

No. 17-1199

**IN THE
SUPREME COURT OF THE UNITED STATES**

MARCIA WILSON

Petitioner,

v.

STATE OF HAWAII; et al.,

Respondent(s).

On Petition For Writ Of Certiorari
To The United States Court Of Appeals

PETITION FOR REHEARING

MARCIA WILSON

PRO SE

480 Kenolio Rd. #10-201

Kihei, Maui, Hawaii 96753

808-783-7981

05/17/2018

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PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, petitioner respectfully petitions this Court for rehearing of its April 16, 2018 order denying the petition for a writ of certiorari.

Petitioner ask the Court to grant the petition for rehearing on the grounds citing (Government Code section 68081), based on an issue not briefed, due to ineffective assistance of counsel (IAC). Where good cause appears for consideration of such matters, Petitioner ask the Court to review the material facts submitted showing proof of years of discrimination, retaliation and targeting of person and family members and should not be condoned in any workplace especially, to go so far, and fire anyone during a time when there is a death in the family. This case needs to be rectified, if not for the behavior of management and the education of those who make life and death decisions in the workplace.

Being that this case is a pro se case, and that Petitioner is under extreme stress and anxiety due to the unconscionable decisions by supervisor/management (during my mother's death) needs to be review and corrected.

Material facts submitted shows the years workplace discrimination and retaliation has been perpetuating and how it has evolved.

FACTUAL & PROCEDURAL BACKGROUND

A. Letter to L. Okita

Dated: April 10, 2013

From: Mike Yuen, (HGEA; Union Agent)

To: Lori Ann Okita, (Chief Court Administrator)

SUBJECT Step 1 Grievance, Marcia Wilson (Grievant)

In accordance with Article 11 – Grievance Procedure of the aforementioned subject Collective Bargaining Agreement (CBA), and the Memorandum of Agreement pertaining to Article 11, effective November 20, 2007; and The Judiciary's notice of November 27, 2007; the HGEA/AFSCME (Union) is filing a Formal Step Grievance on behalf of the aforementioned Grievant.

CONTENTION

As representatives for the Grievant, we contend in issuing the dismissal action, the Employer violated the following articles of the aforementioned subject CBA.

Article 3 – Maintenance of Rights and Benefits

Article 4 – Personnel Policy Changes

Article 5 – Rights of the Employer

Article 8 – Discipline

Article 17 – Personal Rights and Representation

Article 36 – Sick Leave

FACTUAL & PROCEDURAL BACKGROUND

B. Letter to R. Maile

Dated: June 19, 2013

From: Mike Yuen (HGEA; Union Agent)

To: Rodney Maile (Administrative Director of Courts; The Judiciary, State of Hawaii)

SUBJECT: Step 2 Grievance. Marcia Wilson (Grievant)

In accordance with Article 11 – Grievance Procedure of the aforementioned subject Collective Bargaining Agreement (CBA), and the Memorandum of Agreement pertaining to Article 11, effective November 20, 2007; and The Judiciary's notice of November 27, 2007; the HGEA/AFSCME (Union) is filing a Formal Step Grievance on behalf of the aforementioned Grievant.

CONTENTION

As representatives for the Grievant, we contend in issuing the dismissal action, the Employer violated the following articles of the aforementioned subject CBA.

Article 3 – Maintenance of Rights and Benefits

Article 4 – Personnel Policy Changes

Article 5 – Rights of the Employer

Article 8 – Discipline

Article 17 – Personnel Rights and Representation

Article 36 – Sick Leave

FACTUAL & PROCEDURAL BACKGROUND

C. Title VII, EEOC

On March 02, 2012, Petitioner filed a complaint with the U.S. Equal Employment Opportunity Commission. Respondent was issued a letter from the EEOC stating that they were in violation of employment discrimination. Title VII of the Civil Rights Act of 1964 (Title VII) EEOC No. 486-2012-00148

On March 15, 2012, Hawaii Civil Rights Commission was notified that a complaint of employment discrimination under the Hawaii Employment Practices Law and the U.S. Civil Rights Act of 1964, as amended, has been filed against their organization and that, Section 701(a) of the Civil Rights Act prohibits retaliation, and Section 1602.14 of the Commission's Regulations requires the preservation of all personnel records relevant to this charge. FEPA No. 16931; EEOC No. 486-2012-00148

