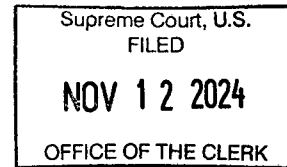


24-811



No.

IN THE  
Supreme Court of the United States

Petitioner Wei Qiu

Wei Qiu

v.

Board of Education of Woodford County  
Public Schools, KY

On Petition for Writ of Certiorari to the U. S. 6th  
Circuit Court of Appeals for Its Denial of Qiu's  
Appeal of Her Employment Discrimination Case

PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED FOR REVIEW

Qiu the American citizen of the Chinese race and origin was highly Praxis qualified to teach physics being a successful chemistry teacher. Woodford discriminated against Qiu when Qiu applied for the physics teaching position in 2020-2021. Qiu pursued Title VII of the Civil Rights Act of 1964 based on her race, color, national origin against Woodford. The district court granted Woodford's summary, and the circuit court affirmed it.

### Questions

1. Can facts be removed from a summary motion under Rule 56 of the Federal Rules of Civil Procedure?
2. Did the three judges of the instant case and the three judges of *Qiu v. Anderson*, 23-5888 form unequal protection of laws against the Constitution? Did they violate the Rule of Law?
3. Is the standard *McDonnell Douglas* framework still applicable when an employer selects one of the two unqualified applicants?
4. Should the applicants' qualifications be determined by the description of the job in the job posting?
5. Did the courts violate Qiu's Constitutional right to Due Process and equal protection of laws under Amendment XIV? Did the courts violate the Rule of Law?

## **LIST OF PROCEDURE**

*Wei Qiu v. Board of Education of Woodford County Public Schools, KY*, 5:22 cv 00196, U.S. District Court for the Eastern District of Kentucky, Judgement entered 09/27/23; 59(e) was Denied on 11/21/23.

*Wei Qiu v. Woodford County, KY Board of Education*, 23-6058, U. S. Court of Appeals for the 6th Circuit, Judgment entered 07/01/2024; Petition to Rehear was Denied on 08/29/2024

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Petitioner Qiu respectfully asks that a writ of *certiorari* be issued to review Order D 19 of the U. S. 6th Circuit filed on July 1, 2024, and Order DN 32 of the U. S. Eastern District Court of Kentucky filed on 09/27/23.

### **OPINIONS BELOW**

Order D 19 filed on July 1, 2024, from the U.S. Court of Appeals For the 6th Circuit, affirmed the order from the district court. Order DN 19 is attached as Appendix B. Order D 22 denied the petition to rehear on **August 29, 2024**. Order D 22 is attached as Appendix C.

Order DN 32 filed on 09/27/23, from the U. S. Eastern District Court of Kentucky, denied Qiu's summary DN 25. Order DN 32 was attached as Appendix A.

### **JURISDICTION**

Order **D 22** which denied Qiu's petition to rehear was entered on **August 29, 2024**, in the 6th appeal court. Under 28 U.S.C. § 1254(1), the instant case is in the jurisdiction of the U.S. Supreme Court. Order D 22 is attached as Appendix C.



## **CONSTITUTIONAL PROVISIONS, STATUTES, AND POLICY AT ISSUE**

The Rule of Law, EQUAL JUSTICE UNDER LAW.

### **AMENDMENT XIV of the Constitution Section**

#### **1. Rights**

.... 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.

### **Title VII of the Civil Rights Act of 1964**

#### **UNLAWFUL EMPLOYMENT PRACTICES**

**SEC. 2000e-2. [Section 703] (a)** Employer practices It shall be an unlawful employment practice 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;

#### **Rule 56. Summary Judgment (a) Motion for Summary Judgment or Partial Summary Judgment.**

A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary

judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. .... Federal Rules of Civil Procedure.

**Rule 12 Defenses and Objections: (b)** .... *A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed.* Federal Rules of Civil Procedure.

**Rule 5.2. Privacy Protection For Filings Made with the Court (a) REDACTED FILINGS.** Unless the court orders otherwise, in an electronic or paper filing with the court that contains *an individual's social security number, taxpayer identification number, or birth date, the name of an individual known to be a minor, or a financial account number,* a party or nonparty making the filing may include only: ... . Federal Rules of Civil Procedure.

