

No. _____

24-5789

ORIGINAL

IN THE)

SUPREME COURT OF THE UNITED STATES

FILED

SEP 16 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Saretta Gross Prose — PETITIONER
(Your Name)

vs.

United Parcel Service et al RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Saretta Gross
(Your Name)

P.O Box 942

(Address)

Mableton, Georgia 30126

(City, State, Zip Code)

470-623-3324

(Phone Number)

QUESTION(S) PRESENTED

Petitioner Original complaints alleged that her supervisors sexually harassed her on a regular basis then retaliated when she reported their harassment. The District Court nevertheless found that I failed to state Title VII hostile work environment and retaliation claims after examining only on her final complaint, which did not include some of the detailed fact allegations, from earlier versions. My case raises four questions.

- Where a Pro'se plaintiff's final complaint incorporate my (O)riginal complaint along with exhibits, and then references two claims from her earlier complaints throughout, should a district court consider the earlier complaints when ruling on a motion to dismiss?
- Where claims for breach of a collective bargaining agreement are governed by federal law and a Pro'se plaintiff raises such a claim under both state and federal law, does a district court err in declining to exercise jurisdiction over the claim?
- Where a district court finds that a Pro 'se plaintiff pleadings are difficult to decipher "yet those pleadings include allegations of explicit and repeated sexual harassment, does the district court abuse its discretion in denying the plaintiffs motion to appoint counsel?
- Where knowing that the respondents never used the JUST CAUSE EFFECT when disciplining an employee and refusing to grant an employee's request for a Union Steward and failing to fairly bargain with the Union breaching their fiduciary duties and for firing an employee while under contract without cause are these things contended to be worthy of a petition for writ certiorari?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

- Saretta Gross V. United Parcel Service et, al no. 1:21-cv-1247-SEG
District Court for the Northern District of Georgia
Judgment entered Feb 16, 2023
- Saretta Gross V. United Parcel Service et, al no. 23-10808
United States Court of Appeals for the Eleventh Circuit
Judgement entered June 26, 2024

No.

IN THE
SUPREME COURT OF THE UNITED STATES

SARETTA GROSS *Pro'se* PETITIONER

VS.

UNITED PARCEL SERVICE RESPONDENT(S)

CERTIFICATE OF INTERESTED PERSONS

I file this Certificate of interested Persons and Corporate Disclosure Statement in accordance with U.S Supreme Court Rule 29.6

1. Abraham, Max
2. Burch, Thomas
3. Daniels, Long David
4. Eisenlohr- Moul, Kelly
5. Fagan, Jr. James
6. Geraghty, Honor Sarah E.
7. Gross Saretta
8. Harrison, Lelia
9. Kuley, Suzanne
10. Lumpkin, Allyson
11. Martenson Hasbrouch, & Simon LLP
12. Moore, William Patrick
13. Ramson, Angela
14. Schoenfield, Micheal
15. Shatzer, Jake
16. Squire Patton Boggs, LLP
17. Stanford Fagan
18. Teamsters Local 728
19. United Parcel Service, Inc.
20. United Parcel Service Inc an Ohio Corporation and indirect, Wholly owned subsidiary of United Parcel Service, Inc a Delaware Corporation
21. University Of Georgia School Of law Appellate Litigation Clinic

by Saretta Gross

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Appendix A-Order of District Court for the Northern District of Georgia

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Appendix C-Order for Counsel to be appointed by Appeals Court Granted

Appendix C- Order on Motion Attorney Thomas Burch to withdraw as Counsel granted Due to En Banc Request

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Appendix D-Constitutional and Statutory Provisions involved

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Appendix E-4th Amended Complaint for District Court for the Northern District of Georgia for Respondents UPS et.al

Appendix E-Exhibits as proof of case by Saretta Gross

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Abilene Sheet Metal, Inc. v. NLRB
619 F.2d 332 (5th Cir 1980)

4

Aldred v. Avis Rent A Car
247 F. App'x 167 (11th Cir 2007)

Steele v. Shah
87 F.3d 1266 (11th Cir 1996)

United Parcel Service Inc. v. Mitchell
451 U.S. 56 (1981)

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STATUTES AND RULES

Civil Rights Act of 1964

O.C.G.A. § 13-6-14

29 U.S.C. § 157

29 U.S.C. § 158

29 U.S.C. § 125

42 U.S.C. § 2000e

Fed. R. Civ. Pr. 8

N.D. Ga. LR 15.1

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 27, 2024.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: June 26, 2024, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Arbaugh v. Y&H Corp,
546 U.S 500 (2006)

Ashcroft v. Iqbal
556 F.3d 1143 (11th Cir 2009)