In January 2013, Petitioner filed a complaint with the EEOC. A Notice of Charge of Employment Discrimination against the organization under Title VII. No. 486-2013-00018

On February 11, 2013, Petitioner received a Right to Sue letter from the Hawaii Civil Rights Commission stating violation of Title VII. FEPA No. 17417; EEOC No. 486-2013-00018

On April 19, 2013, Petitioner was issued a letter from the EEOC stating that they were in violation of employment discrimination. (Title VII) EEOC Inquiry No. 486-2013-00231

On April 24, 2013, Hawaii Civil Rights Commission sent a Notice of Charge of Discrimination stating complaint of employment discrimination under the Hawaii Employment Practices Law and the U.S. Civil Rights Act of 1964, has been filed against the organization and is being investigated by the EEOC under the work - share agreement with the agency and Section 701 (a) of the Civil Rights Act prohibits retaliation and Section 1602.14 of the Commission's Regulations requires the preservation of all personnel records relevant to this charge. FEPA No. 17568; EEOC. N0-486-2013-00231

On June 30, 2015, Petitioner filed a complaint with the EEOC claiming employment discrimination and was issued a letter stating the matter complained of is subject to the statute (s) of violation of Title VII. EEOC No. 486-2015-00293.

On July 20, 2015, Hawaii Civil Rights Commission, issued a Notice of Charge of Discrimination, stating a complaint of employment discrimination under the Hawaii Employment Practices Law and the U.S. Civil Rights Act of 1964, has been filed against the organization and is being investigated by the EEOC and stating Section 701(a) of the Civil Rights Act prohibits retaliation, and Section 1602.14 of the Commission's Regulations requires the preservation of all personnel records relevant to this charge. FEPA No. 18732; EEOC No. 486-2015-00293.

FACTUAL & PROCEDURAL BACKGROUND

D. Letter from Judiciary to Dr. Gentry Jones

THE JUDICIARY

DISTRICT COURT OF THE SECOND CIRCUIT

WAILUKU DIVISION

2145 MAIN ST., STE. #137

WAILUKU, HI 96793-1679

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

August 23, 1996

Gentry T. Jones, Ph. D

33 Lono Avenue, Suite 230

Kahului, HI 96732

RE: Marcia D. Wilson

Dear Dr. Jones:

Thank you for your July 7, 1995 response to our letter. Your explanation of stress is enlightening and consistent with our general understanding. To set the record straight, I feel that you need to hear the other side of the story.

Dr. David Logan originally released Ms. Wilson to return to work on March 1, 1995 but he later changed her return to March 15, 1995.

Ms. Wilson did not report work that day. Without any forewarning, she then showed up for work on March 28, 1995. Although she turned in a doctor's slip from the Maui Medical Group releasing her to return to work on March 28, 1995, she never explained why she did not report on March 15, 1995.

Ms. Wilson's supervisor tried to help her make a smooth transition back to the workplace. Ms. Wilson's job duties were temporarily adjusted so she only had to answer the telephone, copy documents, and file. She was also permitted to work part-time as prescribed by the Kihei Physicians and later by yourself.

Staff were cautioned to avoid making any remarks to Ms. Wilson that could be interpreted as criticism or offensive. I am, therefore, surprised that she feels her co-workers have acted toward her in "disrespectful ways". To help me understand what is happening, I would appreciate receiving any information that you or Ms. Wilson can offer regarding the behaviors and attitudes of her co-workers.

