

No. 25-94

ORIGINAL

In the Supreme Court of the United States

IN RE: ANGELA W. DEBOSE, PETITIONER

FILED
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SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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May 10, 2025

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QUESTIONS PRESENTED

The question(s) are:

(1) Whether the district court properly dismissed and closed the case if the Plaintiff-Petitioner filed in the wrong court, rather than transfer it to the correct court in the interest of justice.

(2) Whether the magistrate judge erred by considering matters outside the "four corners" of the complaint when reviewing the complaint and making recommendations on a motion to dismiss, converting the motion to dismiss for reasons of jurisdiction to a summary judgment motion.

(3) Whether the Eleventh Circuit properly considered administrative error pursuant to Rule 65 in this judicial appeals, examining whether the district court's actions were arbitrary, capricious, or otherwise contrary to law, including procedural violations.

ii.

PARTIES TO THE PROCEEDING

Angela DeBose, plaintiff-petitioner below.

The University of South Florida, defendant-respondent.

STATEMENT OF DIRECTLY RELATED PROCEEDINGS

This case arises from proceedings in the United States Northern District of Florida and the United States Eleventh Circuit Court of Appeals:

Angela DeBose v. United States, et al., No. 8:21-cv-02127-SDM-AAS, U.S. District Court for the Middle District of Florida. Judgment entered on September 12, 2022.

Angela DeBose v. United States, et al., Appeal No. 22-13380, U.S. Court of Appeals for the Eleventh Circuit. Judgment entered on February 8, 2024.

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Petitioner Angela DeBose respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

OPINIONS BELOW

The court of appeals order in *In re Angela DeBose*, Appeal No. 24-10350, denying rehearing and rehearing en banc, on February 10, 2025,¹ (a11-a12), is unreported. The court of appeals order and opinion, (a13-a15), in *In re Angela DeBose*, Appeal No. 24-10350 (11th Cir. Oct. 18, 2024), is unreported. The district court, Case No. 4:22cv439-RH-MAF, issued a Clerk's Judgment, (a16-a17), on April 17, 2023. The district court's order of dismissal, (a18-a19), refusing subject matter jurisdiction on the basis of an injunction order discussed in the March 29, 2023 Magistrate's report and recommendations, (a20-a33), is unreported.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), writ of certiorari granted upon the petition of any party to any civil case, after rendition of judgment. Order for review 10/28/24. Rehearing 2/10/25.

STATUTORY PROVISIONS

28 U.S. Code § 1404 - Change of venue

¹ Without prior notice, the Eleventh Circuit converted the Motion for Rehearing and Rehearing En Banc to a motion for reconsideration. A party can file a petition for certiorari with the Supreme Court after the Court of Appeals converts a petition for rehearing to a motion for reconsideration. In such instance, a petition for certiorari can be filed within 90 days of the judgment or denial of a petition for rehearing.

a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.

28 U.S. Code § 1406 - Cure or waiver of defects

(a) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

(b) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

Rule 65, Injunctions and Restraining Orders:

The Federal Rule of Civil Procedure 65 governs injunctions, including permanent injunctions, in federal court. Specifically, Rule 65(a) addresses preliminary injunctions, while Rule 65(d) deals with the form and scope of both preliminary and permanent injunctions. Additionally, 28 U.S.C. § 2282 deals with the issuance of injunctions restraining the enforcement of federal statutes, requiring a three-judge district court for such cases.

STATEMENT OF THE CASE

The facts of the case concern a stated funded contract made by and between the Respondent University of South Florida, Petitioner's former

employer, and the Petitioner's current employer, a sister state university. The Respondent's contracted lawyers entered an agreement on its behalf with Petitioner's employer to discriminate and retaliate against the Petitioner to force her to leave her employment or oust her from her job. It is not inherently unlawful to hire a contracted attorney for the purpose of developing a plan of action against a worker, provided the plan itself and any subsequent actions taken are not unlawful and not based on discriminatory or retaliatory motives. Evidence demonstrates that the contract and adverse actions taken against Petitioner were in retaliation for protected activity. The Petitioner filed suit, pursuant to Title VII's provision against former employers. Locked out of the federal court in the venue where she resides², the case at issue was filed in the U.S. Northern District of Florida (Case No. 4:22cv439-RH-MAF) where the court declined subject matter jurisdiction on the basis of an injunction. It is a fundamental error in federal court to issue a permanent injunction without prior notice and a hearing, except in rare, narrowly defined circumstances. Federal Rule of Civil Procedure 65 requires notice and a hearing before a preliminary injunction can be issued, and the same principles apply to permanent injunctions. The injunction is being held out as a permanent injunction, which is a final judgment, that should not have been issued without prior notice and a hearing, as this violates fundamental principles of due process and the requirements of the Federal Rules of Civil Procedure. The Northern District of Florida issued a Clerk's Judgment and closed the case, which is akin to entry of a default. The district court refused to provide the Petitioner any process or avenue to set aside the default judgment, having administratively closed the case. Its dismissal order

² U.S. Middle District of Florida, Case No. 8:21-cv-02127-SDM-AAS.

gave the appearance that the dismissal was final instead of “*without prejudice*”. On February 10, 2025, the Eleventh Circuit denied rehearing, having converted Petitioner’s request for Rehearing/Rehearing En Banc to a motion for reconsideration allegedly because its order was not an opinion. A party can file a petition for certiorari with the Supreme Court after the Court of Appeals converts a petition for rehearing to a motion for reconsideration. In such instance, a petition for certiorari can be filed within 90 days of the judgment or denial of a petition for rehearing, which is May 12, 2025. Petitioner seeks review under the relevant judicial and/or administrative law, including the Administrative Procedure Act (APA).