**411 U.S. at 802.** (i) he belongs to a racial minority; (ii) he applied and was qualified for a job for which the employer was seeking applicants; (iii) despite of his qualifications, he was rejected; and (iv) after his rejection, the position remained open and the employer continued to seek applicants from persons of complaint's qualifications.

*White v. Baxter Healthcare Corp.*, 533 F.3d 381, 393 (6th Cir. 2008).

*Jacklyn v. Schering Plough Healthcare Prods. Sales Corp.*, 176 F.3d 921, 926 (6th Cir. 1999).

*If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited. GRIGGS v. DUKE POWER CO.*, 401 U.S. 424 (1971).

## **STATEMENT OF THE CASE**

### **A. Introduction of the Case Procedure**

Qiu first depicts the events before introducing the filings.

Qiu was an American citizen of Chinese origin who spoke with an accent. Qiu was a certified high school chemistry teacher who achieved highly in teaching AP chemistry, and Qiu was highly Praxis qualified to teach physics and math.

Qiu applied for the physics position with Woodford in the spring of 2020, and Qiu did not get an interview. Qiu applied for the physics position posted as science in August 2020 before school started, Qiu did not get an interview. Qiu applied for

the physics position with Woodford in March 2021. In May 2021, Qiu saw the physics position was advertised again on the Education Professional Standard Board website. Qiu emailed the principal for her application she applied in March 2021, and the principal ignored Qiu. On July 6, 2021, Qiu emailed Vice Superintendent Wells who was the person to contact in the advertisement of the position. Wells stated in his email that the physics position was not filled but taken down. Qiu realized Woodford discriminated against her since she applied for the physics position in the spring of 2020 that she filed the discrimination that happened to her with the EEOC. All of the discrimination were argued before the EEOC, and Woodford did not settle the case. The EEOC issued the letter to sue. Qiu sued Woodford in the District Court of Eastern Kentucky.

Each plaintiff Qiu and defendant Woodford filed summary motion. The district court granted Woodford's summary and denied Qiu's summary. Qiu appealed to the 6th Circuit. The 6th Circuit affirmed the district court's order. Qiu is appealing to the Supreme Court.

The filings of the case are in the dockets:

*Wei Qiu v. Board of Education of Woodford County Public Schools, KY*, 5:22 cv 00196, U.S. District Court for the Eastern District of Kentucky.

*Wei Qiu v. Woodford County, KY Board of Education*,  
23-6058, U. S. Court of Appeals for the 6th Circuit.

The critical filings in the district court were:

1. DN 25, Qiu's motion for summary judgment.
2. DN 27, Woodford County's response.
3. DN 29, Qiu's reply.
  
4. DN 26, Woodford County's motion for summary judgment; same as DN 27 the response to Qiu's summary.
5. DN 28, Qiu's response.
6. DN 30, Woodford County's reply.
7. DN 31, Qiu's Surreply.
  
8. DN 32, Order granted Woodford County's summary from Judge Reeves.
9. DN 35, Qiu's 59(e) motion to alter Order DN 32.
10. DN 38, Woodford County's response to DN 35, Qiu's 59(e) motion.
11. DN 39, Qiu's reply.
12. DN 40, Order maintained Order DN 32 from Judge Reeves.
13. DN 41, Qiu's response to Order DN 40 as it directed Qiu.

14. DN 34, Qiu's sanction motion on Lawyer Chenoweth.
15. DN 36, Lawyer Chenoweth's response to DN 34, the sanction.
16. DN 37, Qiu's reply.

The critical filings in the circuit court were:

1. D 8, Qiu's brief
2. D 16, Woodford's brief
3. D 18, Qiu's reply brief
4. D 19, the order affirmed the district court's order
5. D 21, Qiu's petition to en banc to rehear
6. D 22, the order denied Qiu's petition to rehear

## **B. Statement of Facts**

Woodford knew Qiu was an accented Chinese and Qiu was licensed to teach chemistry and Praxis qualified to teach physics. Page ID 106-108 in Qiu's summary DN 25.

