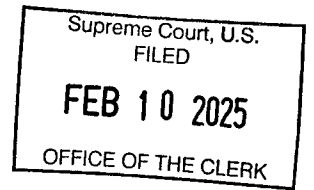


24-896



No.

IN THE
Supreme Court of the United States

Petitioner Wei Qiu

Wei Qiu

v.

Board of Education of Oldham County, 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

Wei Qiu the U. S. citizen of Chinese race applied for three chemistry positions with Oldham in 2020 and 2021. Principal Moore completely and absolutely ignored Qiu the excellent applicant. Qiu sued Oldham under Title VII of the Civil Rights Act of 1964 based on her race, color, and national origin. Qiu alleged that Moore ignored the excellent applicant Qiu because he discriminated against Qiu as Chinese to extreme in her complaint. Qiu alleged Moore directly violated Title VII. Oldham filed the motion to dismiss Qiu's complaint. Qiu attached the evidence which proved all the facts in her complaint to respond to the motion to dismiss. The district court rejected Qiu's evidence attached to her response to the motion to dismiss, and the district court dismissed Qiu's complaint. The circuit court affirmed the dismissal.

1. Can a complaint allege direct violation of Title VII?
2. Should the case go back to the district court to discover the hiring information the employer knows but the job applicant does not?
3. Should a plaintiff's proof of the facts in his complaint in his response to the motion to dismiss be considered?
4. Did the judges violate Qiu's Constitutional right to due process and equal protection of the laws in Section 1 of Amendment XIV? Were the judges against the Rule of Law?

LIST OF PROCEDURE

Wei Qiu v. Board of Education of Oldham County Schools, KY, 3:22 cv 00284, U.S. District Court for the Western District of Kentucky. Judgment entered on 03/02/23; 59(e) was denied on 03/20/24.

Wei Qiu v. Board of Education of Oldham County, KY 24-5364, U. S. Court of Appeals for the 6th Circuit. Judgment entered on Oct. 11, 2024; Petition to rehear to the en banc was denied on Nov. 25, 2024.

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Petitioner Qiu respectfully asks that a writ of certiorari be issued to review Order D 12 of the U. S. 6th Circuit filed on 10/11/2024, and Order DN 13 of the U. S. Western District Court of Kentucky filed on 03/02/2023.

OPINIONS BELOW

Order D 12 filed on Oct. 11, 2024, from the U.S. Court of Appeals For the 6th Circuit, affirmed the order from the district court. Order D 12 is attached as Appendix B. Order D 16 denied the petition to the en banc to rehear on Nov. 25, 2024. Order D 16 is attached as Appendix D.

Order DN 13 filed on 03/02/23, from the U. S. Western District Court of Kentucky, dismissed Qiu's Complaint. Order DN 13 is attached as Appendix A. Order DN 21 filed on 03/20/24 which denied Qiu's 59(e) motion is attached as Appendix C.

JURISDICTION

Order D 16 which denied Qiu's petition to the en banc to rehear was entered on Nov 25, 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 16 is attached as Appendix D.

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;

FRCP Rule 8(a)(2) a short and plain statement of the claim showing that the pleader is entitled to relief;

Rule 8(b)(6) Effect of Failing to Deny. An allegation — other than one relating to the amount of damages

— is admitted if a responsive pleading is required and the allegation is not denied.

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 plaintiff's qualifications.

“state a claim to relief that is plausible on its face”. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007))

“does not need detailed factual allegations,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Direct evidence is one way to prove a violation of Title VII. *White v. Columbus Metropolitan Housing Auth.*, 429 F.3d 232, 238 (6th Cir. 2005).

(1) is a member of a protected class; (2) was qualified for the position and applied for the position; (3) suffered an adverse employment action; (4) was treated differently than similarly situated non-protected employees. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-803 (1973).

STATEMENT OF THE CASE

A. Introduction of the Case Procedure

Qiu first depicts the events before introducing the filings.

