

24-399
No. 24-399
JUL 27 2024

OFFICE OF THE CLERK

In the
Supreme Court of the United States

HELEN ALLEN, *Petitioner*,

v.

FORD MOTOR COMPANY, *Respondent*.

On Petition For A Writ Of Certiorari to the
United States Court of Appeals For the Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

Helen Allen
9530 Pineview Road
Suffolk, Virginia, 23437
Appellant, Pro Se

QUESTIONS PRESENTED

1. Whether evidence of Harassment and Discrimination, as documented by Petitioner in numerous complaints that were acknowledged by Ford Motor Company and its Labor Relations is inadmissible hearsay that warrants a grant of summary judgment?
2. Does dismissing claims of hostile work environment, sexual harassment, and gender discrimination without considering evidence presented constitute an erroneous ruling by the district court?
3. Whether the district court abused its discretion for dismissing claims of racial discrimination, racial harassment, and retaliation for engaging in first amendment protected activity without analyzing evidence presented by appellant?

PARTIES TO THE PROCEEDINGS AND RELATED CASES

All parties to the proceedings are listed in the caption.

The proceedings in federal trial and appellate courts identified below are directly related to the above captioned case in this Court.

Helen Allen v. Ford Motor Company, No. 21-cv-962, United States District Court for the Northern District of Illinois, Eastern Division. Judgment entered September 8, 2023.

Helen Allen v. Ford Motor Company, No. 23-2969, United States Court of Appeals for the Seventh Circuit. Judgment entered May 6, 2024.

TABLE OF CONTENTS

QUESTIONS PRESENTED	2
PARTIES TO THE PROCEEDINGS AND RELATED CASES	3
OPINIONS BELOW	6
JURISDICTION	6
STATUTES AND RULES INVOLVED	6
STATEMENT OF THE CASE	7
REASONS FOR GRANTING THE PETITION	13
I. EVIDENCE OF HARASSMENT AND DISCRIMINATION, AS DOCUMENTED BY PETITIONER IN NUMEROUS COMPLAINTS THAT WERE ACKNOWLEDGED BY FORD MOTOR COMPANY AND ITS LABOR RELATIONS IS NOT INADMISSIBLE HEARSAY, AND DOES NOT WARRANT A GRANT OF SUMMARY JUDGMENT	13
II. THE DISTRICT COURT ERRED FOR DISMISSING CLAIMS OF HOSTILE WORK ENVIRONMENT, SEXUAL HARASSMENT, AND GENDER DISCRIMINATION WITHOUT CONSIDERING EVIDENCE PRESENTED BY APPELLANT	16
III. THE DISTRICT COURT ABUSED ITS DISCRETION FOR DISMISSING CLAIMS OF RACIAL DISCRIMINATION, RACIAL HARASSMENT, AND RETALIATION FOR ENGAGING IN PROTECTED ACTIVITY UNDER THE FIRST AMENDMENT WITHOUT ANALYZING EVIDENCE PRESENTED BY PETITIONER	19
CONCLUSION	22
Appendix A - Judgment in the U.S Court of Appeals for 7th Cir (May 6, 2024)	23
NONPRECEDENTIAL DISPOSITION	23
IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION	30
ORDER	30
SUMMARY JUDGMENT STANDARD	30
BACKGROUND	34
ANALYSIS	43
CONCLUSION	49

TABLE OF AUTHORITIES

Cases

<i>Poller v. Columbia Broadcasting System, Inc.</i> , 368 U.S. 464 (1962)	13
<i>Richardson v. Perales</i> , 402 U.S. 389 (1971)	14
<i>International Brotherhood of Teamsters v. United States</i> , 431 U.S. 324 (1977)	16
<i>Meritor Savings Bank, FSB v. Vinson</i> , 477 U.S. 57 (1986)	16
<i>Harris v. Forklift Systems, Inc.</i> , 510 U.S. 17 (1993)	17
<i>Patterson v. McLean Credit Union</i> , 491 U.S. 164 (1989)	19
<i>St. Mary's Honor Center v. Hicks</i> , 509 U.S. 502 (1993)	20

Statutes

42 U.S.C. § 2000e-2(a)(1)	16
42 U.S.C. § 2000e-3(a)	20

Other Authorities

Fed. R. Civ. P. 56(a)	13
Fed. R. Evid. 803(1)	14
Fed. R. Evid. 807(a)(1)(2)	15

Helen Allen respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit.