### **Facts of Qiu's Application in the Spring of 2020**

Qiu applied for the physics position in the spring of 2020. Page ID# 109 in Qiu's summary DN 25. [Qiu

saw the AP physics position Woodford advertised on the Education Professional Standard Board website.] Woodford did not process to fill the position. 5 in Page ID# 150 in Woodford's summary DN 26.

### **Facts of Qiu's Application in August 2020**

Qiu applied for the physics position posted as science in August 2020. Qiu informed Woodford she was a licensed chemistry teacher and Praxis qualified to teach physics. Qiu attached her AP chemistry exam report in which her rate of 5 was 38% when it was 6% in Kentucky among other support papers. Page ID# 119-127 in Qiu's summary DN 25.

Qiu was not interviewed. Woodford used a white sub in the position to teach biology. Page ID# 111, 112, 113, 114 in Qiu's summary DN 25.

### **Facts of Qiu's Application in March 2021**

Qiu applied for the physics position in March 2021. Qiu was not interviewed. Page ID# 115 in Qiu's summary DN 25.

Woodford selected the English speaker white for the position. Page ID# 117 in Qiu's summary DN 25. The selected was nothing about teaching high school. Page ID# 301-319, the application of the selected, in Woodford's reply DN 30; Page 116, the selected's resume, in Qiu's summary DN 25.

Lawyer Chenoweth hid the dates of the selected's schooling and job in his application and resume to enroll the selected into a teacher preparation program to qualify him for a physics teaching certificate by Option 6 to qualify him for the physics teaching position when Woodford selected him over Qiu in March 2021. Page ID# 197-198, 217-222 in Qiu's response DN 28; Page ID# 116, the resume of the selected with no dates, in Qiu's summary DN 25. Having hidden the dates of the selected's schooling and work in his application and resume, Lawyer Chenoweth had Vice Superintendent Wells tell the lie under oath in his affidavit that the selected was qualified for the position by Option 6 because he enrolled into a teacher preparation program. 12 in Page ID# 151, Woodford's summary DN 26.

Lawyer Chenoweth could not directly cite the date in the selected's application and resume for his critical point. Alas, he had to hide the dates and had Wells tell the lie under oath.

The selected was double unqualified because his major was not physics. He needed a major in physics to be certified for a physics teaching certificate. Page ID# 116, the selected's resume, in Qiu's summary DN 25, Page ID# 220, Option 6, in Qiu's response DN 28.

### **The Facts After the Selected Withdrew in May 2021**



Woodford advertised the physics position again after the selected withdrew in May 2021. To secure to hire a white, Woodford advertised a biology position at the same time. Page ID# 223-225 in Qiu's response DN 28.

Qiu contacted the principal for her application she applied in March 2021 when Qiu saw the readvertised physics position on the Educational Professional Standard Board website in May 2021. Page ID# 226-229 in Qiu's response DN 28. The principal ignored Qiu.

Woodford hired a white to teach biology for the physics position the selected withdrew. Page ID# 128-129 in Qiu's summary DN 25.

### **Woodford Had no Question about Qiu's Qualifications When Qiu was Applying**

Woodford had no question about Qiu's qualifications for the physics position when Qiu was applying for the physics teaching position. Page ID# 226-229 in Qiu's response DN 28; Page ID# 443-448 in Qiu's 59(e) motion DN 35. Qiu presented the certificate policy and attached her Praxis report to state Qiu could be certified to teach physics with her physics Praxis score 163/200 to the passing score 133/200. Page ID# 448 in Qiu's 59(e) motion DN 35. Woodford had no question about Qiu's qualifications. Woodford just ignored Qiu. Lawyer Chenoweth never

proved Woodford concerned Qiu's qualifications when Qiu was applying for the physics position. All Lawyer Chenoweth's defense to disqualify Qiu was subsequential remedy repair in the courts, not the facts when Qiu was applying for the physics position. DN 26, Woodford's summary; DN 27, Woodford's response, same as DN 26; DN 30, Woodford's reply; D 16, Woodford's brief; any other Woodford's pleadings.

## **REASONS FOR GRANTING THE PETITION**

### **PROBLEMS OF FACT AND LAW AND RELATED QUESTIONS**

#### **Core Facts**

The qualification of the selected for the physics position was faked by spoliated evidence to enroll him into a teacher preparation program. Page ID# 378-379 in Qiu's sanction DN 34, Page ID# 472-477 in Qiu's reply DN 37, Page 1-3 in Qiu's reply brief D 18.

