

No. 24-661

SUPREME COURT OF THE UNITED STATES

RICHARD RYNN,

Applicant Petitioner

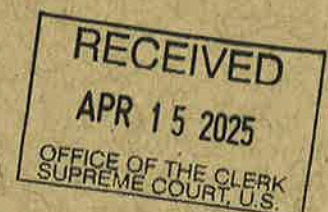
V.

FIRST TRANSIT INC, AN OHIO CORPORATION,
ABC CORPORATION I-X; AND BLACK AND WHITE
PARTNERSHIPS, AND/OR SOLE
PROPRIETORSHIPS I-X

Respondents

PETITION FOR REHEARING WRIT OF
CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE NINTH CIRCUIT

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Petitioner/Plaintiff Pro Se



QUESTIONS PRESENTED

1. Whether an employee has standing to seek a workplace-related injunction without the employer's authorization?
2. Whether the court erred in failing to exercise jurisdiction over the Avondale case related to employment, despite the state court's referral to the district court for review?
3. Whether a party may rely on false assertions of workplace harassment in state court proceedings, when sworn testimony, including that of the employer's representative establishes that no evidence of workplace harassment exists?
4. Whether it constitutes a violation of due process for the court to deny the filing of further briefs as required per Rule 5(d)(4) that present new evidence and allege fraud?

PARTIES TO PROCEEDING

Defendant First Transit

DIRECTLY RELATED CASES

Rynn v McKay Arizona District Court
Case No. 2:18-cv-00414 JJT U.S. Supreme
Court Case No. 24A22 -----Pending

Mathews V Rynn Avondale city court Case No.
P02019000235, Rynn V Avondale court, First
Transit, Et al. Arizona court of Appeals Division
One Case No. CA-CV-230092 Arizona Supreme
court Case No. CV-24-0032 U.S. Supreme court
Case No. 24-890 -----pending

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PETITION FOR REHEARING

Petitioner respectfully moves for rehearing of the denial of certiorari pursuant to Supreme Court Rule 44, based on newly disclosed evidence, substantial procedural defects, and constitutional violations—including denial of due process, failure to consider material evidence, judicial conflict of interest, and void judgments procured through fraud and improper ex parte proceedings. Rehearing is warranted because no hearing was held to adjudicate newly presented evidence and contested issues concerning the deprivation of Petitioner's constitutional and labor rights, including protection from employment discrimination. (Dk. 170, 171, 172, 174, 176; U.S. Supreme court Case No. 24-890).

The Ninth Circuit failed to address material claims regarding the Avondale Municipal Court's role in depriving Petitioner of constitutional rights in a

workplace context (Case No. 24A22), despite significant due process violations and clear legal and factual errors in the district court's dismissal. The district court disregarded material evidence from Petitioner's Statement of Facts showing violations of A.R.S. § 13-3624(C), Federal Rule of Civil Procedure 65, and Title VII procedural safeguards, including the unauthorized issuance of an ex parte workplace-related order without required disclosure. (Dk. 116, 171, 172, 176) (Dk 142).

Rehearing is further justified by newly uncovered evidence from Case No. 1 CA-CV 23-0092 (2024) referred to the district court to resolve. These proceedings revealed for the first time that the Avondale Court action originated in the workplace—a material fact concealed during the May 13, 2019 ex parte hearing. This evidence could not have been reasonably discovered earlier and directly undermines the fairness and validity of the underlying proceedings.

Argument

The district court's refusal to file Appellant's submissions, including newly discovered evidence and a motion to correct the record (Dk. 142, 174, 176), violates Rule 5(d)(4) of the Federal Rules of Civil Procedure. That rule prohibits clerks from rejecting filings solely for noncompliance with form requirements. The clerk's role is ministerial; procedural deficiencies must be addressed through judicial review, not by refusing to file. This denial prevented Appellant from correcting the record and presenting critical new evidence to resolve disputed findings of fact, thereby violating due process. Appellant respectfully requests that the Court direct the district court to accept and consider the new evidence as part of the record. (Dk. 176)

- *Allied Chemical Corp. v. Daiflon, Inc.*, 449 U.S. 33 (1980) – Emphasizes that Rule 59(a) is appropriate

when the trial court's decision is contrary to the clear weight of the evidence.

- *Wilburn v. Maritrans GP Inc.*, 139 F.3d 350 (3d Cir. 1998) – Highlights that failing to consider material evidence is grounds for a Rule 59(a) motion.