A few days after Ms. Wilson's return to the office, I inquired as to how things were being back at work. She replied, "the same". Upon further query by me, she stated that if the girls were overly nice to her, she knew they were talking behind her back; that if they ignored her, it was because she had been married to a haole and her children were half-haole; that the staff resented her assisting the people over the counter who were Caucasians. I stated that it

E. Letter from Judiciary to M. Wilson

THE JUDICIARY
DISTRICT COURT OF THE SECOND CIRCUIT
WAILUKU DIVISION
2145 MAIN ST., STE. #137
WAILUKU, HI 96793-1679

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

August 23, 1996

Marcia D. Wilson
108 Kupalaiki Lp.
Kihei, HI 96753

Dear Ms. Wilson

Your recent contact with Karen Maeda, Personnel Clerk of the District Court of the Second Circuit, prompted a review of your records. Effective June 1, 1995 through present, you have been on an unauthorized leave of absence without pay. This resulted from your failure to comply with a July 10, 1995 deadline to submit a physician's certificate covering your absence from work. Dr. Gentry T. Jones sent us a letter, dated July 7, 1995, but it did not substantiate your absences. The letter stated various reasons for your three-day work week as well as treatment for your illness.

In accordance with the Unit 03 collective bargaining agreement, you are reminded that it is the employee's responsibility to submit a physician's certificate to the employer. Article 40 (Other Leaves Without Pay) of the agreement states that an employee may be granted a leave without pay:

Article 40.H.1 – To recuperate from physical or mental illnesses; provided, for leaves without pay of five (5) days or more, an Employee shall submit a licensed physician's certificate to substantiate the fact that period of leave without pay was due entirely to sickness and that the Employee is physically and/or mentally able to resume the duties of the Employee's position.

Therefore, we are once again requesting that you submit a licensed physician's certificate to cover your absences from May 16, 22, 23, 25, 29, 1995 through the present. The certificate should be in our office no later than the close of business September 13, 1996.

If your physician indicates that you are no longer disabled, you must return to work. If this is the situation, please call me at 244-2855 so that we may discuss your return-to-work date.

Very Truly Yours,

/s/ L. Louneille Medeiros

District Court Administrator

cc: Kenneth Nakamatsu, Associate Personnel Director
Alton Watanabe, HGEA

REASONS FOR GRANTING THE PETITION

The Courts should grant the petition on the grounds of Government Code section 68081 that requires the Court rehearing of a case, based on issues in this petition that were never briefed. The issue on my surgery, illness, and letters from my employer dated August 23, 1996, showing conversation between doctors and employer regarding my illness, that occurred while at work at Wailuku District Court. *People v. Mendoza 18 Cal.4th 1114 (1998)*.

The legal documents that were never briefed, from the U.S. Equal Employment Opportunity Commission (EEOC), Hawaii Civil Rights Commission, Hawaii Government Employment Association (HGEA) / American Federation of State, County and Municipal Employees (AFSCME) Union and The Hawaii Employment Practices Law. Citing Government Code section 68081, and Ineffective Assistance of Counsel (IAC) *People v. Mack 99 Cal. App. 4th 329, rev.gtd.8-28-02 (2002)*

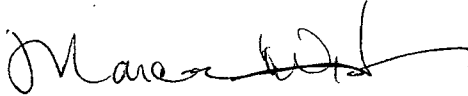
Also, Petitioner wants to call attention to the omission and fact of an issue in this petition for rehearing on the policy matter, of submitting doctor' s slips. Calling attention to the Union Rules, Hawaii Employment Law Practices, EEOC, Title VII. All were made aware, and cited, during the time Petitioner was in mourning, then years later reversed. Showing grounds of retaliation, to cause harm to Petitioner. *People v. Peevy* 17 Cal.4th 1184, 1205-1206 (1998) and *People v. Bransford* 8 Cal.4th 885, 893, fn 10. (1994).

Petitioner request rehearing to review legal documents that were not briefed before attorney's withdrawal from case. *Citing ineffective assistance of counsel (IAC)*

CONCLUSION

For the foregoing reasons, this Court should grant the petition for rehearing, vacate the order denying the writ of certiorari, and restore this case to its merits docket.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marcia Wilson", with a long horizontal flourish extending to the right.

MARCIA WILSON

PRO SE

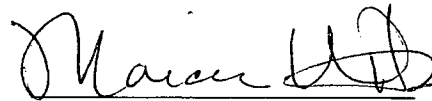
480 Kenolio Rd. #10-201

Kihei, Hawaii 96753

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CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay.

 05/17/18

MARCIA WILSON

PRO SE

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Kihei, Maui, Hawaii 96753

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