Woodford never questioned Qiu's qualifications when Qiu was applying for the physics position. Woodford believed Qiu was qualified. Page ID# 279-281 in Qiu's reply DN 29, Page ID# 405-406, 442-448 in Qiu's 59(e) DN 35, Page 3-4 in Qiu's reply

brief D 18. Lawyer Chenoweth never proved Woodford concerned Qiu's qualifications when Qiu was applying for the physics position.

**Question 1. Can facts be removed from a summary motion under Rule 56 of the Federal Rules of Civil Procedure?**

Woodford did not process to fill the physics position Qiu applied for in the spring of 2020. Woodford pretexted that it was because of Covid it did not process to fill the physics position. 5 in Vice Superintendent Wells's affidavit in Page ID# 150 in Woodford's summary DN 26. Lawyer Chenoweth circumstantially proved Woodford filled all the other positions for which white applicants were available at covid time by not giving a precedence to beat Qiu in the argument. Page ID# 290 in Woodford's reply DN 30. The preponderance of the evidence. So the physics position was not filled.

Woodford posted the position as science before school starting in August 2020 for which Qiu applied again. Woodford used a white sub for the position because of covid. 6-8 in Wells's affidavit in Page ID# 150-151 in Woodford's summary DN 26. Lawyer Chenoweth circumstantially proved Woodford did not use a sub in a position for which a white applicant was

available at the covid time by not giving a precedence to beat Qiu in the argument. Page ID# 290-291 in Woodford's reply DN 30. The preponderance of the evidence.

Woodford did not hire Chinese race people that Woodford did not process to fill the physics position for which Qiu applied. Covid could not stop Woodford from filling all the positions for which the applicants were white. Covid did not make Woodford use a sub for a position for which a white applicant was available. Therefore, covid was not the reason that Woodford did not process to fill the physics position, nor Woodford used a sub in it. Woodford discriminated against the applicant of Chinese race and origin for the physics position that Woodford did not process to fill the physics position while filling all the other positions with white applicants. For the same discrimination reason, Woodford used a sub in the physics position Qiu applied not using a sub in any position for which a white applicant was available. Woodford violated Title VII SEC. 2000e-2. [Section 703] (a)(1) for not hiring the applicant of Chinese race and origin.

Wells pretexted covid to cover discrimination in his affidavit under oath. Covid was not the reason Woodford did not process to fill the physics position, but Woodford discriminated against the applicant of

Chinese race and origin. Woodford's covid pretext: (1) has no basis in fact: Woodford filled all its positions for which the applicants were white at covid time. (2) was not the actual reason: the actual reason was Woodford discriminated against the applicant for the physics position because of her Chinese race and origin. (3) is insufficient to explain the employer's action: covid could not explain Woodford's action of filling all the positions but not the physics position at covid time, nor covid could explain Woodford only used a sub in the physics position, not any other position. Only Woodford discriminated against the applicant of Chinese race and origin for the physics position explained Woodford's action. Therefore, Woodford's defense failed. *White v. Baxter Healthcare Corp.*, 533 F.3d 381, 393 (6th Cir. 2008). Woodford was liable under Title VII SEC. 2000e-2. [Section 703] (a)(1) for its discrimination against Qiu for her Chinese race and origin.

Wells's affidavit was an ambush on Qiu which Qiu saw for the first time in Woodford's summary that related discovery had been impossible.

The district court removed the facts of discrimination that happened in the spring of 2020 and August 2020 from Qiu's summary motion. Page ID# 368-369 in Order DN 32; **I in Page 33-34 in Appendix A.** The district court did not hear Qiu that

all facts were argued before the EEOC and facts could not be removed from a summary motion under Rule 56, and Rule 12 did not permit to go back at summary time. Page ID# 243-244 in Qiu's reply DN 29, Page# 199-200 in Qiu's response DN 28, Page 9-10 in Qiu's reply brief D 18. The district court did not say Qiu made nonsense. The district court did not hear Qiu. The district court just removed the facts of discrimination from Qiu's summary motion.

