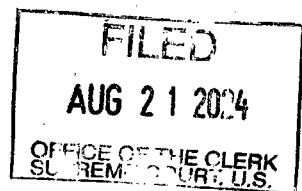


24-5422
No.

ORIGINAL

IN THE UNITED STATES SUPREME COURT



MalcolmX Johnson et., al.

Petitioner,

vs.

*Wise Staffing Group et., al
Pilgrim Pride
EEOC
Equal Employment Opportunity*

Respondent.

*MalcolmX Johnson
247 William Roberts Road
Apartment 504
Columbus, Mississippi
39702*

Petition For Writ of Certiorari

STATE OF MISSISSIPPI
COUNTY OF LOWNDES

Before me, the undersigned authority within and for said County and State, this day personally came and appeared MalcolmX Johnson, who being by me duly sworn, says that the matters alleged in the foregoing documents are true as therein stated to the best of his knowledge and belief. Signature of affiant MalcolmX Johnson

Sworn to and subscribed before me this the 21 day of

Aug

2024

Cindy E. Goode, Chancery Clerk
P.O. Box 684, Columbus, MS 39703
D.C.

My Commission Expires:

My Commission Expires Jan. 2, 2028

COVER PAGE

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OFFICE OF THE CLERK
SUPREME COURT, U.S.



QUESTIONS PRESENTED

“For the purpose of Title VII and the Equal Protection Clause, does a state employer’s refusal to take a required step for the hiring of a person because of that person’s race Constitute intentional racial discrimination if the refusal was based upon the employer’s various concerns about the racial balance in the employer’s workforce?”

□

1. *Does a case in which the court held that arbitration clauses in employment contracts are enforceable as a matter of federal law? 14 Penn Plaza LLC v. Pyett 556 US 247 (2nd Cir. 2009).*
2. *Should the District/Appellate Court have awarded backpay? Can an employer avoid suits under the Equal Employment Opportunity Act of 1972 By proving that discriminatory hiring tests are job- related? Albemarle Paper Company v. Moody 422 US 405 (4th Cir. 1975).*
3. *Did the Circuit Court use the proper standard of evidence for establishing that an employer’s asserted nondiscriminatory reason for a hiring decision is pretextual? Can an employer's use of the word “boy” to refer to an employee ever be evidence of a racial animus? Anthony Ash v. Tyson Foods, Inc. 546 US 454 (11th Cir. 2006)*
4. *May a worker sue his employer for retaliation under the Civil Rights Act of 1866? CBOCS West, Inc. v. Humphries 533 US 442 (7th Cir. 2008).*
5. *Is the Equal Employment Opportunity Commission’s Regulations, which permits the verification of a timely filed discrimination charge after the limitations period, valid?*
6. *Does the Court’s ruling Village of Willowbrook v. Olech, 528 U.S. 562 (2000), allow so-called “class of one” equal protection claims against government bodies in the context of employment discrimination? Engquist v. Oregon Department of Agriculture 553 US 591 (9th Cir. 2008).*
7. *Does a case in which the Court held that if an employer may be held liable under Title VII of the Civil Rights Act if an applicant can show that his need For an accommodation was a motivating factor in the employer’s decision, Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores, Inc. 575 US (10th Cir. 2015).*

8. Does an intake questionnaire submitted to the Equal Employment Opportunity Commission qualify as the charge of discrimination required by the Age Discrimination in Employment Act, even if the EEOC did not treat the questionnaire as a charge? *Federal Express Corporation v. Holowecki* 552 US 389 (2nd Cir. 2008).
9. Does congress have the authority to prohibit racial discrimination under Title VII absent proof that a governmental agency purposely discriminated on the basis of race? Can a court rely on statistical evidence to find *prima facie* case of race discrimination? *Hazelwood School District v. United States*
10. May a plaintiff, under Title VII of the Civil Rights Act of 1964, sue an employment discrimination claim that falls outside the statute's 300- day limit? May a plaintiff sue on claims that fall outside the period so long as the claims contribute to claims that took place within the period?
11. Did both Courts erred in its discretion to deny the petitioner's application to proceed *Forma Pauperis* under 28 U.S.C. § 1654?
12. Did the recruiting procedures violate the Equal Protection Clause of the Fourteenth Amendment?
13. Does the given name of the civil rights activist name "MalcolmX" resulted in his job discrimination with him being barred from employment due to being an african American male?