Legal Argument: Only an Employer May Seek an Injunction Related to the Workplace

Under established legal precedent, courts have consistently held that only an employer has standing to seek an injunction concerning workplace matters. This principle stems from the employer's unique authority and responsibility to manage workplace conditions, enforce company policies, and protect employees.

Key Case Law Supporting This Principle

***Breitling v. LNV Corp.*, 86 F. Supp. 3d 564 (N.D. Tex. 2015)**

This case affirms that injunctions involving workplace conduct typically require the employer's direct involvement as the party with legal standing to assert claims related to employee behavior, workplace safety, or harassment policies.

EEOC v. Arabian American Oil Co., 499 U.S. 244 (1991)

While this case focuses on Title VII enforcement, it reinforces the notion that employers retain primary control over workplace management and disputes.

Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)

This ruling highlight that judicial remedies for workplace-related issues are generally pursued by the employer or an authorized representative, ensuring the proper parties are held accountable for workplace conditions.

Baker v. Weyerhaeuser Co., 903 F.2d 1342 (10th Cir. 1990)

The court emphasized that third parties, without a direct employment relationship or managerial control, lack standing to initiate workplace-related injunctions.

Application in this Case

In this instance, because Defendant First Transit's representative, Patrick Camunez, acknowledged that the alleged harassment was not established to have

occurred during company time, the employer itself (First Transit) is the proper party to address workplace-related matters. The Avondale court's acceptance of an injunction against the workplace filed by an employee, without the employer's direct involvement and without evidence of workplace misconduct, constitutes a manifest error of law. "Accordingly, reversal is warranted because the injunction lacks a valid legal basis and violates established precedent requiring employer involvement in workplace-related injunctions and corresponding liability." (Dk 170 p.1-18 171 p.1-18, 172 p.1-18 Ex. A-F)

Failure to Conduct a Hearing on Contested

Matters Courts must hold a hearing when factual disputes and material discrepancies on the record materially affect the outcome.

Fuentes v. Shevin, 407 U.S. 67 (1972) – Establishes that procedural due process requires an opportunity to be heard when substantial rights are at stake.

Dahlin v. Frick, 623 F.2d 1333 (9th Cir. 1980) – Reinforces that failure to hold a hearing on contested issues violate due process.

Ninth Circuit's Failure to Review Claims

The Ninth Circuit's failure to address legal errors and material evidence warrants reconsideration.

Gonzalez v. Crosby, 545 U.S. 524 (2005) – Explains that a Rule 59(a) motion can challenge procedural deficiencies that prevented a full and fair review.

Newly Discovered Evidence

Evidence from the **Arizona Court of Appeals** that emerged after the district court's decision (Dk 175) (Dk 116) justifies reconsideration.

Anderson v. Bessemer City, 470 U.S. 564 (1985) – Emphasizes that newly discovered evidence material to the case's outcome is a valid basis for reconsideration.

In Support of This Motion, Appellant States as

Follows: Contradictions in testimony deprived

Appellant of the opportunity to contest an unfair and

prejudiced dismissal that did not follow due process

requirements due to an ex parte proceeding on May 13,

2019, constituting a violation of due process. (Dk 171 p.

2) (Dk 172 Ex p. 3 p. 15)

On June 3, 2019, employer First Transit representative Camunez testified under oath, stating, *"we couldn't establish that harassment had taken place on company time"* (Dk. 172, #1 Ex p. 36). Despite this, Craig Jennings subsequently submitted new undisclosed filings, later reiterated before the Arizona Supreme Court, alleging *"repeated harassment at the workplace."* —U.S. Supreme Court Case No. Case No. 24-890 and the District Court's determination that the workplace was not a factor and not a party to the injunction and the Avondale Court transcript on June 3, 2019 reflects a statement by Defendant First Transit's representative, **Patrick Camunez**, testified under oath on **June 3, 2019**, acknowledging that they *"could not establish that harassment occurred during company time"* from any employee (Dk. 172,

#1 Ex p. 36). (Dk 171 p. 11-line 27 p. 12 line 1-2) This admission directly undermines any claim that the Avondale court possessed evidence linking the alleged conduct to the workplace. (*Case. No. 24-890*)

In light of this statement, the Avondale court's ruling lacks evidentiary support from the workplace and is therefore founded on unsubstantiated allegations. The absence of material evidence establishing workplace misconduct constitutes a manifest error of fact warranting reversal. Courts have consistently held that judgments unsupported by substantial evidence must be set aside to prevent injustice. *See Anderson v. City of Bessemer City*, 470 U.S. 564, 573-74 (1985) (reversal warranted when factual findings are clearly erroneous). Accordingly, reversal is necessary to correct this error and uphold the principles of due process and fundamental fairness. (Dk. 172 #1Ex. A-F)

This ruling holds national significance concerning employees' rights in the workplace and a state court's authority over workplace matters without the employer's authorization. This case presents an exceptionally important question if an employee can be taken to court by a coworker without following the legal requirements of Title VII of the Civil Rights Act of 1964 prohibits employment discrimination by first filing reports to the Equal Opportunity Commission. The EEOC's mission is to prevent and eliminate unlawful employment discrimination before a filing in the court.