In May 2021 Qiu contacted Woodford for the physics position for her application she applied in March 2021 when she saw the readvertised physics position on the Education Professional Standard Board website. Page ID# 226-229 in Qiu's response DN 28, Page ID# 278-281 in Qiu's reply DN 29, Page 12-14 in Qiu's reply brief D 18. Discovery found the re-advertisement was because of the selected withdrew. Page ID# 275-276 in Qiu's reply DN 29, Page ID# 223-224 in Qiu's response DN 28, Page 12-14 in Qiu's reply brief D 18. Woodford also advertised a biology position in case a white physics teacher was not available, and Woodford hired a white biology teacher for the physics position the selected withdrew. Page ID# 223-225 in Qiu's Response DN 28, Page ID# 275-277 in Qiu's reply DN 29, Page 117-118, 128-129 in Qiu's summary DN 25, Page 12-14 in Qiu's reply brief D 18.

The fact that Woodford reposted the physics position was direct violation of Title VII because Woodford did not hire Chinese. *Prima facie* set up under 411 U. S. at 802, because Woodford ignored Qiu's contact and existing applicant seeking Qiu's skill. Woodford did not prove that even it did not discriminate against Qiu, it still did not hire Qiu for the physics position after the selected withdrew, readvertising the physics position for Qiu's skill. Woodford did not defend. *Jacklyn v. Schering Plough Healthcare Prods. Sales Corp.*, 176 F.3d 921, 926 (6th Cir. 1999). Therefore, Woodford was liable under Title VII SEC. 2000e-2. [Section 703] (a)(1) for its discrimination against Qiu for her Chinese race and origin.

The fact that Woodford hired a white biology teacher for the physics position the selected withdrew was evidence that Woodford did not hire people of Chinese race and origin that Woodford violated Title VII SEC. 2000e-2. [Section 703] (a)(1). Woodford was a strong Title VII violator.

Woodford did not pretext, or Woodford did not defend the discrimination that happened in May 2021. Therefore, Woodford was liable under Title VII SEC. 2000e-2. [Section 703] (a)(1).

Woodford argued to remove the fact after the selected withdrew from Qiu's summary motion. Page

ID# 139-140 in Woodford's summary and response DN 26, Page 28-29 in Woodford's brief D 16. Qiu replied that all facts in the court were argued before the EEOC and facts could not be removed from a summary motion under Rule 56. Rule 12 did not permit to go back at summary time. Page ID#247-249 in Qiu's Reply DN 29, Page 9-10 in Qiu's reply brief D 18.

The district court removed the fact of discrimination from Qiu's summary motion under Rule 56. .... *That candidate, a white native-English speaker, ultimately withdrew from the hiring process and no other candidates were interviewed.* Line 5-6 in Page ID# 370 in Order DN 32. **Middle on Page 36 in Appendix A.** The district court removed the facts of discrimination that happened in May 2021 after the selected withdrew from Qiu's summary motion under Rule 56.

The circuit court agreed with the district to remove facts from Qiu's summary motion. The circuit court removed the facts of discrimination that happened in the spring of 2020 and August 2020 and the discrimination facts happened in May 2021 after the selected withdrew. Page 3 in Order D 19; **Page 49-50 in Appendix B.**

The circuit court misplaced the case law *Dixon v. Ashcroft*, 392 F.3d 212, 218 (6th Cir. 2004) which



was on Rule 12 about dismissing the complaint. Page 3 in Order D 19; **Line 3 in Page 50 in Appendix B.** See *Dixon* at 216: *The Agency moved for dismissal pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), or alternatively for summary judgment pursuant to Rule 56. The district court granted the FBI's motion, dismissing Dixon's complaint for lack of subject matter jurisdiction.* The circuit court was on Woodford's side to apply the wrong case law on Rule 12 to Qiu's summary motion under Rule 56 to favor Woodford.

The circuit court did not hear Qiu that all the facts in the court were argued before the EEOC and facts could not be removed from a summary motion under Rule 56. Page 9-10 in Qiu's reply brief D 18. The circuit court did not hear Qiu. The circuit court did not say Qiu made nonsense. The circuit court just removed the facts of discrimination from Qiu's summary motion.