LIST OF PARTIES

The petitioner is MalcolmX Johnson, et., al.

The respondents are:

Wise Staffing Group; Pilgrim Pride et., al.

EEOC Case Evaluator: Joshua Collins

Director of EEOC: Charlotte Burrows

*Corporate Office For Wise Staffing: CEO % founder Marcus Clegg
& Pannell*

Director of EEOC Edmond Sims

Chairman of EEOC Charlotte Burrows

CORPORATE DISCLOSURES STATEMENTS

There are 10% percent or more of the stock of a party is owned by a publicly held corporation or other publicly held entity. The above named persons are parties interested in the outcome of this case.

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- *Appendix A. The Petitioner filed a EEOC the right to sue complaint at 200 Jefferson Avenue Suite 140 Memphis Tennessee 38103 on August 1, 2023.*
- *Appendix B. Plaintiff filed the EEOC right to sue letter attached with the Amended Complaint with the (Western District Court) on August 22, 2023.*
- *Appendix C. The EEOC right to sue letter has been denied and dismissed.*
- *Appendix D. #22-1073: The judgment order to dismiss the case with the (Western District Court) on September 27, 2022.*
- *Appendix E. #22-1073: Order for financial Affidavit was denied October 19, 2023 to Proceed in Forma Pauperis under the (Western District Court).*
- *Appendix F. #23-5927: Order of Dismissal Judgment in the Sixth Cir. on May 14, 2024.*
- *Appendix G. #23-5927: Filed to Proceed in Forma Pauperis denied in the Sixth Cir. on November 3, 2023.*

- *Appendix H. The judgment to dismiss under 28 U.S.C. § 1915 from the Sixth Cir. was on May 14, 2024.*
- *Appendix I. Advised to pay a filing fee of \$505.00 to reopen the case with the Sixth Cir, but was denied from the Sixth Cir on June 28, 2024.*

TABLES OF AUTHORITIES CITED

Cases	Pages.
<i>EEOC v. Abercrombie & Fitch Stores, Inc.</i> , 575 U.S. 768, 774 (2015)	
<i>EEOC v. Hearst Corp.</i> , 103 F.3d 462 (5th Cir. 1997)	
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<i>Ricci v. DeStefano</i> , 557 U.S. 557 (2009)	
<i>Univ. of Pennsylvania v. EEOC</i> , 493 U.S. 182 (1990)	10

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42 U.S.C. § 1981(a)-	

OTHER AUTHORITIES

<i>New Oxford American Dictionary</i> (3d ed. 2010)	5
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MISCELLANEOUS:

EEOC:

<i>Fair Employment Practices Agencies (FEPAs)</i> And <i>Dual Filing</i> , https://www.eeoc.gov/employees/fepa.cfm (last visited June 2, 2022)	3
<i>Title VII of the Civil Rights Act of 1964 Charges,</i> <i>FY 1997-FY 2017</i> , https://www.eeoc.gov/eeoc/statistics/enforcements/titlevii.cfm (last visited June 2, 2022)	30
<i>Donald R. Livingston & Reed L. Russell, EEOC</i> <i>Litigation and Charge Resolution</i> (2d ed. 2014)	3
<i>EEOC Enforcement Guidance on Retaliation and Related Issues</i> , No. 915.004 (Aug. 25, 2016) (available at www.EEOC.gov/law/guidance/retaliation:guidance.cfm)	3, 18
<i>Exec. Order No. 12067</i> , 43 Fed Reg. 28967 (June 30, 1978)	2
<i>Equal Employment Opportunity Comm'n:</i> <i>Compliance Manual 2006</i>	8
<i>Statutes by Issue (Charges filed with EEOC),</i> <i>FY 2010-FY 2019</i> , https://go.usa.gov/xdBBu (last visited March 20, 2022)	20
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Manual, https://go.usa.gov/xdB8t (last visited Mar. 20, 2022) 21