Daker v. Bryson
841 F. App'x 115 (11th Cir 2020)

Cook v. Randolph Cnty, Ga
573 F.3d 1143 (11th Cir 2009)

Del Costello v. Int'l Brotherhood of Teamsters
462 U.S 151 (1983)

Electrical Workers v. Hechler,
481 U.S 851 (1987)

Faulk v. Orlando
731 F.2d 787 (11th Cir 1984)

Ferrer v. Yellen,
659 F. App'x 982 (11th Cir 2016)

Harris v. D.C. Water & Sewer Auth.,
791 F.3d 65 (D.C Cir 2015)

Harris v. Schwerman Trucking Co.,
668 F.2d 1204 (11th Cir 1982)

Hester v. Int'l Union of Operating Engineers
818 F.2d 1537 (11th Cir 1987)

Hill v. Georgia Power Co.
786 F.2d 1071 (11th Cir 1986)

Jackson v. Bank of Am, N.A
898 F.3d. 1348 (11th Cir 2018)

Kearse v. Florida Dept of Corrections
669 F.3d. 1197 (11th Cir 2018)

Kennedy v. Bell S. Telecomms, Inc (AT&T),
546 F. App'x 817 (11th Cir 2013)

Kilgo v. Ricks
983 F.2d. 189 (11th Cir 1993)

La Grasta v. First Union Securities Inc,
358 F.3d 840 (11th Cir 2005)

McCants v. Ford Motor Co Inc
781 F.2d 855 (11th Cir 1986)

N.L.R.B v. J. Weingarten, Inc,
420 U.S. 251 (1975)

Oltmans v. Int'l Longshoremen's Assn,
837 F. App'x 689 (11th Cir 2020)

Reeves v. Ch Robinson Worldwide Inc,
594 F.3d 798 (11th Cir 2010)

Rhiner v. Sec'y Fla Dep't of Corr
817 F. App'x 769 (11th Cir 2020)

Sam v. United Food Commercial Unions, Int'l
866 F.2d. 1380 (11th Cir 1989)

Sinclair Wyoming Refining Co v. AEB
Builders Ltd,
989 F.3d 747 (10th Cir 2021)

Smith v. Sch Bd,
487 F.3d. 1361 (11th Cir 2007)

Tello v. Dean Witter Reynolds, Inc,
410 F.3d 1275 (11th Cir 2005)

United States v. Rentfro
620 F.2d 497 (5th Cir 2009)

by:
[Signature]

Appendix D 3.

STATEMENT OF THE CASE

Petitioner Pro'se case is straightforward, employment discrimination lawsuit alleging Title VII claims, along with a Labor Relations claims by the labor Management Relations Act. Petitioner Pro'se Saretta Gross is a 46 year old African American who began working for United Parcel Service in November of 2018. During my employment I was a member of the local Union, Teamsters local 728, to which I paid weekly dues. Respondents retaliated, sexually harassed Pro'se Petitioner repeatedly, but I always reported in good-faith to Managers and Human Resources about everything I was going through. I worked for Ups and remained a member of the teamsters local 728, until I was quickly discharged by Ups on August 14, 2020 without cause.

After being discharged I sued Ups and teamsters local 728 in the United States District Court for the Northern District of Georgia, raising claims under title VII, the ADEA, the ADA and the applicable Collective Bargaining Agreement. Respondents acted in Bad –Faith by breaching the bargaining agreement knowingly. Pro'Se Petitioner has asserted in her complaints that the respondent union fail to plead facts to show that they behavior and actions weren't arbitrary, discriminatory by retaliating upon the pro'se petitioner in bad –faith.

The District Court initially ordered me to amend my complaint finding that it was difficult to decipher and highly repetitive in total I amended four times in all because, I needed counsel. I didn't know that District Court would denied me counsel so this was very difficult for me also the respondents had inflicted a lot of emotional distress on me to the point that I was diagnosed with PTSD, behind the firing without cause and for the consistent sexual harassment and retaliation. Ups supervisors inflicted upon me during the whole employment time at Ups. No one at Ups or Union Teamsters local 728 did anything to help me out. I would watch them investigate other employee's issues about sexual harassment, retaliation but, they never addressed my harassments by supervisors at ups. Petitioner wasn't aware that she waived any of her rights to appeal for counsel. None of my complaints were to be mistaken as shot gun pleading. Pro'se Petitioner clearly needed counsel and still do. District court erred by not treating the plaintiff state

law breach of contract claim in my final Amended complaint as a hybrid 301 claim. Respondents Ups breach of duty for fair representation/breach of collective bargaining Agreement. So the district Court treated my final complaint as the operative complaint and dismissed my case.

A handwritten signature in black ink, appearing to read "Scott Don", written in a cursive style.