Qiu the excellent chemistry teacher applied and contacted Principal Andy Moore for three chemistry positions in 2020 and 2021 attaching her support materials. Moore ignored Qiu. Qiu emailed Moore to ask for an explanation when receiving the rejection in July 2021, and Moore ignored Qiu.

Qiu filed the discrimination against her with the EEOC. Oldham did not settle the case. The EEOC issued the right to sue. Qiu sued Oldham in the U.S. Western District of Kentucky.

Qiu wrote her complaint based on the documents Oldham filed with the EEOC and the emails she sent to Moore. Oldham filed its motion to dismiss DN 5. Qiu responded with DN 6 attaching the evidence of the documents Oldham filed with the EEOC and the emails she sent to Moore. Oldham replied with DN 7. The district court granted Oldham's dismissal with Order DN 13.

Qiu filed 59(e) motion DN 14 to alter Order DN 13. Oldham filed DN 15 to respond. Qiu filed DN 16 to reply.

Qiu filed sanction motion DN 17. Oldham filed DN 18 to respond. Qiu filed DN 19 to reply.

The district court denied Qiu's 59(e) motion and sanction motion with Order DN 21.

Qiu appealed to the 6th Circuit Court. The 6th Circuit Court 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 Oldham County Schools, KY, 3:22 cv 00284, U.S. District Court for the Western District of Kentucky.

Wei Qiu v. Board of Education of Oldham County, KY 24-5364, U. S. Court of Appeals for the 6th Circuit.

The critical filings in the district court:

1. DN 1: Complaint
2. DN 5: Oldham's Motion to Dismiss
3. DN 6: Qiu's Response
4. DN 7: Oldham's Reply
5. DN 13: Order dismissed the complaint
6. DN 14: Qiu's 59(e) Motion to alter Order DN 13
7. DN 15: Oldham's Response to Qiu's 59(e)
8. DN 16: Qiu's Reply

9. DN 17: Qiu's Sanction Motion
10. DN 18: Oldham's Response
11. DN 19: Qiu's Reply

12. DN 21: Order denied Qiu's 59(e) and Sanction Motions.

The critical filings in the 6th Circuit Court were:

1. D 8: Qiu's Brief
2. D 9: Oldham's Brief
3. D 11: Qiu's Reply Brief
4. D 12: Order affirmed the district court's order
5. D 14: Petition to Rehear to the en banc
6. D 15: Petition to Rehear to the three judges
7. D 16: Order denied Qiu's Petition to rehear to the en banc

B. Statement of the Facts

BACKGROUND

Wei Qiu the American citizen was of Chinese race. Qiu was an excellent chemistry teacher.

Qiu contacted Principal Andy Moore for a chemistry position in 2020 attaching her support materials, and Moore ignored Qiu. Qiu applied and contacted Moore for two chemistry positions in 2021 attaching her support materials, and Moore ignored

Qiu again. Some of Qiu's support material presented to Moore were: the reference from the director of Advance Kentucky in which "Qiu demonstrated an exceptional grasp of the fundamental principles of chemistry", Qiu's AP chemistry exam report in which her 5 rate was 38% while it was 6% in Kentucky, her excellence of chemistry Praxis, the reference from Professor Bush at the University of Kentucky in which Professor Bush indicated Qiu's chemistry level was at Dr. Bush's, "I've had the pleasure of viewing outstanding teaching in her chemistry classroom for this past school year" in the reference of Qiu's supervisor. "... I have learned so much from taking your class. You handled NTI better than most of my other teachers. I learned how to be independent and teach myself. I will take that skill with me to college. You are an amazing person and teacher." from Graciela, Ms. Q's student. Page ID# 32-45 in Qiu's response DN 6. Principal Andy Moore completely and absolutely ignored Qiu every time despite Qiu's excellent qualifications for his chemistry positions.

Qiu asked Moore to explain why Qiu did not even have an interview despite her extraordinary qualifications for the chemistry positions. Page ID# 49 in Qiu's response DN 6. Moore ignored Qiu.