*Random House Dictionary of the English Language
(1966)* 8

*Webster's New International Dictionary of the
English Language (2nd ed. 1958)* 8

JURISDICTION

28 U.S.C. § 1251
28 U.S.C. § 1257

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth and Fourteenth Amendments of the United States Constitution limit the power of the federal and state governments to discriminate. The Fifth Amendment has an explicit requirement that the federal government not to deprive individuals of “life, liberty, or property” without due process of the law. It also contains an implicit guarantee that each person receives equal protection of the laws. The Fourteenth Amendment explicitly prohibits states from violating an individual’s rights to due process and equal protection.

In the employment context, the right of equal protection limits the power of the state and federal governments to discriminate in their employment practices by treating employees, former employees, or job applicants unequally because of membership in

a group (such as the right to free speech) or property interest. State constitution may also afford protection from employment discrimination.

UNLAWFUL EMPLOYMENT PRACTICES

Sec 2000e-2. [Section 703]

(a) Employer practices

It shall be an unlawful employment practices 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; or*

- (2) To limit, segregation, or classify his employees or applicants for employment in any which would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.*

ENFORCEMENT PROVISIONS

Sec 2000e-5. [Section 706]

(b) Power of Commission to prevent unlawful employment practices.

The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful employment practice as set forth in section 2000e-2 or 2000e-3 of this title [section 703 or 704].

(c) Charges by persons aggrieved or member of Commission of unlawful employment practices by employers, et.; filing; allegations; notice to respondent; contents of notice; investigation by Commission; contents of charges; prohibition on disclosure of charges; determination of reasonable cause; conference; determination of reasonable cause; conciliation, and persuasion for elimination of unlawful practices; prohibition on disclosure of informal endeavors to end unlawful practices; use of evidence in subsequent proceedings; penalties for disclosure of information; time for determination of reasonable cause.

OPINION

The petitioner filed a timely complaint to the EEOC to take remedial action regarding the alleged employment discrimination regarding his race, gender, age, and religion and any other protected class. The petitioner asserts that an United States District Court Western District Amended Complaint was filed in the matter case No. 23-1073 by Mr. Johnson on September 6, 2022 and the case was dismissed on September 27, 2022 without prejudice. The Forma Propersis was dismissed in order to proceed October 19, 2023. “When ruling on a plaintiff’s motion to dismiss on the pleadings a district order must construe the complaint in the light most favorable to the plaintiff, accept all of the complaint’s factual allegations as true, and determine whether the plaintiff undoubtedly can prove no set of facts in support of his claim that would entitle him to relief.” Kottmyer v. Maas, 436 F.3d 684, 689 (6th Cir. 2006) (quoting Ziegler v. IBP Hog MKT., Inc., 249 F.3d 509, 512 (6th Cir. 2001)). “To survive this Rule, the complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Engler v. Arnold, 862 F.3d 571, 575 (6th Cir. 2017) quoting Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)). A motion for the judgment on the pleadings “should be granted when there is no material issue of fact and the moving party is entitled to judgment as a matter of law.” Guy v. Spader Freight Services., No. 17-2038, 2017 WL 6939377, at (6th Cir. Oct. 18, 2017)). The court recognizes that the petitioner is a pro se litigant. Therefore, pro se complaints are held to less stringent standards than formal pleadings drafted by

lawyers and are thus liberally construed. *Williams v. Curtin*, 631 F.3d 380, 383 (6th Cir. 2011). Even so pro se litigants must adhere to the Federal Rules of Civil Procedure, See *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir. 1989), and the court cannot create a claim that has not been spelled out in a pleading. See *Brown v. Matauszak*, 415 F. App'x 608, 613 (6th Cir. 2011) ("[A] court cannot create a claim which [a plaintiff] has not spelled out in his pleadings.") (internal quotation marks omitted). The Petitioner filed a financial Affidavit and the Forma Pauperis with the Sixth Circuit case No. 23-5927 on November 3, 2023 and the judgment was determined dismissed on May 14, 2024. There is no need for courts to introduce a significant-harm requirement.