The courts removed the facts of discrimination that happened in the spring of 2020 and August 2020 and the facts of discrimination happened in May 2021 after the selected withdrew from Qiu's summary motion. The courts granted and affirmed the grant of Woodford's summary because the courts removed the facts of discrimination which violated Title VII SEC. 2000e-2. [Section 703] (a)(1) from Qiu's summary motion under Rule 56.

Question to the Justices: Can facts be removed from a summary motion under Rule 56 of the Federal Rules of Civil Procedure?

**Question 2. Did the three judges of the instant case and the three judges of *Qiu v. Anderson*, 23-5888 form unequal protection of laws against the Constitution? Did they violate the Rule of Law?**

The facts in *Qiu v. Anderson*, 23-5888: For the chemistry teaching job, Anderson hired Sutherland who was uncertified to teach chemistry over Qiu who was certified to teach chemistry. The three judges gave the reason: *But the record shows that Sutherland was well qualified for the job and that she was undisputedly certified to **teach**. Qiu provides no admissible evidence supporting her argument that Sutherland had to possess a chemistry certificate to teach a chemistry class.* Bottom in Page 3 in Order D 18 in *Qiu v. Anderson*, 23-5888. The Judges mean Sutherland was well qualified to teach chemistry with her biology certificate.

Let us turn back to the instant case: Qiu was a certified chemistry teacher was undisputed, and this point was in Order D 19 in bottom lines 5-6 in Page 4; **Bottom Line 7-8 in Page 52 in Appendix B.**

By the order in the precedence *Qiu v. Anderson*, 23-5888, Qiu was qualified to teach physics with her chemistry certificate as Sutherland was qualified to teach chemistry with her biology certificate.

The three judges in the instant case indicated Qiu was not qualified for the physics position with her chemistry certificate. Page 4-5 in Order D 19; **Page 52-53 in Appendix B.**

The three judges in *Qiu v. Anderson*, 23-5888 and the three judges in the instant case collided. Because the six judges took side to fight Qiu of the Chinese race, Qiu lost both cases. The laws the six judges set favored white adaptly. The six judges excluded Qiu the American citizen of the Chinese race from protection of the laws of the Constitution.

Question to the Justices: Did the three judges of the instant case and the three judges of *Qiu v. Anderson*, 23-5888 form unequal protection of laws against the Constitution? Did they violate the Rule of Law?

**Question 3. Is the Standard *McDonnell Douglas* Framework still Applicable When an Employer Selects One of the Two Unqualified Applicants?**

### **The Selected was not Qualified that Lawyer Chenoweth Spoliated the Evidence to Fake the Qualification of the Selected**

To solve the qualification problem of the selected, Lawyer Chenoweth spoliated evidence that he could have Vice Superintendent Wells to tell lie to establish the qualification of the selected in his dispositive motions.

Rule 5.2. Privacy Protection For Filings Made with the Court (a) REDACTED FILINGS. Unless the court orders otherwise, in an electronic or paper filing with the court that contains *an individual's social security number, taxpayer identification number, or birth date, the name of an individual known to be a minor, or a financial account number*, a party or nonparty making the filing may include only: ... . Federal Rules of Civil Procedure.

The selected was not a minor, but Lawyer Chenoweth hid his name in his application and resume that Qiu could not find information of the selected online. In the employment discrimination case, Lawyer Chenoweth hid the selected's schooling and work dates in his application and resume which were not personal information Rule 5.2 protected. Page ID# 301-319, the application of the selected, in

Woodford's reply DN 30; Page 116, the selected's resume, in Qiu's summary DN 25.

Lawyer Chenoweth could not cite the date in the selected's application and resume for his critical point: When Woodford selected the selected over Qiu for the physics position in the spring of 2021, the selected was enrolled in a teacher preparation program that he was eligible for a physics teaching certificate that he was qualified for the physics position. Alas, Lawyer Chenoweth had to hide the date. Having hidden the dates, Lawyer Chenoweth had Vice Superintendent Wells tell the material lie under oath that the selected was enrolled into a teacher preparation program that he was qualified for the physics position. 12 in Wells's affidavit in Page ID# 151 in Woodford's summary DN 26. Because the enrollment was a lie that Lawyer Chenoweth could not flag the hiring eligibility letter from the teacher preparation program for his point. Page ID# 272, Option 6, in Qiu's reply DN 29. Lawyer Chenoweth could not flag his enrollment receipt, either. Nor could Lawyer Chenoweth cite the date in the selected's application and resume for his critical point. Lawyer Chenoweth told the material lie at the level of beyond reasonable doubt. To prevent Qiu from finding information of the selected, Lawyer Chenoweth hid the selected's name. Lawyer Chenoweth carefully schemed the material lie. Lawyer Chenoweth