There has not been a filing by defendants employees with the EEOC showing a need for a injunction from work place conduct under direction of employer. The District Court's error is reversible, yet it refused to permit a further filing or appeal on the matter.

LEGAL STANDARD

Under **ARS Rule of Civil Procedure 59(a)**, a new trial is granted if the judgment is contrary to the evidence, based on legal errors, contested issues remain unresolved, and results in a miscarriage of justice. A new trial is warranted where a court relies on materially false statements or misapplies controlling legal principles. The Court's dismissal without a hearing violated Petitioners' constitutional right to due process under the Fifth and Fourteenth Amendments, which ensure a fair opportunity to present claims and obtain a ruling on the merits.

LEGAL ARGUMENT: MOTION FOR NEW TRIAL DUE TO ERRONEOUS DISMISSAL WITHOUT A HEARING

The Court's ruling granting Defendants' motion (Dk. 116) and denying a new trial (dk. 176) without a

hearing, while contested issues remain unresolved, failing to adjudicate the substantive claims presented in the complaint, as well as new evidence that materially alters the facts of the case concerning the employer's workplace. See *U.S. Supreme Court Case No. 24-890 Dismissal* without addressing the merits of these claims constitutes a fundamental procedural error, warranting reconsideration and a new trial. The new facts are supported by the evidentiary record.

Legal Error in Granting Dismissal

Under Rule 12(b)(6), dismissal is improper when complaint states a valid claim. The Court is required to accept well-pleaded facts as true and construe them in Petitioners' favor. Dismissing the case without adjudicating these claims including EEOC claims (Dk 110 Ex. 1 A1) constitutes reversible error, as courts consistently hold that such dismissals are improper. For example, in *Spec's Family Partners, Ltd. v. Nettles*,

the Fifth Circuit Court of Appeals held that district courts dismissing cases without providing the Petitioner notice or an opportunity to respond is improper. without following due process, is a reversible error.

II. Grounds for Rehearing

1. Violation of Due Process and Rule 65(b)

On May 13, 2019, an unauthorized ex parte injunction against the workplace of First Transit was issued without proper notice, affidavit, or evidentiary support, in violation of Fed. R. Civ. P. 65(b). No irreparable harm was demonstrated, and the injunction was based on false and retaliatory claims by First Transit employee Shayley Mathews under the direction of Patrick Camunez. (Dk. 170, 172 p. 5, 175). *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976

2. Mischaracterization of the Injunction and Jurisdictional Errors

Defendant Jennings initially labeled the injunction as non-workplace related (IAH), but later recharacterized it as a workplace harassment injunction (IAWH) in proceedings from 2023–2024 (see U.S. Supreme Court Case No. 24-890). This constitutes a shift in factual basis, depriving Petitioner of proper notice and due process.

3. Employer and Judicial Misconduct

Petitioner's union contract with First Transit mandates disclosure of workplace claims. The failure of employer representatives to disclose accusations, combined with Jennings' and Tuchi's improper involvement and failure to recuse despite conflict of interest, violated Petitioner's rights. Tuchi's spouse's employment with DCS, referenced in workplace reports, further supports the necessity of recusal. (Dk. 141, 172, 173).

4. Fraud on the Court and Void Judgments

Craig Jennings' and First Transit's false representations and the district court's failure to consider Petitioner's Statement of Facts (Dk. 172, 174, 176) and new evidence of the origin of the injunction based on the workplace (U.S. Supreme court Case No. 24-890) render the injunction and subsequent judgments void under principles of fraud, violations of due process from lack of notice and procedural irregularity. *See Empire Co.*, 322 U.S. 238, 246 (1944)

5. Perjury and Failure to Deny Material

Allegations

Camunez testified on June 3, 2019, that no workplace harassment occurred, contradicting later claims from Craig Jennings of "ongoing workplace harassment" used to justify the fraudulent injunction. Defendants' failure to deny specific allegations constitutes an admission under federal pleading standards.