STATEMENT OF THE CASE

The United States has a substantial interest in the proper interpretation of Title VII of the Civil Rights Acts of 1964, 42 U.S.C. 2000e et seq. The Attorney General and the Equal Employment Opportunity Commission (EEOC) share enforcement responsibility under Title VII. See 42 U.S.C. 2000e-5(a) and (f)(1). This case presents an important question regarding the scope of employment actions that are actionable whether the requirements in Title VII of the Civil Rights Act of 1964. (Title VII), as amended, 42 U.S.C. 2000e et seq. The Petitioner filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC or Commission) is a jurisdictional prerequisite to suit. The EEOC investigates charges of employment discrimination under Title VII and seeks to eliminate unlawful

practices through information methods. 42 U.S.C. 2000-5(b). The EEOC and the Attorney General also have authority to bring civil actions against private employers, state and local governmental employers, respectfully, for Title VII violations. 42 U.S.C. 2000e-5(f)(1).

*a. **Title VII of the CIVIL Rights Act of 1964**, makes it unlawful for an employer "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. MalcolmX was discriminated against by his name by having a civil rights activist name, religion, and being a black African male that was barred from employment for the alleged discrimination given. [Emphasis added]*

MalcolmX Quote:

- *"You don't have to be a man to fight for freedom. All you have to do is to be an intelligent human being."*
- *"A man who stands for nothing will fall for anything."*
- *"I'm for truth, no matter who tells it. I'm for justice, no matter who it is for or against. I'm a human being, first and foremost, and as such humanity as a whole."*
- *"I am a Muslim, because it's a religion*
. It teaches you to respect everybody, and treat everybody right.

- Islam, MalcolmX-el-

Shabbaz

- *"Truth does not change, only our awareness of it."*

- “I came here to tell the truth - and if the truth condemns America, then she stands condemned!
- “I say, sir, that you can never make an intelligent judgment without evidence.
- “Power is the defense of freedom is greater than power on behalf of tyranny and oppression.

McDonnell Douglas Corp v. Green, 411 U.S. 792 (1973), found that an employee who presents initial evidence of racial discrimination requires an employer to show legitimate lawful reasons why the employee was not hired. The employee is then entitled to show that the employer's conduct was a pretext for racial discrimination. Missouri. Ricci v. DeStefano 577 U.S. 577 (U.S Supreme Court 2009)., held that New Haven officials violated Title VII by ignoring results of a test in which white fighters performed better than blacks and latino firefighters. (Connecticut)

Ab. The petitioner alleges that he was discriminated against in the workplace environment on the bases of his race (African American Male) preferably the resemblance of the civil rights leader and activist MalcolmX, his color, and Muslim religion. The workplace place a termination of his employment then retaliated at the petitioner for exposing as a whistleblower the corrupt acts of the frequent harassment, improper procedures, policies and standards that was being administered in the workplace towards him and other African Americans. Around the workplace a saying was going around “MalcolmX Shabazz is in the building, the civil rights activist by preferably the whites. The Petitioner asserts claims that he was