Qiu filed the discrimination against her with the EEOC. Oldham did not settle the case. The EEOC issued the right to sue. Qiu sued Oldham in the U.S.

Western District of Kentucky under Title VII of the Civil Rights Act of 1964 based on her race, color, and national origin.

FACTS IN THE DISTRICT COURT

Qiu's Complaint

Qiu wrote her complaint based on the documents Oldham filed with the EEOC and the emails she sent to Moore. Page ID# 27-50 in Qiu's response DN 6. Qiu's complaint formed as the following:

1. *Wei Qiu the plaintiff is an American citizen with origin of China. She is an excellent licensed chemistry teacher highly qualified for defendant's chemistry teaching opens.*
2. *She emailed to Principal Andy Moore for the chemistry position with support materials in August, 2020. Principal Andy Moore ignored her.*
3. *In March, 2021, she applied for two chemistry positions defendant opened. She again emailed to Principal Andy Moore with support materials. She emailed to him two times to ask for his attention for her applications. Principal Andy Moore just ignored her again.*
4. *When plaintiff received rejection notice, she emailed to Principal Andy Moore to ask for explanation. Principal Andy Moore just ignored her.*

Plaintiff the excellent chemistry teacher never got any response from Principal Andy Moore for her job applications for which she was highly qualified. Principal Andy Moore discriminates against plaintiff as Chinese to extreme which is a serious violation of Title VII.

Oldham's Motion to Dismiss

Oldham stated that "the complaint does not contain an adequate factual basis for a discrimination claim" to dismiss the complaint. Page ID# 17 in Oldham's motion to dismiss DN 5. Oldham stated that "the plaintiff has done nothing more than make conclusory statements" to dismiss the complaint. Page ID# 18 in Oldham's motion to dismiss DN 5.

Oldham did not defend that it had not known Qiu was of Chinese race when ignoring Qiu's applications and contacts for its chemistry openings.

Qiu's Response to Oldham's Motion to Dismiss

Qiu attached the documents Oldham filed with the EEOC and the emails she sent to Moore to support the facts in her complaint. Page ID# 27-50 in Qiu's response DN 6. Qiu supported all the facts in her complaint with evidence in her response to the motion to dismiss: Qiu proved Moore knew Qiu was Chinese. Page ID# 21, 27-30 in Qiu's response DN 6. Qiu proved that Moore was informed of Qiu's excellence

for his chemistry openings. Page ID# 22, 31-45 in Qiu's response DN 6. Qiu proved Moore completely and absolutely ignored Qiu's applications and contacts for his chemistry openings. Page ID# 22, 46-50 in Qiu's response DN 6.

Oldham's Reply

Oldham replied that "None of the documents the plaintiff has attached to her response are incorporated even by reference into the complaint...." Page 51 in Oldham's reply DN 7. Oldham was opposite to the coherence and identification of the facts in Qiu's response DN 6 and the complaint. Oldham replied that "her response consists of documents simply indicating that she applied for positions with the defendant." Page ID# 52 in Oldham's reply DN 7. Oldham just openly lied.

Oldham did not reply that it had not known Qiu was of Chinese race when ignoring Qiu's applications and contacts for its chemistry openings.

Order DN 13 Which Dismissed the Complaint

- 1. The district court declined to consider the evidence attached to Qiu's response to the motion to dismiss**

The district court declined to consider the evidence attached to Qiu's response DN 6 which were all about

the complaint. Page ID# 65-66 in Order DN 13; **Page 31-32 in Appendix A.** The district court was on Oldham's side to get rid of evidence.

2. The district court made up facts and misapplied caselaws to its made up facts to dismiss the complaint

The complaint stated clearly Principal Moore completely and absolutely ignored Qiu's applications and contacts. Qiu the ignored job applicant did not know Oldham's hiring.