LEGAL STANDARD

The standard of review for a federal court's decision to decline subject matter jurisdiction is *de novo*. This means the Court reviews the appellate court's decision without deference, essentially reevaluating the issue as if it were deciding it for the first time. This applies to both decisions dismissing a case for lack of subject matter jurisdiction and decisions declining to exercise jurisdiction over a claim.

A district court's dismissal instead of transfer of venue is reviewed for whether the court properly applied the “*forum non conveniens*” doctrine, which means the court must consider if another forum is significantly more convenient for the parties and witnesses, even if the current venue is technically proper. *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 102 S. Ct. 252 (1981). If a court finds that a different venue would be more convenient, it usually has the option to transfer the case under 28 U.S.C. § 1404(a) instead of dismissing it outright.

SUMMARY

Improper venue is a procedural issue, not a jurisdictional one. If a federal court does have subject matter jurisdiction over a case, but venue is improper, the court can dismiss or transfer the case, but it should not decline jurisdiction over the type of case.

REASONS FOR GRANTING THE PETITION

Issuing a permanent injunction without proper notice and a hearing is considered an abuse of discretion and a violation of due process. A permanent injunction requires a full evidentiary hearing where both parties can present their case. Ex parte (one-sided) injunctions, which can be issued without notice or a hearing, are only permitted in limited, emergency situations where irreparable harm is imminent. Furthermore, a prefiling injunction cannot be permanent in federal court because it would amount to a prior restraint on First Amendment speech. The Supreme Court has established a strong presumption against prior restraint, viewing it as the most serious infringement on free speech. See *Nebraska Press Assn. v. Stuart*, 427 U.S. 539 (1976). Three (3) years later, the injunction is being held out as permanent with no possibility for dissolution. A prefiling injunction, also known as a temporary restraining order (TRO) or preliminary injunction, is temporary relief to preserve the status quo until a case is resolved. A permanent injunction is issued after a full trial and resolution of the case and final relief granted by the court. The court in the Middle District of Florida abused its discretion, committing harmful error by issuing a preliminary or permanent injunction without prior notice and a hearing, as this violates fundamental principles of due process and the requirements of the Federal Rules of Civil Procedure. Therefore, the injunction order should not have been

given deference by the district court below because it was:

Constitutional Error - The injunction order violated Federal Rule of Civil Procedure 65's guarantee of Due Process, prior notice and a hearing.

Fundamental Error – The injunction order was so egregious that it undermined the fairness of the proceeding and requires a reversal of the decision even if not objected to by the Petitioner on this specific ground.

I. It is generally considered an error for a court to refuse to exercise subject matter jurisdiction solely because of an appealed prefiling injunction order.

Subject matter jurisdiction is determined by law, not by the existence of a pending appeal of a prefiling injunction. A federal court may decline subject matter jurisdiction primarily when the case does not meet the requirements for federal jurisdiction or when a court declines to exercise its supplemental jurisdiction over a state law claim. It is considered an error for a court to refuse to exercise subject matter jurisdiction solely because of a prefiling injunction. Subject matter jurisdiction is determined by law, not by the existence of a pending appeal of a prefiling injunction. The district court could have found the previous order to be unconstitutional or subject to modification by a higher court. The district court issued an order to show cause and was provided unobjected-to facts.³ Essentially,

³ The court in the Middle District of Florida held *no* proceedings. The court issued its injunction order, without prior notice and a hearing—a substantial error. The Office of Lawyer Regulation investigated the district judge's complaint and recommended dismissal and a finding of "no misconduct".

deference is due to established precedent and should be reconsidered when the ruling is deemed incorrect or outdated.

II. A court cannot decline subject matter jurisdiction solely based on res judicata without independently determining whether the prior suit involved the same subject matter and time period.

Res judicata, or claim preclusion, prevents relitigating a claim that has already been adjudicated, but it is not a substitute for jurisdiction. A court must have subject matter jurisdiction to hear a case, and a dismissal for lack of subject matter jurisdiction does not trigger the judgment bar of res judicata. The court in the Northern District of Florida did not make its own independent determination of whether it has subject matter jurisdiction over the case, regardless of the outcome of a prior case(s). Even if a prior case involved the same parties and a similar claim, if the district court does not have subject matter jurisdiction, it cannot decline the case based on res judicata alone.

III. A Florida federal court cannot decline subject matter jurisdiction solely because the Florida venue selected is arguably improper.

Subject matter jurisdiction, which determines what types of cases a court can hear, is distinct from venue, which determines the appropriate geographic location for a trial. While a federal court can dismiss a case for improper venue (a procedural issue), it cannot decline subject matter jurisdiction if it has the authority to hear the type of case. Subject matter jurisdiction cannot be waived by the parties and must exist for a case to proceed in federal court.