NO. 24-6869

IN THE SUPREME COURT OF THE UNITED STATES

Evelyn Thomas-Petitioner

v.

QuikTrip, Inc-Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES, SUPREME COURT FROM THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Evelyn Thomas
Pro-SE
1413 Tree Creek Pkwy
Lawrenceville, GA 30043

Timothy J. McDonald
Defense Attorney
Two Alliance Center
3560 Lenox Rd Suite
1600 Atlanta, GA
30326

Charles Poplstein
Defense Attorney
Thompson Coburn,
LLP One US Bank
Plaza St. Louis, MO
63101

Question Presented for Review

The issue before the court concerns Title VII of the 1964 Civil Rights Act, specifically discrimination as outlined in 42 U.S.C. § 2000e-2, which includes colorism discrimination. Given that Ms. Thomas has a darker skin tone than a lighter-skinned employee, is the discriminatory application of workplace disciplinary policies considered an unlawful practice of colorism discrimination?

Furthermore, the doctrine of abuse of process is addressed under 18 U.S.C. § 1505, relating to obstruction of justice. By law, the Equal Employment Opportunity Commission (EEOC) is required to provide the Position Statement and the Notice of Right to Sue. If a convenience store colludes with the EEOC to refuse the production of the Notice of Right to Sue and the Position Statement necessary for filing the current lawsuit, which organization should be held accountable for obstruction of justice?

Lastly, does the intentional mislabeling of Ms. Thomas's Petition for Rehearing [ECF 12] as a motion constitute a violation of 18 U.S.C. § 1001, 28 U.S.C. § 455, and 28 U.S.C. § 144, reflecting explicit judicial bias from the justices of the Eleventh Circuit? Notably, no reasoning was provided for the erroneous mislabeling of [ECF 12] on February 12th by the Eleventh Circuit.

Listed Parties:

Ms. Evelyn Thomas

Timothy J. McDonald
Defense Attorney

Charles Poplstein
Defense Attorney

QuikTrip, Inc

THE SUPREME COURT OF THE UNITED STATES
CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT (CIP)

According to Fed.R.26.1, Petitioner Evelyn Thomas submits the certificate of interested persons and corporate disclosures with the listed parties involved in the outcome of this case:

Petitioner Ms. Evelyn Thomas

Mr. Timothy McDonald

Mr. Charles Poplstein

QuikTrip, Inc

Table of Contents:

Table of Authorities

CASES PAGE(S)

STATUTES

RULES

Opinions Below

Petitioner Ms. Thomas seeks a review of the North District Court of Georgia's order and the undermining final report and recommendation [ECF 60, 61] issued on November 7 and 8, 2024. Additionally, she requests a review of [ECF 64], which was filed as a direct appeal on November 18 by the petitioner. The North District Court of Georgia incorrectly categorized this as a 1292(b) interlocutory appeal without explaining. Furthermore, the Eleventh Circuit denied the appeal [ECF 11] submitted on February 6, 2024, and the Petition for Rehearing [ECF 12] submitted on February 12 was inaccurately submitted as a motion without any explanation. The misapplication of legal standards, procedural irregularities, and the lack of reasoned explanations highlight the judicial bias present in this case, which is concerning.

Jurisdictional Statement

This court has jurisdiction to review the decision of the United States Court of Appeals for the Eleventh Circuit and the Northern District Court of Georgia under 28 U.S.C. § 1254(1), 28 U.S.C. § 1257, and 28 U.S.C. § 1651. The judgment of the Northern District Court of Georgia was on November 13th, 2024. Further, a timely Petition for Rehearing was incorrectly labeled as a motion on February 12. This petition is filed within the 90-day timeframe required by Rule 13 of the Supreme Court of the United States. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), which permits the review of cases in the courts of appeals through a writ of certiorari. This case raises significant questions of federal law, including the interpretation and application of federal statutes that prohibit discrimination, retaliation, and obstruction of justice. The validity of the decision made by both the Court of Appeals conflicts with the applicability of discrimination laws highlighting important issues that warrant the attention of this Court.

Constitutional and Statutory Provisions

The current petition for writ of certiorari involves significant legal questions of federal law under the following constitutional statutory provisions:

1. U.S. Constitution under the Fourteenth Amendment Equal Protection clause where no state can deny equal protection under clause within its jurisdiction. The case presented involves colorism discrimination.
2. Title VII Civil Rights Act of 1964 42 U.S.C. § 2000e prohibits employment discrimination based on race, color, religion, sex, or national origin. Additionally, this includes provisions against retaliation for discriminatory practices.

