ORIGINAL

No. 24-5885

FILED
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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

SHERRELL DOWDELL-MCELHANEY - PETITIONER

vs.

GLOBAL PAYMENTS, INC. AND TOTAL SYSTEM SERVICES, LLC. -

RESPONDENTS

PETITION FOR A REHEARING

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QUESTIONS PRESENTED

The United States Court of Appeals for the 11th District Court had jurisdiction over this matter, which presented a plethora of important issues, regarding the scope of protected oppositional activity under the anti-retaliation provision of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-3(a); as well as claims for age discrimination and retaliation under the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq.; race discrimination, gender discrimination, and retaliation under Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e et seq.; disability discrimination, failure to provide reasonable accommodation, and retaliation under the Americans with Disabilities Act ("ADA"), 42 U.S.C. §12101 et seq.; the claims for failure to promote and wrongful discharge; and failure to pay overtime pay under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 et seq.

Title VII of the Civil Rights Act of 1964 makes it unlawful for an employer "to discriminate against any individual" with respect to "compensation, terms, conditions, or privileges of employment" on the basis of race. 42 U.S.C. § 2000e-2 (a) (1). Section 1981 of the Civil Rights Act of 1866 provides "[a]ll persons" in the United States "the same right" "to make and enforce contracts" as is "enjoyed by white citizens," including "the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship." 42 U.S.C. § 1981(a), (b).

Title VII bars an employer from retaliating against "any" employee because she has, *inter alia*, "opposed any practice made unlawful by Title VII 42 U.S.C Sections 2000e-3(a). The District Court held that Plaintiff's actions bringing an employee's race, age, gender, retaliation, ADA, and FLSA's Complaint to the attention of management did not qualify as protected opposition activity. And that Defendants therefore could retaliate against her for taking those actions. The Court based its ruling solely on the basis that there was no genuine issues of material fact and the Defendants were entitled to judgment as a matter of law. The main issues are whether the District Court erred in concluding that the Plaintiff had no genuine issues of material facts in which she was entitled to relief under Title VII (Age, Race, Gender and Retaliation), FLSA and ADA and the Defendants were entitled to Summary Judgment as well as Judgment for Costs as a matter of law.

MOTION FOR A REHEARING

Petitioner, Sherrell Dowdell-McElhaney, brings this Motion for a Rehearing against said Respondents, Global Payments, Inc., et al. before this Nation's most Honorable Court and her reasons are as follows:

REASONS FOR GRANTING A REHEARING

On a daily basis, Petitioner had to investigate suspected fraud "where the nature of the fraud was less certain." And she excelled in working with difficult clients all day long, who were very upset. After almost five (5) years, Petitioner had earned the right to receive a new job within the company. Where she could utilize her amazing legal skill sets. Hence, she was required to train much younger White male and females, all the while they were continued to be promoted over her for almost five (5) years of her employment with the Respondents.

A Rehearing is thus necessary—even if this Court wishes to maintain its adverse-employment-action doctrine—to resolve the confusion within this Circuit about what kinds of discriminatory conduct violate Title VII, or, put differently, what constitutes an "adverse employment action."

Adverse employment decisions thus include all practices that "affect continued employment or pay—things like terminations, demotions, suspensions without pay, and pay raises or cuts— as well as other things that are similarly significant standing alone," id. (emphasis added), including reputational harm.

The potential ramifications of the adverse-employment-action doctrine— as applied to a range of federal laws aimed at eliminating workplace discrimination including the Americans with Disabilities Act and the Age Discrimination in Employment Act—are also not fully reflected in the litigated decisions. Such as the facts here with Dowdell-McElhaney's case. Because, according to the panel, discrimination is permissible if it does not impose pocketbook or other similarly significant harm, an employer could, without legal consequence, require all of its Black employees to work under White supervisors, women to stand in meetings while male counterparts sit comfortably, disabled people to work in a "disabled-persons" annex, and older employees to write periodic reports about their retirement plans. Decades after Title VII, Section 1981, the ADA, and the ADEA were enacted to eliminate the workplace indignities of Jim Crow and sex-based

stereotypes and the marginalization of disabled and older Americans, those results defy the plain language and intent of these federal anti-discrimination laws.

The United States acknowledges the importance of the issue presented—whether discrimination without economic loss is actionable under Title VII—and agrees with Dowdell-McElhaney. It has argued to the Supreme Court that the adverse-employment-action doctrine has "no foundation" in Title VII's text, Congress's purpose, or Supreme Court precedent. U.S. Peterson Br., 2020 WL 1433451, at *6; accord Br. in Opp'n at 13, Forgus v. Shanahan, No. 18-942, 2019 WL 2006239 (May 6, 2019), cert. denied, 141 S. Ct. 234 (2020) (Mem.).

