qiu's qualifications was in Page ID# 631-632, 684-694 in her Summary DN 88, including Dr. Bush's reference in which Qiu's chemistry was at Dr. Bush's level, her job evaluation

of 4.47 at the research lab at the College of Pharmacy at the University of Kentucky, her excellence of chemistry of Praxis, her references of the schools she taught, her reference of the science director of Advanced Kentucky in which Qiu was able to maintain, and even instill, high standards in students, and her student's praise of her online teaching was better than most of her other teachers. Page ID# 631-632, 684-694 in her Summary DN 88.

Having brushed Qiu's qualifications and falsified the nude, original facts as *She also alleges, her belief, she states*, Order DN 111 finished falsifying facts: ... *Ms. Qiu may disagree with that choice, but she has no evidence that Scott County's conclusion that those individuals were more qualified is untrue, not its true motivation, or insufficient to not hire her. ... But she presents nothing beyond her own suspicion to support her belief that her national origin was the actual reason that Scott County rejected her application. Ms. Qiu's suspicion is insufficient without "evidence that the employer's proffered reasons were factually untrue. "* Page ID# 1349 in Order DN 111; **Page 50-51 in Appendix A.** Qiu's evidence of the nude, original facts were in Page ID# 631, 668-683 in Qiu's summary DN 88 (Perraut's application); Page ID# 631-632, Page 684-694 in Qiu's summary DN 88 (Qiu's qualifications); Page ID# 980, 984-986 in Qiu's reply DN 94 (Cosgrove did not have success in teaching AP chemistry and

Cosgrove failed teaching AP chemistry again for Scott in the position); Page ID# 981 in Qiu's reply DN 94 (comparing the qualifications of Perraut and Qiu citing DN 88); Page ID# 1004 in Qiu's response DN 95 (the problem that Perraut did not have reference from his jobs and the comparison of the qualifications of Perrau and Qiu citing DN 91 Scott's summary and DN 88 Qiu's summary). **The district court faked that Qiu has no evidence to prepare to grant Scott's summary.**

Qiu's qualifications were in Page 3, 6, 12-13 in Qiu's brief D 12, Page 7-9 in Qiu's reply D 18. Qiu's qualifications were not in Order D 19. The appeal court did not hear Qiu. The appeal court affirmed Order DN 111 only displaying Cosgrove's and Perrayt's qualifications. Page 3 in Order D 19; **Page 59-60 in Appendix B.** (Cosgrove's and Qiu's qualifications need not be compared because Qiu was excluded for the position while Scott interviewed the unqualified white.) The appeal court did not compare the qualifications of Perraut and Qiu to perform the job like *White v. Columbus Metropolitan Housing Auth*, 429 F.3d 232, 243, 244, 245, 247, 248 (6th Cir. 2005). The appeal court was against *White* to be errors of fact and law to affirm Order DN 111 which granted Scott's summary.

The Courts Violated Qiu's Constitutional Rights: Order DN 128 from the District Court

Denied Qiu to File Her 59(e) and Sanction Motions, and D 19 from the Appeal Court did not Hear Qiu's 59(e) and Sanction Motions

59(e) and sanction motions were legitimate motions that should be filed to secure the party's Constitutional rights of the Due Process and the equal protection of the laws under Section 1 of Amendment XIV. Because the Constitution was the highest of the land, a party need not to give a reason in any condition to file her legitimate motions 59(e) and sanction which having grounds in the Federal Rules of Civil Procedure to secure her Constitutional rights of the Due Process and the equal protection of the laws.

Order DN 128 denied Qiu to file her 59(e) and sanction motions by making up Qiu ad hominem Lawyer Salsburey and his client. Page ID# 1643, 1645 in Order DN 128; **Page 65-66, 68-69 in Appendix C.** Judge Tatenhove was no more impartial like he was in Order DN 97 in which his decision was made based on Qiu wasted litigation resources. Page ID# 1041 in Order D 97. Qiu did not ad hominem Lawyer Salsburey and his client. Qiu's 59(e) motion proved Lusby lied with the conflicts in Lusby's affidavits and the figure Lusby created Willis's affidavits, also the two lies Lusby told to the EEOC and the one lie Lusby told to the court to dismiss the case and DN 22 which Lawyer Stigall filed because she was shy of the lies. Page ID# 1356-1360, 1373-1394 in Qiu's 59(e) DN 113.