REASONS FOR GRANTING THE PETITION

Petitioner has been seeking Justice since 2021, when she filed this case in District Court. Petitioner has suffered a lot of mental distress behind this case because of the respondent's desperate treatment and her Union never helping with grievances, nor helping when I complained about sexual harassment and retaliation. Petitioner was left out of meetings at UPS.

Supervisors would harass me when I would take a 10 minute break all the time calling me 5 minutes into my break over a radio to hurry up and come back to my work station. They would steal my time from me when I would report sexual harassment by supervisors to H.R. January of 2019, my mother was put on life support and I asked my Supervisor and Human Resources if I could be off for three days to see my mom. Human Resources and my Supervisor told me that I couldn't go to see my mother until she passes away; I told them that this is an emergency they didn't care. Now how Cruel was that to tell a good worker, something like this after this job was taking me through so much stress by sexual harassment, Retaliation and discrimination, just to name a few I was very upset.

Respondents Ups fired me for illegal reasons including violating a written or oral contract. Petitioner was discharged without cause. Discrimination by firing because of gender, race, age and disability, Retaliation, working in a Hostile working environment, breaching of contract taking my wages away, taking my timecard away for days. Respondent UPS Violated their own contract terms when disciplining an employee by not using the "JUST CAUSE EFFECT." Petitioner pro'se was retaliated upon by Supervisors at Ups for exercising her rights and reporting illegal actions by Respondents in good faith. Respondent's Ups and Union violated public policy firing me without cause of action while under a contract. Petitioner discharge was unlawful; Petitioner was put in a hostile working environment by supervisors at Ups.

Petitioner pro'se took a medical leave and was fired after she returned to work. Respondent Ups violated the terms of the contract. Petitioner early complaints explained that three of her UPS supervisors offered perks in exchange for sex, showed her sexually explicit photographs, purposely brushed against me at my work station, benefited from my unions failure to process my grievances, and punished me when I reported their harassment, culminating in my discharge.

In other words my early complaints included detailed fact allegations that stated plausible Title VII claims against Ups for hostile work environment and retaliation. Even so the district court found that I failed to sufficiently raise those claims because my final complaint did not reiterate the facts underlying them. Then dismissing my entire case, the district court declined jurisdiction over my claim that UPS and Teamsters had breached the collective bargaining agreement when discharging me, deeming it a matter of state law.

District court should have reviewed all of my complaints where I incorporated the early ones by reference in my final complaint. Second the claim for breach of the collective bargaining agreement arises under federal law, not state law, and petitioner stated a plausible claim against UPS and Teamsters for breach of the agreement under the hybrid 301/fair representation framework.” Finally given the seriousness of my fact allegations and the district courts obvious frustration with my struggle to marshal those facts into a viable complaint, the district court abused its discretion in denying my motion for Appointment of Counsel.

The Appeals court denied almost every motion that I put in but, they did give me Counsel Thomas Burch but, around June of 2024” he told me that Ups made an settlement offer but the offer was to low based on what I asked for so I declined. Then days later I get a letter from Thomas Burch saying that he is withdrawing because I requested rehearing enbunc. I explained that the Appeals court said that they have to withdraw you or discharge you. So I contested his withdrawal asking to reconsider counsel to help me telling the Appeals court that I still needed counsel to negotiate for a better settlement and to help me fight for justice but, the appeals court denied me once again. I’m suffering behind all this I just want justice to be served sorry I’m crying but I’ve been fighting since 2021. Responders should be held accountable. Petitioner pro’s e incorporated in the fourth complaint sufficiently state a plausible claim for hostile work environment and retaliation under the Civil rights Act of 1964.

The district court failed to construe my state breach of contract claim as a federal claim for breach of collective bargaining agreement and breach of Union’s duty of fair representation under 301 of the labor management relations Act. I argue that my inability to comply with the district courts pleading directives demonstrated my need for Appointment of counsel.

Appeals court also affirms this in their opinion. Appeals court previously found that a complaint meets the requirements of Rule 8 even where it does not specifically mention a Collective Bargaining Agreement will determine that the union and Ups did not held their duties to the petitioner. Respondents refused to grant an employee's request for a union steward, what the 11TH Circuit said, in its order is inconsistent with those arguments. This issue is of great legal national significance. This is the reason why I respectfully, ask this court to grant review of the petition.

A handwritten signature in black ink, appearing to be "Scott A. Smith", written in a cursive style.

For the foregoing reasons I ask, this Court to permit pro'se Petitioner to recover for compensatory and punitive damages for violation of Public Policy laws and any other relief sought by this court. I pray justice is served.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted, Pro'se petitioner



Date: September 16, 2024