spoliated evidence to hide the schooling and work dates in the selected's application and resume to have Wells tell the material lie under oath as his facts in his summary and response. Page ID# 269-274 in Qiu's reply DN 29, Page ID# 382-386 in Qiu's sanction DN 34, Page ID# 473, 479-484 in Qiu's reply DN 37, Page 1-2 in Qiu's reply brief D 18.

The selected was double unqualified because his major was not physics that he could not be certified to teach physics even he enrolled in the teacher preparation program. Page ID# 116, the selected's resume, in Qiu's summary DN 25, Page ID# 269, 272, Option 6, in Qiu's Reply DN 29, Page 3 in Qiu's reply brief D 18.

Therefore, the selected absolutely could not be certified for teaching physics that he was not qualified for the physics teaching position.

### **The Courts Took Lawyer Chenoweth's Lie**

The district court avoided the hiring eligibility letter. The district court avoided the selected's major was not physics that he was double not qualified for the physics position. The district court took Lawyer Chenoweth's lie. Page ID# 370 in Order DN 32. **First half in Page 36 in Appendix A.** The district court did not hear Qiu.

The circuit court avoided the hiring eligibility letter, the enrollment receipt, and Lawyer Chenoweth could not cite the date in the selected's application and resume, but Lawyer Chenoweth hid the dates. The circuit court avoided the selected's major was not physics that he was double not qualified for the physics position. The circuit court took Lawyer Chenoweth's lie. Page 4 in Order D 19; **Second half in Page 52 in Appendix B.** The circuit court did not hear Qiu.

The truth was the qualification of the selected was fake. The selected was not qualified to teach physics.

### **The Courts Disqualified Qiu for the Physics Position**

The district court disqualified Qiu by the five year recency. Page ID# 374 in Order DN 32; **Second half in Page 42 in Appendix A.** Qiu raised the emails to argue Woodford had no question about Qiu's qualifications when Qiu was applying for the physics position that Woodford believed Qiu was qualified. Page ID# 405-407, 442-448 in Qiu's 59(e) DN 35. Lawyer Chenoweth never proved Woodford concerned Qiu's qualifications when Qiu was applying for the physics position. Woodford did not know the five year recency when Qiu was applying because it

was not in Lawyer Chenoweth's defense. The 5 year recency was not the reason Woodford ignored Qiu that the district court falsified the fact to favor Woodford. The district court was on Woodford's side to subsequently remedy repair to disqualify Qiu to grant Woodford's summary.

The circuit court opinioned Qiu was not certified to teach physics that she was not qualified for the physics teaching position. Page 4-5 in Order D 19; **Page 52-53 in Appendix B.** The circuit court did not hear Woodford had no question about Qiu's qualifications that it believed Qiu was qualified for the physics position when Qiu was applying. Page 3-4 in Qiu's reply brief D 18. The circuit court's opinion was not the fact when Qiu was applying for the physics position with Woodford. The circuit court was on Woodford's side to make up to disqualify Qiu to favor Woodford.

### ***The Courts did not Apply the McDonnell Douglas Framework on the Selected and Qiu***

Even based on the courts' position that Qiu was not qualified for the physics position, Qiu the successful chemistry teacher highly Praxis qualified to teach physics [Page ID# 119-127 in Qiu's summary DN 25] was superior to the selected whom Lawyer Chenoweth was trying to enroll into a teacher



preparation program. The courts did not apply the standard *McDonnell Douglas* Framework to the selected and Qiu which required the comparison of the qualifications of the applicants by the 4th element. Once the qualifications of the selected and Qiu were compared, the courts could not grant and affirm the grant of Woodford's summary that the courts avoid the standard *McDonnell Douglas* Framework. The district court opinioned that Qiu failed to establish *prima facie* because Qiu was not qualified. Page ID# 375 in Order DN 32; **Second half in Page 43 in Appendix A.** The circuit court agreed with the district court. Page 3 in Order D 19; **Page 50-51 in Appendix B.**

The courts did not consider the qualifications of the selected and Qiu to perform the job of teaching physics that the courts clashed with the spirit of the Supreme Court's decision *GRIGGS v. DUKE POWER CO.*, 401 U.S. 424 (1971): *If an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited.* It was a problem that the courts did not consider the applicants' qualifications to perform the job of teaching physics.