OPINIONS BELOW

The opinion of the U.S. District Court for the Northern District of Illinois is reported at 1:2021 cv 00962 (Sep. 8, 2023).

The opinion of the Seventh Circuit is reported at No. 23-2969 (7th. Cir. May. 6, 2024).

JURISDICTION

The U.S. Court of Appeals for the Seventh Circuit entered Judgment on May 6th, 2024, and denied a timely petition for rehearing. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTES AND RULES INVOLVED

The appendix reproduces parts of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-2(a)(1), 2000e-3(a)-Unlawful employment practices.

STATEMENT OF THE CASE

Petitioner, Helen Allen, an African-American Muslim commenced employment with Ford Motor Company in the year 2000. She transitioned to Chicago Assembly Plant (CAP) in Chicago, Illinois, as an hourly plumber/pipfitter in January 2012.

The Chicago Assembly Plant (CAP) maintained a workforce of over 4,600 with over 1,000 per shift. Petitioner was represented by a local chapter of the United Auto Workers ("UAW").

Ford administered a comprehensive Anti-Harassment Policy throughout Petitioner's time with the company (on which she was also trained). Policy explicitly instructed employees to "immediately report" any harassment to their supervisors and local Human Resources representatives (**HR**), referred to as Labor Relations for hourly employees, or Ford's anti-harassment hotline.

In May 2012, Petitioner conveyed her concerns via email to a production manager, characterizing the CAP as "dysfunctional" and expressed a desire for the plant's closure to facilitate her transfer elsewhere. In August 2012, Petitioner submitted a handwritten note to Labor Relations, wherein she stated that she had become a "bull's eye" following her May 2012 complaint. In the same note, Allen asserted that her superintendent had been unduly harsh towards her and had engaged in micromanagement, including requiring her to carry a radio. Petitioner

particularly stated that her superintendent was discriminatory because she was "a black, [Muslim female that he can't intimidate or sleep with."

In April 2013, Petitioner initiated the first of three charges filed with the Equal Employment Opportunity Commission ("EEOC"). Petitioner alleged retaliation and discrimination based on race, color, gender, and religion. Further that she had faced disciplinary actions on two occasions, that "non-Black, light-skinned employees" were subjected to less severe disciplinary measures.

In July 2013, Petitioner communicated with CAP's Plant Manager via email, registering complaints of harassment, retaliation, and prejudice directed at her on the basis of her race and religion. In her email, Petitioner alleged being deprived of "proper lunches and breaks."

In December 2013, Petitioner sent an email to CAP's **HR** Manager, reporting an incident involving a male security contractor who had allegedly used profanity towards her. Incident occurred after she accidentally caused flooding when she drained CAP's fire protection system without first turning off the water. Security contractor told her "if you don't know what the Fuck you're doing, don't touch the MF system."

On January 15, 2014, Petitioner provided a statement to Labor Relations, wherein she asserted that she had been exposed to frequent instances of "sex talk" at CAP, occurring not on a monthly basis, but daily. That, when she informed the Plant Engineering Manager that she had not signed off on work orders, he

responded with profanity. Further, she stated that she overheard the same engineering manager, on separate occasions, make derogatory comments about one employee's anatomy and another employee's conduct. Petitioner also mentioned an instance involving a male hourly carpenter who had made a sexual joke. Later that day, Petitioner requested that Labor Relations withdraw her complaint. Stating that she did not want to have anyone disciplined. Notwithstanding, Ford Labor Relations and UAW personnel conducted additional interviews with Allen and seven other Ford employees regarding the complaint. Petitioner supplemented her complaint with a "chronology" listing all the offensive language she had allegedly overheard at CAP since 2012. Petitioner documented six additional incidents involving unnamed coworkers, during which she claimed to have overheard crude sexual remarks over a two-year period spanning from 2012 through 2013. While Ford did not substantiate the crude sexual remarks, it did conclude that the hourly carpenter had used inappropriate language and imposed a one-month suspension.