Statement of Case

The overview of the case for discrimination and retaliation, obstruction of justice, and negligent hiring and retention clear error in judgment in ignoring factual documents presented in [ECF- 46-Ex-1,13, [50-Ex-1,4,5, 8, 10,] 63, 64] showing the charges of obstruction of justice 18 U.S.C § 1505, discrimination and retaliation, and O.C.G.A § 34-7-20 negligent hiring and retention. According to the statement of Walter Smith on store operations, the store managers are to report to the supervisor, to raise the unaddressed question of Jay Fuston, Boris Stephens, and Corey Landers, who ignore the behavior of similar situated employees and only discipline due to the legal action. Yet, the dark-skinned employee, Ms. Thomas, was the only person reprimanded and transferred, whereas the other employees were not disciplined. Additionally, the defendant proffered gaslit arguments and fabricated documents [ECF 44], which the plaintiff addressed in [ECF 46-Ex 4,5,7,8,9, 10, 13, 14, 15, 16, 17] asking why the lower court allowed this. The plaintiff, Ms. Thomas, has proved her case, which includes obstruction of justice, mistrusting the final report and recommendation not factual, and questioning the judicial bias.

A clear error in judgment from the Eleventh Circuit is ignoring [ECF 64] where Ms. Thomas asks for a direct appeal, not a 1292 (b) appeal. Why did Mr. Grimberg submit [ECF 64] amended as 1292 (b)? Facts of law for discrimination and retaliation, obstruction of justice, and negligent hiring and retention. Ms. Thomas has factual direct evidence, which includes the defendant's policies. Yet, the final report with double-talk and legal language.

What is more, in Coleman v in Donahoe, 667 F. 3d 835 - Court of Appeals, 7th Circuit 2012, the question asked how similarly situated the employees have to be. In both verbal altercations, Ms. Thomas was disciplined by the same Supervisor, Jay Fuston. The policies were not applied, and although unacceptable human relations were reported and ignored, neither of the two lighter-skinned employees was disciplined, for which the Supervisor is responsible. Based on the "policies," QuikTrip did not apply to the lighter-skinned employees, yet the defendant upheld the unacceptable human relations of the lighter-skinned toned employees.

Argument

Burlington Northern and Santa FE Railroad Co. v. White 548 US 53 Supreme Court 2006, which affirmed the transfer or reassignment of against White to less desirable duties, suspension without pay satisfied the materially adverse employment action test and met the standard for discrimination and retaliation for this case. Therefore, Ms. Thomas's unjustified transfer to a less desirable location of lower volume, fewer hours equal a reduction of pay proved the plaintiff materially adverse due to the unjustified transfer. To further the point, in Yarbrough et al. v. Glow Networks, Inc. Dist. Court, ED Texas April 18, 2022, Civil No. 4:19-CV-905-SDJ, it was determined the nine black employees were subjected to unlawful discriminatory practices of the employer from demotions, retaliation, promotion denials similar to the materially adverse of employment action of the plaintiff.

Crawford v. Carroll, 529 F. 3d 961 - Court of Appeals 11th Circuit 2008 it was stated that "to conclude otherwise would permit employers to escape Title VII liability by correcting their discriminatory and retaliatory acts after the fact. Stating that *"consistent with Title VII's goal of deterring discrimination, we decline to endorse a rule that would allow employers to escape liability by merely reinstating [an] aggrieved employee months after termination, whenever it becomes clear that the employee intends to pursue her claims in court.")* Texas Dept. of Community Affairs v. Burdine, 450 US 248 – Supreme Court 1981 ruled "when the plaintiff has proved a prima facie case of discrimination, the defendant bears only the burden of explaining clearly the nondiscriminatory reasons for its actions." Throughout the case, the defense has not proffered any reasons for their actions, yet their actions are consistent in deflecting.