deprived from working effectively and productively and the frequent racial slurs was to force him to leave willingly but consequently it did not so the above respondents terminated his employment without necessary reasons. The respondents offered the petitioner a low balling settlement of \$150.00 for his acceptance as a cruel and unjust compensation on a zoom video conference call with the Equal Employment Opportunity Commission. The petitioner was employed by the Wise Staffing Group et., al. on March 11, 2022, while working at the assembling line on the production floor at pilgrim pride supervisor called him off his job on the intercom to come to the office she said," who named you MalcolmX? The petitioner response: My father named me MalcolmX. Then the Pilgrim Pride agency reiterated in question how do you feel about that name being MalcolmX? The petitioner asserted that he feels good about my name being MalcolmX and also feel empowered by my name. Then the Pilgrim Pride agency continued to ask when are you going to ever change your name? MalcolmX reassured," that he was going to keep my name until Allah calls him. The Pilgrim Pride agency single him off the job and told me not to come back to work. Then they asserted racial slurs and demands for me to leave the property. The Pilgrim Pride and Wise Staffing Group agency did not want me to turn in the company boots, the gold construction hat with the logo of my name being on the front of my hat as MalcolmX. The EEOC never conducted an internal investigation regarding the job discrimination claim. Title VII makes it unlawful for an employer to "discriminate against" an employee "with respect to the "terms, conditions, or privileges" of his employment." 42 U.S.C. § 2000e-2(a)(1); see U.S.C. § 1981(a)-(b).

To state what should be clear, a suspension based on race is also discriminatory. To discrimination under Title VII is to make “distinctions or differences in treatment that injures protected individuals.” Bostock v. Clayton County, 140 S. Ct. 1731, 1753 (2020) (citation omitted). An employer who suspends Black employees and does not suspend white employees treats these employees differently and harms the Black employees in the process. There is “little room for debate” that this qualifies as discrimination. Threats 6 F. 4th at 677. What employers cannot do is apply a disciplinary rule to a Black employee while ignoring similar allegations of misconduct against a white employee. A suspension on the basis of race alters the terms, conditions, or privileges of employment and therefore violates Section 703(a)(1). To amend the Civil Rights Act of 1964 to strength and improve Federal civil rights laws, to provide for damages in cases of intentional employment discrimination, to clarify provisions regarding disparate impact actions, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. FINDINGS.

The Congress find that—

- (1) Additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace;*
- (2) The decision of the Supreme Court in Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989) has weakened the scope and effectiveness of Federal civil rights protections; and*
- (3) Legislation is necessary to provide additional protections against unlawful discrimination in employment.*

SEC. 3. PURPOSES.

The purposes of this Act are-

- (1) To provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace;*
- (2) To codify the concepts of "business necessity" and "job related" enunciated by the Supreme Court in *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971), and in the other Supreme Court decisions prior to *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989);*
- (3) To confirm statutory authority and provide statutory guidelines for the Adjudication of disparate impact suits under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); and*
- (4) To respond to recent decisions of the Supreme Court by expanding the scope of relevant civil rights statutes in order to provide adequate protection to victims of discrimination.*

SEC. 101. PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

SEC. 102. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION .

The Revised Statutes are amended by inserting after section 1977 (42 U.S.C. 1981)

The following new section: 42 USC 1981 a. SEC. 1977A.

REASONS FOR GRANTING THE PETITION

There was no effective De Novo Review established in either courts. The above courts and the EEOC misconstrued its discretion and disregarded the principle of employment discrimination and failed to apply the rule of law to all Title VII in which protects employees against discrimination. The case before us raises significant questions as the proper order and nature of proof in actions under title VII of the

Civil Rights Act of 1964, 78 Stat. 253, 42 U.S.C. § 2000e et seq. To change and review unlawful rules or practices to prevent future discrimination. Petitioner Malcolm X Johnson respectfully requests this Court grant his Petition For the Writ of Certiorari, for the reasons set forth above. The Petitioner deserves the equal protection and opportunity to due process to at least one forum in which he may substantively defend himself, as one defend its rights that are constitutionally secured and the given security of these that are previously established. For the fair opportunity shall take in effect to reassure that all statutes guaranteed by the Constitutions are being followed and not being condemned before the right to be heard.

CONCLUSION

For the foregoing reasons, the petition should be granted

PROOF OF SERVICE

The petitioner hereby certify that a true and accurate copy of the foregoing document has been timely served by postage mail with confirmation upon all relative parties in conjunction with this civil class action that is set forth before the court that is filed within its posing and accurate jurisdiction. The Petitioner has timely filed this Petition Writ of Certiorari with this court. It is so declared by oath

and affirmation.

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EEOC

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