The United States is in fact, a frequent defendant in employment-discrimination litigation, see 42 U.S.C. § 2000e-16, and the EEOC rules on thousands of employment-discrimination charges annually. Here, the Plaintiff-Appellant had received two (2) employment-discrimination charges. Since March 2020, the Government has reiterated its disagreement with the adverse-employment-action precedent before six circuits. See EEOC, All Statutes (Charges filed with EEOC) FY 2020, ttps://www.eeoc.gov/statistics/all-statutes-charges-filed-eeoc-fy-1997-fy-2020 (last visited December 23, 2021). There can be no SERIOUS dispute, then, that the issues presented here are important and ripe for this Honorable Court's reevaluation, especially since it took place during the Global Pandemic.

On September 25, 2017 in the Columbus Ledger Inquirer, it was reported that Pamela Joseph received a $2,275,000 separation payment from credit-card and payment processor TSYS after resigning from her position swiftly as President and Chief Operating Officer. It was common knowledge throughout the company that said severance was granted after Ms. Joseph had issues with TSYS discriminating against her because of her gender. She had been with the company only since May 1, 2016 – just a little over 14 months. Thus, TSYS of course, did not give absolutely any reason for Joseph's swift exit.

The Petitioner will bring forth several witnesses who will testify as to the Respondents' beyond egregious actions against her. In particular, Petitioner will bring forth Camarie Boggans, a current employee, who will testify that the Defendants harassed her immediate supervisor, Clarence "Kenny" Anderson, throughout the Discovery process about getting some type of "WRONGDOING" on the Petitioner. The Respondents did so even after Mr. Anderson returned from an

extended two month hospital stay in the Intensive Care Unit in Columbus, Georgia, "fighting for his life" and during the loss of his beloved mother from COVID 19.

Clarence "Kenny" Anderson often shared with Ms. Boggans on numerous occasions about the harassment. Thus, he conveyed to Ms. Boggans and his superiors that he had absolutely nothing on Ms. Dowdell-McElhaney. Hence, Mr. Anderson needs to testify to as to why his numerous evaluations of Ms. Dowdell-McElhaney were total to the contrary with his Declaration Statement of her. Therefore, the United States Court of Appeals for the 11th Circuit has erred in affirming the Middle District Court of Georgia's Judgment on January 11, 2023.

Hence, the lower Court for the Middle District of Georgia (Petitioner's exact Court) allowed a Reverse Discrimination case to continue with much less actions of discrimination for promotions, which led to a fairly recent settlement of $600,000.00 in July of 2023. The two white officers claimed that a Black former police chief discriminated against them because of their race. The Columbus City Council voted 9-0 to settle the 2022 federal lawsuit. Lt. Tony Litle, Lt. Ralph Dowe, and their lawyers received $200,000 each.

Both alleged that former Police Chief Freddie Blackmon passed them up for a promotion because they were White. Blackmon was forced into retirement, after thirty-plus years of service on the Columbus Police Department. In addition, Lt. Litle and Lt. Dowe said that Columbus' affirmative action plan was "facially discriminatory." After the city paid Blackmon $400,000 to retire, Columbus' second Black chief threatened to sue the city for racial discrimination.

However, the Court ruled against Dowdell-McElhaney in her Title VII of 1964 Civil Rights plethora of claims on January 11, 2023. Everyone work and talents should be valued in the workplace, regardless of their race, age, gender or disability. However, the Court CERTAINLY did not evaluate Dowdell-McElhaney's (who is African-American) case in the same manner as he had done so in this Reverse Discrimination case.

Most importantly, this Case has been pending for five and a half years, since July 21, 2019; when the Petitioner first put the Respondents on notice about her intentions to file a Discrimination claim against her employer. Therefore, please

review the Case File in its ENTIRETY, prior to making this FINAL ruling. Furthermore, Americans certainly should not be retaliated against, harassed, abused, intimidated, humiliated and bullied in the workplace, after filing legitimate Civil Rights claims with the U.S. Equal Employment Opportunity Commission.

Accordingly, Dowdell-McElhaney had a "Front Seat at the Table to Age, Race, Gender, Harassment, Retaliation, Wrongful Termination, and Disability Discrimination," period.

CONCLUSION

For ALL the other substantial grounds referenced-above not previously presented, this Petition for a Rehearing should be granted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

No. 24-5885

SHERRELL DOWDELL-MCELHANEY - PETITIONER

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RESPONDENTS

As required by Supreme Court Rule 44.2, which states that its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. Also, I certify that said Petition for a Rehearing is presented in good faith and not for delay.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 7, 2025.

Sherrell Dowdell-McElhaney, Pro Se

No. 24-5885

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PROOF OF SERVICE

I, Sherrell Dowdell-McElhaney, do swear or declare that on this date, February 7, 2025, as required by Supreme Court Rule 29, I have served the enclosed PETITION FOR A REHEARING on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Patrick L. Lail, Esquire
Georgia Bar No. 431101
Pamela E. Palmer, Esquire
Georgia Bar No. 882599
Attorneys for Appellees, Global Payments, Inc. and Total System Services, LLC.
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 7, 2025.

Sherrell Dowdell-McElhaney, Pro Se