Lewis v. City of Union City, Georgia, 918 F. 3d 1213 - Court of Appeals, 11th Circuit 2019. *"Instead, discrimination today often surreptitiously sits behind a veil of subtlety, with the boss handing out the plum assignments to male officers while relegating the "lady" detectives to "less aggressive" children's crimes.* In short, the discriminatory practices continue to exist in the workplace, the outdated covert discriminatory practice of QuikTrip is an example of the "veil of subtlety" used. The controlling question of the law are, is QuikTrip violation of Title VII Civil Rights Act 42 U.S.C. §2000(e)(2) for color discrimination on unfairly applying disciplinary actions to Ms. Thomas and 18 U.S.C. §1505 obstruction of justice the EEOC failure to follow the law producing the documents needed for Ms. Thomas to move forward with the case.

National Interest

How many young employees are subjected to colorism discrimination in the workplace? The outdated practice of colorism discrimination used during the era of Slavery and these present times of favoring lighter skin-toned employees and discriminately applying workplace policies

show employers not being held responsible for discriminatory practices. Young employees are subjected to colorism discrimination, benign neglect, and employer ambiguous workplace policies with no remedy for employees because of prejudice in the courts and workplace. States and laws allowing employers to continue with unlawful discriminatory practices without consequences is a gross miscarriage of justice. This case is of national importance to highlight the continued past acts of colorism discrimination in the workplace, which young employees are subjected to, and absent legal protections at the state and federal levels to remedy the issue. Furthermore, this case is of national importance to show the absence of judicial objectivity from the Georgia courts in discrimination cases

REASONS FOR GRANTING THE PETITION

The questions surrounding colorism discrimination are critically important for convenience stores, especially given the ambiguous policies that are being applied inconsistently. These inquiries become even more pressing when considering a convenience store that may be colluding with a federal agency to prevent legal action against unlawful practices of colorism discrimination. It raises the question of what recourse employees subjected to such discrimination by their employer might have. According to the Harvard Business Review and UGA Today, "colorism discrimination is defined as showing favoritism toward individuals with lighter skin compared to those with darker skin within a racial or ethnic group" (Harvard Business Review, 2023; UGA Today, 2021). Furthermore, "colorism is the process of discrimination that privileges light-skinned people of color over their dark-skinned counterparts" (Hunter, 2005).

In the case of EEOC v. Family Dollar Stores, No. 1:07-cv-06996 (N.D. Ill. settled Feb. 17, 2009), it was found that a light-skinned assistant manager had violated Title VII due to color

discrimination, similar to the treatment faced by lighter-skinned employees Alicia Hale and Grecia Alvarado. In another case, EEOC v. Blockbuster Inc., C.A. No. 1:07-cv-02221 (S.D.N.Y. filed and settled Apr. 7, 2008), evidence of color discrimination against a darker-skinned Bangladeshi employee by her immediate supervisor was established. As an African American woman belonging to a protected class, experiences of colorism discrimination align with the broader definitions of discrimination and retaliation.

Title VII of the Civil Rights Act of 1964 prohibits color discrimination based on skin pigmentation, shade, tone, and complexion. Moreover, it was noted in Gillis v. Georgia Dept. of Corrections, 400 F. 3d 883 - Court of Appeals, 11th Circuit, 2005, that "the defendants did not articulate legitimate non-discriminatory reasons for their conduct." There is a clear error in judgment from the lower court that overlooks pertinent facts related to discrimination, retaliation, obstruction of justice, and negligent hiring and retention. Given the evidence of obstruction of justice and the implications of Georgia law, O.C.G.A. § 34-7-21, regarding negligent hiring and retention practices, one must question whether the law is being correctly applied in the defense's favor. Ms. Thomas has requested the Supreme Court grant a writ of certiorari, as it is evident that there has been a significant error in judgment by the Eleventh Circuit.

CONCLUSION

The state of Georgia, which played a significant role during the civil rights era, currently does not have laws in place to prevent racial discrimination practices related to colorism. In an ongoing case, the courts have not demonstrated judicial objectivity, as they have inaccurately labeled documents, such as those from the North District Court of Georgia. Given this situation, we request a writ of certiorari to address the key legal question of whether workplace color

discrimination, particularly in the discriminatory application of policies, falls under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e(2). Furthermore, the defense has imposed minimal disciplinary actions two years after their intent was questioned. Many fundamental issues remain unresolved, including the legitimacy of the EEOC investigation, especially as it appears to have colluded with a convenience store to obstruct legal proceedings. Therefore, Ms. Thomas respectfully asks a writ of certiorari to clarify whether the abuse of process falls under 18 U.S.C. § 1505.