18 U.S.C. § 1621 is a federal law that defines perjury as the act of making a false statement under oath in a legal proceeding.

6. Ongoing Damages and Newly Disclosed

Evidence

From 2023–2024, state court disclosures confirmed the injunction was now workplace-related, contradicting previous assertions. This newly discovered evidence warrants reconsideration of prior rulings and a remand for adjudication on the merits.

7. Federal Claims and Constitutional Violations

Petitioner raises actionable claims under 42 U.S.C. § 1983 for deprivation of rights under color of law, as well as violations of the First, Fourth, Fifth, Sixth, and Fourteenth Amendments. The district court's refusal to hear these claims and the state's misallocation of jurisdiction deprived Petitioner of a fair forum.

8. Arizona Supreme Court Guidance and Conflict of Interest

The Arizona Supreme Court's decision in *CV-24-0032* recognizes the workplace origin of the dispute and supports remand to district court. Craig Jennings', First Transit and John Tuchi roles in concealing and misrepresenting key facts create a direct conflict, warranting vacatur and recusal. (Dk 9)(Dk 142)

EEOC Right to sue for harassment and discrimination claims (Dk 110 Ex #1 A1)

Federal law mandates that a lawsuit brought under the Equal Employment Opportunity Commission (EEOC) right-to-sue process must be filed within 90 days of receiving the right-to-sue notice. Compliance with this deadline substantiates that Appellants' claims were timely and properly filed, requiring adjudication on the merits. Dismissing or disregarding these claims constitute a failure to uphold federally and

state mandated procedural protections of A.R.S. § 12-1810(A) and deprives Appellant of their statutory right to seek redress for their grievances. The EEOC issued the right-to-sue on June 25, 2021. notice and the lawsuit was timely filed May 29, 2020 well within the 90-day statutory deadline and amended on second amended complaint. (Dk 96) (Dk 96 p.15 line 11-12)(Dk 110 Ex #1 A1)(Dk 110 p.8-9) Under Federal Rule 60(d), judgments procured by fraud must be set aside and vacated. (Dk. 170)

Relief Requested

Grant petition for writ of certiorari; Declare the ex parte injunction issued on May 13, 2019, and all related orders, void ab initio; Direct the district court to consider newly discovered evidence from state court decisions Case No. 24-890 that are in contradiction to the testimony of First Transit representative Patrick Camunez, and material evidence on statement of facts

(Dk. 172; and EEOC right to sue (Dk 110 #1 A1)Order
a hearing before an impartial tribunal; and Grant such
other and further relief as this Court deems just and
proper.

Conclusion

The rulings were predicated on disproven allegations
and deprived Petitioner of a fair and impartial hearing.
The record is replete with factual inaccuracies,
procedural irregularities, and constitutional violations.
Accordingly, Petitioner requests the Court stay these
proceedings or, in the alternative, transfer the matter
for further proceedings in the related Ninth Circuit
Case No. 25-1951, grant the petition for rehearing, and
grant such other relief as may be just and proper.

RESPECTFULLY SUBMITTED
this 21st day of March 2025

By: 
RICHARD RYNN

No. 24-661

CERTIFICATE OF COMPLIANCE

SUPREME COURT OF THE UNITED STATES

RICHARD RYNN,

Applicant Petitioner

V.

FIRST TRANSIT INC, AN OHIO CORPORATION,
ABC CORPORATION I-X; AND BLACK AND WHITE
PARTNERSHIPS, AND/OR SOLE
PROPRIETORSHIPS I-X

Respondents

As required by Supreme Court Rule 33.1(h), I
certify that the petition for a writ of certiorari
contains 2443 words, excluding the parts of the
petition that are exempted by Supreme Court Rule
33.1(d). I declare under penalty of perjury that the
foregoing is true and correct.

Executed on March 21, 2025

By: 
RICHARD RYNN

CERTIFICATE OF SERVICE

A copy of this application was served by U.S. mail to Defendants listed below in accordance with Supreme Court Rule 22.2 and 29.3, or 33.2.

R. Shawn Oller
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Attorney for Defendant First Transit

this 21st day of March 2025

By: 
RICHARD RYNN

CERTIFICATE PURSUANT TO RULE 44.2

Pursuant to Rule 44.2 of the Rules of the Supreme Court of the United States, I hereby certify that the petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 44.1.

this 21st day of March 2025

By 
Richard Rynn