In February 2014, Allen raised concerns about two instances of phallic graffiti at the Plant. Petitioner actively sought out the graffiti after hearing a radio call requesting a painter to cover it up. Ford, in conjunction with UAW, initiated an investigation and interviewed ten individuals, including Petitioner , but could not identify the individual(s) responsible for the graffiti.

The following month, March 2014, Petitioner filed two complaints on the same day, both related to an incident outside the men's bathroom. In February and

March of 2014, Petitioner made a series of claims alleging that she had been labeled and outed as a complainant within the organization.

In May 2014, Petitioner emailed Labor Relations, raising concerns about an altercation she had with an engineering specialist. The specialist accused Allen of refusing an assignment, becoming confrontational, and leaving the job site. Petitioner claimed that she had declined the assignment on safety grounds and asserted that the engineering specialist "seems to have issues with women and minorities." When asked why she believed this, Petitioner stated that other women and minorities had conveyed similar concerns to her.

In August 2014, Petitioner alleged that an area manager was retaliating against her by inquiring about her phone usage at work (App.2). Petitioner subsequently went on leave for a period of five months. Upon her return, Labor Relations interviewed her but refused to substantiate her complaint.

In March 2015, Labor Relations conducted an interview with Petitioner following her complaint that a team manager was mistreating two other women. Petitioner claimed that one woman had filed a complaint against the manager, while another alleged that the manager had wrongfully denied her leave.

Petitioner also mentioned a female employee whom she did not personally know but had heard of who was reputedly "known for grabbing [men's] private parts." Labor Relations later informed Allen that it had investigated and resolved the complaints.

In April 2015, Appellant raised concerns about "tension" with a male coworker and described her workplace environment as "hostile" because the coworker did not want to work with her. She contended that it amounted to harassment and that her supervisors were retaliating against her by offering the coworker overtime opportunities that she was entitled to. Again, Ford in its investigation found otherwise, stating that the coworker had a different job classification than Petitioner, which impacted overtime eligibility.

Further, in April 2015, Petitioner raised complaints about a female coworker who had allegedly made threatening remarks and exhibited inappropriate physical contact with male coworkers. Petitioner alleged that the coworker stated, "I will [engage in physical violence] against anyone, male or female," and had made suggestive gestures toward Petitioner. In August of the same year, Petitioner made another hotline call, alleging that the same female coworker had used offensive language and engaged in confrontational behavior. Labor Relations investigated and eventually corroborated the incident, leading to the suspension of the female coworker. In 2016, Allen spent just three months working at CAP before transferring to another Ford facility. During this brief period, she did not make any harassment complaints.

Petitioner, took an authorized medical leave of absence due to stress-related concerns. During her approved leave of absence, Petitioner was persuaded by Respondent to initiate the application process for Social Security benefits.

Petitioner was promptly approved for Social Security benefits. Petitioner, more or less, faced an environment that eventually brought about her resignation, creating a constructive discharge, despite the possibility of continuing employment for 17 additional years (App. D).

Consequently, Petitioner filed a Civil Action asserting (1) Sexual harassment, gender discrimination, and the establishment of a hostile work environment on the basis of sex, under Title VII; (2) Retaliation in contravention of Title VII; (3) Race discrimination, racial harassment, and the creation of a hostile work environment on the basis of race, under Title VII. The District Court, on August 8, 2023, granted Respondent's Motion for Summary Judgment, stating that Petitioner presented hearsay evidence.

Petitioner filed an appeal to the U.S. Court of Appeals for the Seventh Circuit on October 11, 2023. Petitioner urged the court to vacate summary judgment and remand action for proper adjudication. The Court of Appeals entered Judgment on May 6, 2024, on the grounds of "failure of proof." *Helen Allen v. Ford Motor Company, No. 23-2969 (7th. Cir. May. 6, 2024) at 1; (App. A).*

REASONS FOR GRANTING THE PETITION

I. EVIDENCE OF HARASSMENT AND DISCRIMINATION, AS DOCUMENTED BY PETITIONER IN NUMEROUS COMPLAINTS THAT WERE ACKNOWLEDGED BY FORD MOTOR COMPANY AND ITS LABOR RELATIONS IS NOT INADMISSIBLE HEARSAY, AND DOES NOT WARRANT A GRANT OF SUMMARY JUDGMENT

