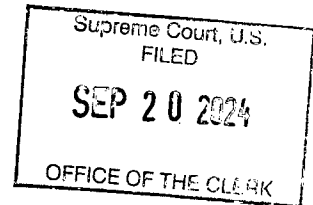


24-6037
No. 1

IN THE
SUPREME COURT OF THE UNITED STATES



Shar I. Murphy PETITIONER
(Your Name)

vs.

McDonough, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Shar Murphy
(Your Name)

3574 S. Lisbon Ct
(Address)

Aurora, CO 80013
(City, State, Zip Code)

770 687 3943
(Phone Number)

Shar Issa Murphy, the Petitioner, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit.

QUESTIONS PRESENTED

- Whether the lower courts erred in dismissing the plaintiff's Title VII claims of race and sex discrimination and hostile work environment where the plaintiff alleged ongoing harassment, disparate treatment, and emotional harm caused by the employer's failure to address complaints of harassment.
- Whether the lower courts incorrectly applied the legal standards under the Rehabilitation Act by dismissing the plaintiff's claims for failure to accommodate, where the employer failed to take effective steps to prevent harassment by a co-worker, which exacerbated the plaintiff's mental health disabilities, including PTSD and severe anxiety. Whether the courts of appeals are divided on the legal standard for evaluating hostile work environment and retaliation claims under Title VII and the Rehabilitation Act, and whether this Court should resolve this conflict to ensure uniform protections for employees nationwide. Whether an employer's failure to respond to complaints of harassment based on race and sex, while immediately addressing similar complaints made by employees of a different race, violates the disparate treatment provisions of Title VII.

- Whether the Supreme Court should clarify the obligations of federal employers under the Rehabilitation Act to provide accommodations for mental health disabilities, particularly when the disability is caused or exacerbated by workplace harassment.
- Whether the lower courts improperly interpret the “Hostile work environment” standard under Title VII by failing to consider evidence of systemic discrimination and disparate impact on the Petitioner.

PARTIES TO THE PROCEEDING

The petitioner is Shar I Murphy and the respondent is DENIS MCDONOUGH;
DEPARTMENT OF VETERANS AFFAIRS AGENCY, AURORA, CO;
DEPARTMENT OF VETERANS AFFAIRS, OFFICE OF GENERAL COUNSEL.

TABLE OF CONTENTS

Questions Presented	2
Parties to the Proceeding	3
Table of Authorities.....	5
Jurisdiction	5
Constitutional and Statutory Provisions Involved	6
Statement of the Case.....	6-7
Reasons for Granting the Petition.....	7-13
Conclusion	12

TABLE OF AUTHORITIES

Cases

Burlington Northern & Santa Fe Railway Co. v. White, 548 U.S. 53 (2006)

..... **[Page 10]**

McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)

..... **[Page 10]**

Statutes

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.

..... **[Page 8]**

Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.

..... **[Page 8]**

Regulations

29 C.F.R. § 1601.12 (EEOC Filing Requirements)

..... **[Page 8]**

JURISDICTION

The judgment of the Court of Appeals was entered on July 18, 2024. A timely petition for rehearing was denied on August 23, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

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 _____ 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 _____ 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.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

OTHER

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was July 18, 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: September 3, 2024, 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. § 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

U.S. Constitution, Amendment XIV, Section 1 (Equal Protection Clause)

- "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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."

STATEMENT OF THE CASE

The plaintiff, a Black female suffering from **Post-Traumatic Stress Disorder (PTSD)**, depression, severe anxiety, panic disorder, and insomnia, worked for the **Department of Veterans Affairs (VA)** in Aurora, Colorado, from 2015 to 2020. During 2016-2017, she experienced continuous harassment under the supervision of **David Spurgin**, which she reported, leading to the VA relocating her due to a hostile work environment. Despite instructions for **Spurgin** and **Christine Robbins** to stay away from the plaintiff, they continued to approach her at work, causing her emotional distress.

The plaintiff's complaints to the union were ignored, while similar complaints from a Caucasian female received prompt intervention. In June 2017, the plaintiff filed a discrimination complaint with the **Equal Employment Opportunity Commission (EEOC)**. She later transferred to a new role in 2018, but Spurgin contacted her inappropriately and returned to the VA in 2019, triggering her PTSD and depression. Despite efforts by a colleague, **Eric Maestas**, to shield her from Spurgin, he approached her in October 2020, leading to a severe emotional breakdown. She went on medical leave and resigned in January 2021.

The plaintiff filed her lawsuit in December 2021, charging race and sex discrimination and **hostile work environment** under **Title VII of the Civil Rights Act of 1964**, as well as claims under the **Rehabilitation Act of 1973** for failure to accommodate her disabilities. The case was transferred from Georgia to Colorado, and her original complaint was dismissed, but she was allowed to amend it. She filed her **Amended Complaint** in May 2023. However, due to extreme emotional distress, I attempted to amend my complaint but inadvertently omitted pertinent information. The defendants moved to dismiss the case in June 2023. The case was affirmed for dismissal by the **United States Court of Appeals for the Tenth Circuit** in August 2024.