The district court put the job application situation into a working place and applied the workplace caselaws. Page ID# 67-68 in Order DN 13; **Page 34-36 in Appendix A.** The district court dismissed the complaint based on its made up facts: "Qiu's complaint does not allege that Board or its employees 'made any statements concerning h[er] race,' or that 'they engaged in any conduct whatsoever that could be reasonably be interpreted as racially motivated.'" "Furthermore, nothing in the complaint gives rise to a reasonable inference that Qiu was treated differently than anyone outside of her protected class." "Qiu does not state whether any other applicants applied for the position, and if they did, whether the other applicants were of a different race, color, or national origin. Nor does the complaint allege whether the individual who eventually filled the role was of a different race, color,

or national origin than Qiu.” Page ID# 67-68 in Order DN 13; **Page 34-36 in Appendix A.** The district court falsified facts.

The district court misapplied the caselaws *Masaebi*, *Veasy*, *Smith*, *Parker* to its made up facts to dismiss the complaint. Page ID# 67-68 in Order DN 13; **Page 34-36 in Appendix A.** *Masaebi and Smith* were in workplace that Masaebi and Smith knew the race of people around them that the district court misapplied *Masaebi* and *Smith* in the instant job application case. *Smith v. Board of Trustees Lakeland Community College*, 746 F. Supp. 2d 877, 883 (N.D. Ohio 2010). First Page in the order in Case 20-3425, <https://law.justia.com/cases/federal/appellate-courts/ca6/20-3425/20-3425-2021-03-25.html>. In *Veasy*, Veasy saw the other applicants at his interview. *Veasy* at 693. In the instant case, Moore absolutely and completely ignored Qiu that Qiu did not have an interview that Qiu did not see other applicants to know their race that the district court misapplied *Veasy*. In *Parker*, Parker was treated differently than employees outside of her class. Page ID# 68 in Order DN 13, **Page 35-36 in Appendix A.** “Other employee” was nonsense in the instant job application case that the district court misapplied *Parker*.

Based on the falsified facts and misplaced caselaws, the district court dismissed Qiu’s complaint. The district court was on Oldham’s side.

3. The district court lawyered for Oldham

Qiu's complaint alleged "Plaintiff the excellent chemistry teacher never got any response from Principal Andy Moore for her job applications for which she was highly qualified. Principal Andy Moore discriminates against plaintiff as Chinese to extreme which is a serious violation of Title VII. "

In its motion to dismiss, Oldham did not defend affirmatively that Oldham had not known Qiu was of Chinese race when ignoring Qiu's applications and contacts. Nor did Oldham in its reply. Oldham never argued that Oldham had not known Qiu was of Chinese race when Oldham ignored the excellent applicant Qiu.

The district court defended Oldham that "Qiu does not allege any facts to suggest the Board even know her race or national origin". Page ID# 67 in Order DN 13; **Middle in Page 35 in Appendix A.**

Qiu alleged Oldham discriminated against Qiu as Chinese basing on Oldham knew Qiu was Chinese. Oldham never disputed the fact Principal Moore knew Qiu was Chinese in its motion to dismiss and reply. Presented the undisputed fact that Moore knew Qiu was Chinese, the district court put the undisputed fact aside to defend Oldham. The district court was on Oldham's side lawyering with the court power.

4. Oldham and the district court did the teamwork to dismiss the complaint

Circumstantially, Oldham and the district court did the teamwork: Oldham put the dismissal motion in the docket that the district court could and would grant it.

Qiu's 59(e) Motion and Sanction Motion

Qiu filed 59(e) motion to alter Order DN 13. Qiu repeatedly argued that Qiu the ignored job applicant did not know what Oldham interviewed or hired for the position she applied for to finish the 4th element of the *prima facie* under the *Mc. Donnell Douglas* framework that discovery should start to find out. Page ID# 117, 118, 119, 120 in Qiu's reply DN 16 of her 59(e) set. Qiu was impossible to change the result of the teamwork of Oldham and the district court. The district court denied Qiu's 59(e) motion DN 14 with Order DN 21.