In granting a motion for summary judgment, the court must make certain that "the movant shows that there is no genuine dispute as to any material fact." Fed. R. Civ. P. 56(a). In different terms, "Summary judgment should be entered only when the pleadings, depositions, affidavits, and admissions filed in the case show that [-] there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Poller v. Columbia Broadcasting System, Inc.*, 368 U.S. 464. Relatively, Petitioner asserts that issues of material facts are unaddressed and that the lower court acted in error when it held that evidence presented are all hearsay. Further, Petitioner, in a complaint that was acknowledged by Stacey Allerton of Labor Relations, dated July 13, 2014, painted a detailed picture of sexual harassment, gender discrimination, and retaliation (App. E). In another email titled "I Need A Meeting with Human Resources" addressed to Mr Dodson on July 29, 2014, Petitioner reported Area Manager for Body Shop, Anthony Williams for Retaliating against her because she made Valid Complaints

to Labor Relations Rep and Safety Department.¹ Petitioner was singled out by Area Manager Williams and falsely accused of using her phone in an unauthorized area (App. F). Above all, Petitioner made countless complaints through outside, and internal channels. This court has held that a report by a licensed physician may be received as evidence. *See Richardson v. Perales*, 402 U.S. 389. Accordingly, the same rationale should be accorded to Petitioner's many complaints. Needles to say, Equal Employment Opportunity Commission established racial, sexual harassment and discrimination in a suit that Petitioner was also part of (App. G).

According to the Federal Rules of Evidence 803(1) "Present Sense Impression. A statement describing or explaining an event or condition, made while or immediately after the declarant perceived it" is not excluded by the rule against hearsay, irrespective of whether or not the declarant is available as a witness. Since all of Petitioner's internal complaints conveyed "Present Sense Impression" i.e., "events" that transpired at Ford Motor Company, it is evident that the lower court acted in error when it granted motion to dismiss on the basis of hearsay. Further:

...A hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Rule 803 or 804 [if] (1) the statement is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it was made and evidence, if any,

¹ Petitioner had initiated a complaint on Rick Webber, Anthony Wiliam's supervisor for bullying minorities and women.

corroborating the statement; (2) it is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts. F.R.E 807(a)(1)(2).

All statements made by Petitioner in her internal complaints to Labor Relations and the Harassment Hotline are facts of "sufficient guarantees of trustworthiness" vis-a-vis the totality of circumstances. More so, EEOC found overall sexual harassment and racial discrimination. A suit in which Petitioner was also a Charging Party. Petitioner pleads this court to reverse this grave error.

II. THE DISTRICT COURT ERRED FOR DISMISSING CLAIMS OF HOSTILE WORK ENVIRONMENT, SEXUAL HARASSMENT, AND GENDER DISCRIMINATION WITHOUT CONSIDERING EVIDENCE PRESENTED BY APPELLANT

According to the governing statute, it is an unlawful employment practice for any employer "...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...." 42 U.S.C. § 2000e-2(a)(1). Relatively, Petitioner furnished EEOC-Form 5 that she filed on the Charge of Discrimination, dated August 18, 2014 (App. H). Between August 8, 2016 and July 30 2018, Petitioner reported numerous incidents of Harassment and Discrimination in the workplace. This court has held that "Title VII is a remedial statute designed to eradicate certain invidious employment practices..."

International Brotherhood of Teamsters v. United States, 431 U.S. 324. To this effect, Petitioner underscored that she was denied a safe area to observe her daily prayers. That her request was shared with her non-black christian coworkers by Labor Relations Representative Nicolas Johnson, this consequently brought about a hostile working environment, and is synonymously discrimination on the basis of religion.

This court narrowed the parameters in *Meritor Savings Bank, FSB v. Vinson*, that "Where a complainant without good reason bypassed an internal complaint

procedure she knew to be effective, a court may be reluctant to find constructive termination and thus to award reinstatement or backpay" 477 U.S. 57 (1986). Petitioner utilized all internal grievance tools to emphasize that upon returning from medical leave, she was denied 160 hours of vacation / personal time which she was entitled to upon reinstatement. This is furthermore a breach of the Collective Bargaining Agreement between Ford Motor Company and International United Auto Workers which mandates that no employee should be penalized for disability related absence.