REASONS FOR GRANTING THE PETITION

**1. The Lower Courts Failed to Properly Apply the Legal Standards
Governing Employment Discrimination and Hostile Work Environment
Claims Under Title VII and the Rehabilitation Act**

The lower courts erred in dismissing Plaintiff's claims under **Title VII** and the **Rehabilitation Act**. Plaintiff's allegations demonstrate a persistent pattern of harassment based on race and sex, creating a hostile work environment.

Moreover, the Department of Veterans Affairs failed to accommodate Plaintiff's disabilities (PTSD, severe anxiety, depression) in violation of the Rehabilitation Act. The courts did not adequately consider the hostile work environment or the failure to implement proper accommodations, which are essential issues in employment discrimination cases under federal law.

This failure by the lower courts warrants review because it sets a dangerous precedent, undermining the protections provided by both statutes for employees facing harassment and employers' obligations to provide accommodations for individuals with disabilities.

**2. The Case Presents Important Questions of Federal Law Concerning
Disparate Treatment in Employment Discrimination Cases**

The plaintiff's claims highlight the unequal treatment she received compared to a Caucasian co-worker who complained about the same individuals' harassment. The prompt response to the Caucasian employee's complaint, contrasted with the lack of action on Plaintiff's complaints, raises important issues about how courts should evaluate **disparate treatment** under **Title VII**.

This case presents the Court with the opportunity to clarify the legal standards for analyzing claims of disparate treatment and the appropriate evidentiary burden for plaintiffs alleging workplace discrimination based on race and sex. This issue is critical to ensuring consistency in how lower courts handle employment discrimination cases.

3. The Lower Courts' Interpretation of Title VII and the Rehabilitation Act Conflicts with Supreme Court Precedent

The lower courts' dismissal of Plaintiff's claims conflicts with established Supreme Court precedents, including **McDonnell Douglas Corp. v. Green**, 411 U.S. 792 (1973), and **Burlington Northern & Santa Fe Railway Co. v. White**, 548 U.S. 53 (2006). ** Under **McDonnell Douglas**, the courts failed to apply the burden-shifting framework properly in assessing Plaintiff's discrimination claims. The failure to properly analyze Plaintiff's retaliation and hostile work environment claims under **Burlington Northern** also resulted in an erroneous dismissal.

This Court should grant certiorari to resolve this conflict and ensure that lower courts apply these fundamental precedents correctly, particularly in employment discrimination cases involving vulnerable employees suffering from mental health disabilities.

4. The Issues Raised Are of National Importance in Protecting Employees from Workplace Harassment and Ensuring Employers' Compliance with Disability Accommodation Laws

This case raises significant issues about the protections afforded to employees facing workplace harassment and the obligations of employers to provide reasonable accommodations for workers with disabilities. The failure of the Department of Veterans Affairs to effectively prevent further harassment or accommodate Plaintiff's PTSD exacerbated her mental health issues, ultimately leading to her resignation. This case underscores the need for clearer guidance on how employers should handle accommodation requests for mental health disabilities under the **Rehabilitation Act**.

The Court should address these critical questions to ensure that employees with disabilities receive the full protections of federal law and that employers are held accountable for their failure to address workplace harassment and provide necessary accommodations.

5. There Are Conflicting Decisions Among Circuit Courts on the Legal Standards for Evaluating Hostile Work Environment and Retaliation Claims

There is a division among the Circuit Courts on how to assess **hostile work environment** and **retaliation claims** under Title VII and the **Rehabilitation Act**, particularly in cases involving mental health disabilities. Some circuits require a higher threshold of proof for plaintiffs to demonstrate that the harassment was "severe or pervasive," while others take a more plaintiff-friendly approach. Similarly, courts are divided on the proper standard for evaluating whether an employer has adequately accommodated an employee with mental health disabilities.

This split in the circuits justifies Supreme Court review to establish a uniform standard across the country, ensuring that plaintiffs receive equal protection under the law regardless of their jurisdiction.

6. Plaintiff's Case Involves Ongoing Harms from Workplace Discrimination and Harassment, Which Are Likely to Recur Without Supreme Court Intervention

The ongoing nature of the harassment and the lack of effective accommodation for Plaintiff's PTSD demonstrate that these issues are likely to continue affecting similarly situated employees in the future. Without intervention from this Court, employers may continue to evade their legal responsibilities under **Title VII** and the **Rehabilitation Act**, leaving employees vulnerable to discrimination, harassment, and emotional harm.


Granting certiorari in this case will provide much-needed clarity and enforce the rights of employees facing similar challenges in the workplace.

Conclusion

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted to review the lower courts' misapplication of federal law, to resolve conflicting interpretations of employment discrimination standards, and to ensure the uniform protection of employees' rights under **Title VII** and the **Rehabilitation Act**.

Respectfully submitted,

Shar I Murphy


3574 S. Lisbon Ct,

sharissamurphy@yahoo.com

Aurora, Colorado 80013

Ph 770-687-3843 09/18/2024