Qiu filed the sanction motion on Oldham. The district court denied Qiu's sanction DN 17 because the court granted Oldham's dismissal and denied Qiu's 59(e) motion. Page ID# 139-140 in Order DN 21; **Page 56 in Appendix C.** The district court did not give a legal accordance for the way it denied Qiu's sanction motion, not hearing the facts and laws in the sanction motion.

Therefore, the district court was on Oldham's side that it dismissed Qiu's complaint. Order DN 13.

Qiu appealed to the 6th Circuit Court.

FACTS IN THE 6TH CIRCUIT COURT

Qiu's Brief

Qiu displayed her complaint. Page 1-2 in Qiu's Brief D 8. Qiu stated the facts in her complaint was evidence supported in her response to the motion to dismiss. Page 2 in Qiu's Brief D 8. Qiu stated Moore knew Qiu was Chinese which was proven in her response. Page 2 in Qiu's Brief D 8. Having been informed with Qiu's excellence for his chemistry positions, Moore ignored Qiu because he discriminated against Qiu for Qiu was Chinese. Page 2 in Qiu's Brief D 8. Qiu displayed part of her excellence for Oldham's chemistry positions: her excellence of chemistry Praxis and her 5 rate of AP chemistry exam was 38% while it was 6% in Kentucky. Page 2 in Qiu's Brief D 8.

Qiu argued that her complaint alleged direct discrimination, and Qiu's complaint set up *prima facie* under 411 U. S. at 802 that her complaint surpassed the standard plausible on its face. **"state a claim to relief that is plausible on its face"**. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting

Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)).
Page 3-5 in Qiu's Brief D 8.

Qiu argued that the district court wrongly rejected Qiu's evidence attached to her response to the motion to dismiss. Page 5 in Qiu's Brief D 8.

Qiu argued that the district court made up the facts of workplace and misapplied the workplace caselaws to dismiss the complaint in the job application situation. Page 5-7 in Qiu's Brief D 8.

Qiu argued that her complaint inferred that Qiu the completely and absolutely ignored job applicant did not know the facts the district faked to dismiss her complaint. Page 6 in Qiu's Brief D 8.

Qiu stated that Qiu the completely and absolutely ignored job applicant did not know Oldham's hiring. Page 6 in Qiu's brief D 8.

Oldham's Brief

Oldham did not deny it knew Qiu was Chinese. Oldham did not prove the applicants it interviewed were much more qualified than Qiu that it did not have to bother to consider Qiu for its openings. Oldham did not explain that even if it did not discriminate against Qiu for being Chinese, it still ignored the excellent applicant Qiu. Oldham did not

rebut that Qiu's complaint set up *prime facie* under 411 U.S. at 802.

Oldham copied the district court's Order DN 13. Page 19-22 in Oldham's brief D 9.

Qiu's Reply Brief D 11

Qiu argued that her complaint alleged direct discrimination and set up *prima facie* under 411 U. S. at 802 with undisputed fact. Page 1-5 in Qiu's reply brief D 11.

Qiu argued that Moore knew Qiu was Chinese was an undisputed fact. Page 2 in Qiu's reply brief D 11.

Qiu again argued that the district court made up the facts of workplace and misapplied the workplace caselaws to dismiss the complaint in the job application situation. Page 5-7 in Qiu's reply brief D 11.

Qiu stated that Qiu the completely and absolutely ignored job applicant did not know Oldham's hiring. Page 5, 6 in Qiu's reply brief D 11.

The 6th Circuit Court's Order Which Affirmed the District Court's Dismissal of Qiu's Complaint

1. The three judges avoided Qiu's qualifications for Oldham's chemistry positions

The three judges avoided Qiu's qualifications for Oldham's chemistry positions. All about Qiu the job applicant was only "a Chinese woman". Page 1 in Order D 12; **Upper half in Page 40 in Appendix B.** Without Qiu's qualifications for the positions she applied for in the employment discrimination case, the order was nonsense. The three judges' order which affirmed the dismissal of Qiu's complaint failed completely.

Oldham ignored the excellent applicant Qiu demonstrated discrimination that the three judges avoided Qiu's qualifications to affirm the dismissal of Qiu's complaint.