Generally, "When the workplace is permeated with "discriminatory intimidation, ridicule, and insult, that is "sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment, Title VII is violated." *Harris v. Forklift Systems, Inc.*, 510 U.S.17 (1993). The Harassment Online Form, which is further a transcript of all harassment complaints initiated by Petitioner (App. I), shows an abject violation of Title VII. It particularly reveals the extent to which Petitioner was subject to harassment and a hostile environment. This document shows that Petitioner on July 26, 2018 called the Harassment Hotline stating that she is afraid because she has been threatened by her supervisors and other people in the plant. On August 1, 2018, Petitioner updated her complaint that she is being watched and followed by four to five supervisors. Petitioner later confirmed from her coworkers that these supervisors are not there watching other employees whenever she is absent (App. I). In an email to Stacey Allerton of Ford, on July 13, 2014, Petitioner communicated

that she had been subject to discussions of sexual acts and sexual jokes.² These are actual incidents of Harassment. Accordingly, the lower court failed to construe the evidence of sexual harassment and hostile environment in the light most favorable to Pro Se Plaintiff.

² See Supra Appendix E at 5-6.

III. THE DISTRICT COURT ABUSED ITS DISCRETION FOR DISMISSING CLAIMS OF RACIAL DISCRIMINATION, RACIAL HARASSMENT, AND RETALIATION FOR ENGAGING IN PROTECTED ACTIVITY UNDER THE FIRST AMENDMENT WITHOUT ANALYZING EVIDENCE PRESENTED BY PETITIONER

a. Racial Harassment and Discrimination

Petitioner, an African American Muslim was ridiculed when she requested a space in which she could observe her prayers. Rather than honor Petitioner's request, Nicolas Johnson, a Labor Relations Representative, informed Petitioner's non-black coworkers who all made her an object of ridicule. Another African American female Muslim was confronted and harassed a month before. Accordingly, "Racial harassment in the course of employment is actionable under Title VII's prohibition against discrimination in the "terms, conditions, or privileges of employment." *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989). In an email to Stacey Allerton, Petitioner wrote that "I filed charges against Ford in March 2013 after writing many statement[s] to Labor Relations about the harassment I was receiving from my Supervisors in the Final Maintenance Department"³

The U.S. Equal Employment and Opportunity Commission, in its notice dated August 29, 2019, stated that while it is unable to substantiate claims contrary to Title IV, it also stated that it is unable to vindicate Respondent (App. H) at 12. Most importantly, EEOC established Sexual Harassment and Discrimination in a

³ See *Supra* Appendix E at 4-5.

class action against Ford.⁴ A suit which Petitioner was also part. This court has reasoned that "...A plaintiff alleging disparate treatment in the work place in violation of Title VII must provide the basis for an inference of discrimination." *St. Mary's Honor Center v. Hicks*, 509 U.S. 502. Petitioner, throughout her years at Ford Motor Company filed countless complaints and every allegation stated therein exceeds the threshold necessary to ascertain racial harassment and discrimination.

b. Retaliation for engaging in protected activity under the First Amendment

The statute governing unlawful employment practices makes clear that:

It shall be an unlawful employment practice for an employer to discriminate against any of his employees...because he has opposed any practice made an unlawful employment practice [-], or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter. 42 U.S.C. § 2000e-3 (a).

Accordingly, Petitioner established retaliation when she demonstrated that she was penalized for absenteeism related to seeking treatment for Service related disability. Petitioner was charged with being absent without leave, with Ford refusing to reinstate all benefits upon Petitioner being reinstated to full time work.⁵

⁴ See *Supra* Appendix G at 12.

⁵ See *Supra* Appendix F at 13

Furthermore, the Collective Bargaining Agreement between Ford and International United Auto Workers mandates no worker be penalized for absenteeism related to seeking treatment for Service related disability. In Ford's final act of retaliation, it denied Petitioner full retirement benefits after forcing her out upon returning from medical leave. All because she exercised her First Amendment rights and complained about racial discrimination and sexual harassment in the workplace.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully Submitted,

Helen Allen (Pro Se)