Rule 11 required that sanction must be a separate motion. Qiu's sanction motion DN 119 went into more detail to prove the lawyers and their clients did lie.

Lawyer Salsburey did not confront Qiu about the facts and laws in Qiu's 59(e) and sanction motions in his response DN 121 which was the opportunity Magistrate Judge Atkins gave Scott to defend in his order DN 117. In other words, Qiu did not ad hominem Lawyer Salsburey and his client in her 59(e) and sanction motions and any other motions that Lawyer Salsburey could not confront Qiu.

The district court did not like to face a pile of lies that would harm its granting of Scott's summary. So the district court made up Qiu ad hominem to deny Qiu to file her 59(e) and sanction motions.

The district court was impossible to make up any excuse to deny Qiu to file her legitimate motions 59(e) and sanction because 59(e) and sanction have the legal ground in the Federal Rules of Civil Procedure to secure a citizen's Constitutional right to Due Process and equal protection of laws in Section 1 of Amendment XIV. Any reason the district gave could not overcome the Constitution. The district court denied Qiu to file her 59(e) and sanction motions that the district court violated the Federal Rules of Civil Procedure which led to the violation of Qiu's

Constitutional right to Due Process. Consequentially, the injustice of granting Scott's summary which was a false document was secured in the shortage of Qiu's 59(e) and sanction motions to correct the errors of fact and law in Order DN 111.

Qiu argued Order DN 111 adopted Scott's material lie and asked the appeal court to read her sanction motion DN 119. Page 10, 11 in Qiu's brief DN 12. Qiu argued Scott's summary DN 91 and Brief D 16 were based on Lusby's lies and the created figure by Lusby Willis's lies in Page 1-4 in her reply DN 18. The appeal court did not hear Qiu. The appeal court did not hear Qiu's 59(e) and sanction motions. The appeal court copied the Magistrate Judge Atkins's Order DN 82 and other orders to not read Qiu's 59(e) and sanction motions. Page 4 in Order D 19, **Page 60-61 in Appendix B.** The appeal court took the Magistrate Judge's orders more important than the Due Process of the Constitution. The appeal court violated Qiu's Constitutional right to Due Process.

Thus the courts did not hear Qiu's legitimate motions 59(e) and sanction which have grounds in Rule 59 and Rule 11 of the Federal Rules of Civil Procedure. Thus the courts violated the Federal Rules of Civil Procedure which led to the violation of Qiu's Constitutional rights of Due Process and equal

protection of the laws under Section 1 of Amendment XIV.

Questions to the Justices:

1. Can the court deny a litigant to file her 59(e) motion and sanction motion?
2. Did the court violate Qiu's Constitutional right to Due Process under Section 1 of Amendment XIV for denying Qiu to file her 59(e) and sanction motions?
3. Did the court violate the procedure law the Federal Rules of Civil Procedure for denying Qiu to file her legitimate 59(e) and sanction motions?

E. REASONS FOR GRANTING THE PETITION

The courts did not hear Qiu's 59(e) motion which told the errors of fact and law and injustice in Order DN 111. The courts did not hear Qiu's sanction motion which told the facts of Scott's summary DN 91 were lies of Lusby. The courts violated Qiu's Constitutional right to Due Process caused by the district court's violation of the Federal Rules of Civil Procedure to deny Qiu to file her 59(e) and sanction motions. Because the courts did not hear Qiu's 59(e) and sanction motions, Scott was left above the law Title VII. Injustice was so conserved in the federal court.

Order DN 111 and Order D 19 must be reversed to prevent the orders from becoming precedence to violate the Federal Rules of Civil Procedure which leads to the violation of the Constitutional rights of American citizens.

Qiu asks the Supreme Court to make it clear that the filing of a legitimate motion under the Federal Rules of Civil Procedure cannot be denied.

CONCLUSION

For the foregoing reasons, this Court should grant this Petition for Writ of Certiorari.

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Respectfully submitted.