Therefore, the three judges were on Oldham's side.

2. The three judges agreed with the district court to reject Qiu's evidence attached to her response to the motion to dismiss

The three judges agreed with the district court to decline to consider Qiu's evidence attached to her response to Oldham's motion to dismiss. Page 2 in Order D 12; **Upper half in Page 42 in Appendix B.** The three judges applied the laws to review a 12(b)(6) motion to review Qiu's response to Oldham's

12(b)(6) motion. Page ID# 2-3 in Order D12; **Middle in Page 42 in Appendix B.** The three judges opinioned that the evidence attached to Qiu's response to the motion to dismiss were "the matters outside the pledging". Page 2 in Order D 12; **Upper half in Page 42 in Appendix B.** The three judges openly lied to get rid of the evidence to affirm the dismissal of Qiu's complaint.

Therefore, the three judges were on Oldham's side.

3. The three judges' ground to affirm the dismissal of Qiu's complaint

The three judges stated their ground to affirm the dismissal of the complaint: " But she alleges no facts supporting this conclusive inference, such as the Board's commenting on or being aware of her ethnicity, the details of the three job openings she applied for, or who was ultimately hired for the positions." Page 3 in Order D 12; **Middle in Page 43 in Appendix B.** There were full problems in the three judge's ground to affirm the dismissal of Qiu's complaint:

Qiu's complaint stated Moore completely and absolutely ignored Qiu. Qiu the ignored job applicant did not know what Oldham interviewed for the chemistry positions Qiu applied for. Nor could Qiu hear Oldham and its employees talking about her. Page 6 in Qiu's brief D 8, Page 5, 6 in Qiu's reply brief

DN 11. The three judges did not hear Qiu. The three judges had to make up facts to affirm the dismissal of Qiu's complaint, and that they did: ".... But she alleges no facts supporting this conclusive inference, such as **the Board's commenting on** or being aware of **her ethnicity**, the details of the three job openings she applied for, or **who was ultimately hired for the positions.**"

Qiu's complaint was based on Oldham knew Qiu was Chinese. **Oldham never denied that it knew Qiu was Chinese in the district court and the Circuit Court.** Oldham knew Qiu was Chinese was an undisputed fact. Page 2 in Qiu's reply brief D 11. The three judges did not hear Qiu. Qiu's complaint clearly stated "Principal Andy Moore discriminates against plaintiff as Chinese to extreme". It was for Oldham to answer that it did not know Qiu was Chinese to affirmatively defend which Oldham never did. The three judges defended Oldham with the court power: " But she alleges no facts supporting this conclusive inference, such as the Board's commenting on **or being aware of her ethnicity**, the details of the three job openings she applied for, or who was ultimately hired for the positions."

The three judges were against Rule 8(a)(2) and "does not need detailed factual allegations," *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) for affirming the dismissal of Qiu's complaint because

Qiu's complaint did not go into details: " But she alleges no facts supporting this conclusive inference, such as the Board's commenting on or being aware of her ethnicity, **the details of the three job openings she applied for**, or who was ultimately hired for the positions."

Therefore, the three judges were on Oldham's side.

4. The three judges did not hear Qiu

The three judges did not hear Qiu's argument that the district court made up the facts of workplace and misapplied the workplace caselaws to dismiss the complaint in the job application situation.

The three judges did not hear Qiu argued that her complaint alleged direct discrimination, and Qiu's complaint set up *prima facie* under 411 U. S. at 802 that her complaint surpassed the standard plausible on its face.

The three judges did not hear that Qiu the completely and absolutely ignored job applicant did not know Oldham's hiring.

Therefore, the three judges were on Oldham's side.

REASONS FOR GRANTING THE PETITION

QUESTION 1

Can a complaint allege direct violation of Title VII?

Qiu's complaint alleged direct violation of Title VII: Oldham absolutely did not hire people of Chinese race despite her excellence for its openings. Direct evidence is one way to prove a violation of Title VII. *White v. Columbus Metropolitan Housing Auth.*, 429 F.3d 232, 238 (6th Cir. 2005).