**The selected was double not qualified to teach physics. The courts' position was Qiu was not qualified to teach physics.**

Question to the Justices: Is the standard *McDonnell Douglas* framework still applicable when an employer selects one of the two unqualified applicants?

**Question 4. Should the applicants' qualifications be determined by the description of the job in the job posting?**

**The District Court Took Woodford's Engineer Pretext, but Engineer was not in Its Job Posting**

Woodford did not describe engineer in its job postings every time it posted for a physics teacher. Page ID# 238, 264-268 in Qiu's reply D 29, Page ID# 196, 212-216 in Qiu's response DN 28.

Woodford pretexted that it selected the selected for his engineer experience. Qiu and others were not interviewed because they were without engineering experience. 10, 11, 12 in Wells's affidavit in Page ID# 151 in Woodford's summary D 26. Because engineer was not in the job postings, Qiu did not know to demonstrate her experience of teaching engineering in physics classes in her application and contact.

The district court took Woodford's pretext that Woodford offered the position to the selected for his

engineer degree. Page ID# 370 in Order 32; **First half in Page 36 in Appendix A.** The district court did not hear engineer was not in the job postings. The district court did not hear Qiu.

**The circuit court took Woodford's engineer pretext to satisfy Woodford met its burden, but engineer was not in the job posting**

Woodford argued it preferred the selected for his engineer which Qiu was without. Page 23, 37, 43 in Woodford's brief D 16.

Qiu argued Woodford did not mind engineering that it did not search for engineer skill in its job postings. Engineer was never in Woodford's job postings. Page 6 in Qiu's reply brief D 18. Engineer was Woodford's pretext to cover its discrimination against Qiu. Because engineer was not in the job postings, Qiu did not know to put her experience of teaching engineer in her resume.

The circuit court took Woodford's engineer pretext. Page 4 in order D 19; **Second half in Page 51, Page 52-53 in Appendix B.** The circuit court did not hear engineer was not in the job posting. The circuit court did not hear Qiu.

The circuit court avoided to display the four elements of the *prima facie*. Page 4 in Order D 19; **Line 8-9 in Page 51 in Appendix B.** The circuit court avoided to display the four elements of the *prima facie* because the 4th element would fail the affirm of the granting of Woodford's summary when the qualifications of the selected and Qiu were compared.

The circuit court opinioned Woodford proffered its legitimate reason of engineer, and Qiu failed to show that Woodford pretexted for discrimination. Page 4 in Order D 19; **Middle in Page 51 in Appendix B.** The circuit did not hear Qiu's proving that engineer was the pretext to cover discrimination: Lawyer Chenoweth did not match the selected's engineer and Woodford's engineer while engineer was a bigger word than law; **Engineer was NEVER in Woodford's job postings;** engineer was a side thing while teaching physics was the major thing, and Qiu was superior to the selected for the major thing of teaching physics. Page 6-7 in Qiu's reply brief D 18. The circuit court did not say Qiu made nonsense. The circuit court did not hear Qiu. Not hearing Qiu, the circuit court opinioned Qiu failed to show that Woodford pretexted for discrimination. The circuit court was on Woodford's side cherrypicking to favor Woodford.

Question to the Justices: Should the applicants' qualifications be determined by the description of the job in the job posting?

**Question 5. Did the courts violate Qiu's Constitutional right to Due Process and equal protection of laws under Amendment XIV? Did the courts violate the Rule of Law?**

Question to the Justices based on the facts in the above questions 1-4: Did the courts violate Qiu's Constitutional right to Due Process and equal protection of laws under Amendment XIV? Did the courts violate the Rule of Law?

## **CONCLUSION**

For the foregoing reasons, this Court should grant this Petition for Writ of Certiorari.

Respectfully submitted.

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