Question to the Justices:

Can a complaint allege direct violation of Title VII?

QUESTION 2

Should the case go back to the district court to discover the hiring information the employer knows but the job applicant does not?

Qiu the ignored job applicant did not know what Oldham interviewed or hired for the position she applied for. Page ID# 5, the complaint. Page ID# 117, 118, 119, 120 in Qiu's reply DN 16 of her 59(e) set,

Page 6 in Qiu's brief D 8, Page 5, 6 in Qiu's reply brief D 11.

The district court and the circuit court dismissed and affirmed the dismissal of Qiu's complaint based on Qiu did not allege if Oldham interviewed or hired other applicants from Qiu's different race in her complaint. Page ID# 68 in Order DN 13; **Upper half in Page 36 in Appendix A**, Page 3 in Order D 12; **Middle in Page 43 in Appendix B**.

Qiu could not allege the facts she did not know, but Oldham knew what it interviewed and hired for the positions Qiu applied for.

Question to the Justices:

Should the case go back to the district court to discover the hiring information the employer knows but the job applicant does not?

QUESTION 3

Should a plaintiff's proof of the facts in his complaint in his response to the motion to dismiss be considered?

To follow **FRCP Rule 8(a)(2)** a short and plain statement of the claim showing that the pleader is entitled to relief, Qiu stated "Principal

Andy Moore discriminates against plaintiff as Chinese to extreme which is a serious violation of Title VII” in her complaint. Qiu tried to avoid going into detail to cite a document like her resume or her teaching certificate which was like performing an argument.

Oldham did not affirmatively answer that it did not know Qiu was Chinese in its motion to dismiss DN 5.

In her response to the motion to dismiss, Qiu proved Principal Moore knew Qiu was Chinese by the preponderance of evidence with detailed evidence. Qiu cited her resume and teaching certificate in which Qiu’s college education was in China, and Moore the principal of a large public high school knew Wei Qiu was Chinese by her name Wei Qiu. Page ID# 21, 27-30 in Qiu’s response DN 6.

Oldham did not deny Moore knew Qiu was Chinese in its reply DN 7. By FRCP Rule 8(b)(6), Oldham admitted the fact that Moore knew Qiu was Chinese. Thus Moore knew Qiu was Chinese was an undisputed fact.

The district court gave the reason “Qiu does not allege any facts to suggest the Board even know her race or national origin” to dismiss Qiu’s complaint. Page ID# 67 in Order DN 13; **Middle in Page 35 in Appendix A.**

The case went to the 6th Circuit:

In her brief, Qiu stated she proved Moore knew Qiu was Chinese in her response to the motion to dismiss. Page 2 in Qiu's brief D 8.

Oldham did not deny the fact Moore knew Qiu was Chinese in its brief D 9.

Qiu argued that Moore knew Qiu was Chinese was an undisputed fact in her reply brief. Page 2 in Qiu's reply brief D 11.

The circuit court had the ground "**she alleges no facts** supporting this conclusive inference, such as the Board's commenting on or **being aware of her ethnicity**" to affirm the dismissal of Qiu's complaint. Page 3 in Order D 12; **Middle in Page 43 in Appendix B.**

The courts did not consider Qiu proved the facts in her complaint with evidence in her response to the motion to dismiss.

Question to the Justices:

Should a plaintiff's proof of the facts in his complaint in his response to the motion to dismiss be considered?

QUESTION 4

Did the judges violate Qiu's Constitutional right to due process and equal protection of

**the laws in Section 1 of Amendment XIV?
Were the judges against the Rule of Law?**

Based on the above facts, Qiu asks her question to the Justices.

Question to the Justices:

Did the judges violate Qiu's Constitutional right to due process and equal protection of the laws in Section 1 of Amendment XIV? Were the judges against the Rule of Law?

CONCLUSION

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

Respectfully submitted.

Wei Qiu *Wei Qiu* Date *Feb. 10, 2025*
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