No. 25-37

In the Supreme Court of the United States

THERESA ENGLAND,
Petitioner,
v.
STEVEN R. SIEBE, FEDEX FREIGHT, INC.,
Respondents.

On Petition for Writ of Certiorari to the Indiana Court of Appeals

BRIEF IN OPPOSITION

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CORPORATE DISCLOSURE STATEMENT

Defendant FedEx Freight, Inc., is 100% owned by FedEx Freight Corporation. FedEx Freight Corporation is 100% owned by FedEx Corporation. No publicly held company owns 10% or more of the stock of FedEx Freight, Inc.

SUMMARY OF THE ARGUMENT

Theresa England ("England") has petitioned this Court and requested that the United State Supreme Court grant Certiorari to review an opinion of the Indiana Court of Appeals. Specifically, England requests this Court to review the Indiana Court of Appeals opinion that England's civil tort claim for bodily injury was barred by the exclusive remedy provision of the Indiana Worker's Compensation Act ("WCA" or "the Act"), Ind. Code § 22-3-2-6. Additionally, England asks this Court to review and overturn the Indiana Court of Appeals determination that FedEx Freight, Inc. ("FX Freight") was a joint employer of England on the date of the alleged incident and that Steven Siebe ("Siebe") was a joint employee of England pursuant to the explicit language of the WCA, Ind. Code § 22-3-6-1(a). However, this Court should deny Certiorari because England waived any claim that the Indiana Court of Appeals decision violated any rights under the Seventh and Fourteenth Amendments to the Constitution of the United States. Moreover, this Court should deny Certiorari because this case does not involve an important question of federal law. Additionally, this Court should deny Certiorari because the Indiana Court of Appeals decision did not conflict with any opinion of the United States Courts of Appeals or of this Court. Finally, assuming that England did not waive her claims under the Seventh and Fourteenth Amendments, England has not been denied any right granted by the Seventh and Fourteenth Amendment.

ARGUMENT

England waived her Seventh and Fourteenth Amendment Arguments

England's Petition for Writ of Certiorari ("England's Petition") should be denied because England waived her Seventh and Fourteenth Amendment Arguments in the Courts below. It has long been held that this Court does "not generally entertain arguments that were not raised below and are not advanced in this Court by any party." *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 721, 134 S. Ct. 2751, 2776, 189 L. Ed. 2d 675 (2014). In this case, at no time prior to filing her Petition did England ever claim that the WCA or the prevailing interpretation of the explicit language of the WCA violated England's rights under the Seventh and Fourteenth Amendments. As such, this Court should deny England's Petition because her Seventh and Fourteenth Amendment arguments were not raised before any of the Courts below and are, therefore, waived.

This Case Does Not Involve an Important Issue of Federal Law

Assuming arguendo that England did not waive her claims as argued above, England's Petition should be denied because the issues raised do not involve federal law or involve an important federal question. It has long been held that the principal purpose of this Court's certiorari jurisdiction "is to resolve conflicts among the United States courts of appeals and state courts concerning the meaning of provisions of federal

law." *Braxton v. United States*, 500 U.S. 344, 347, 111 S. Ct. 1854, 1857, 114 L. Ed. 2d 385 (1991). While it is true that this Court has the discretion to grant Certiorari to a case brought before it, Certiorari should only be granted when a state court has decided a case which involves a federal question, not because there is an academic or intellectual dispute between the parties. *See Rice v. Sioux City Mem'l Park Cemetery*, 349 U.S. 70, 74, 75 S. Ct. 614, 616, 99 L. Ed. 897 (1955).

In the present case, there is no federal question or federal law involved. The challenged opinion by the Indiana Court of Appeals wholly involved considerations of Indiana state law; namely the WCA. The issues raised and decided involved only the language of the WCA and, more specifically, how an employer is defined by the Indiana State General Assembly. In this case, the Indiana Court of Appeals determined that the definition of an employer under the WCA included wholly owned subsidiaries of a parent corporation. *See generally England v. Siebe*, 249 N.E.3d 619 (Ind. Ct. App. 2024). The interpretation of a provision of the Indiana Code is left to the sound discretion of the Indiana Appellate Courts. *See Erie R. Co. v. Tompkins*, 304 U.S. 64, 78, 58 S. Ct. 817, 822, 82 L. Ed. 1188 (1938); *Stoner v. New York Life Ins. Co.*, 311 U.S. 464, 467, 61 S. Ct. 336, 338, 85 L. Ed. 284 (1940) (holding that decisions of intermediate state courts must be followed "in the absence of convincing evidence that the highest court of the state would decide differently.")

England argues FX Freight, Inc. was not a joint employer of England and, thus, the Act did not

deprive the trial court of subject matter jurisdiction over England's claims against the FX Freight Defendants. The relevant part of I.C. § 22-3-6-1(a) states:

> A corporation, limited liability company, or limited liability partnership that controls the activities of another corporation, limited liability company, or limited liability partnership, or a corporation and a limited liability company or a corporation and a limited liability partnership that are commonly owned entities, or the controlled corporation, limited liability company, limited liability partnership, or commonly owned entities, and a parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the controlled corporation's, . . . the commonly owned entities', the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31.

I.C. § 22-3-6-1(a) (emphasis added). It is the "shall each be considered joint employers" language that is fatal to England's argument. The plain language of I.C. § 22-3-6-1(a) explicitly states that a parent company and any entity that is commonly owned by the parent company, including any wholly-owned subsidiaries, are "each considered joint employers" of the other entity for purposes of the Act. *Id*. It is this explicit, unambiguous plain language that the Indiana Court of Appeals (and the trial court) relied on to identify parent companies of the employee's direct employer as joint employers, as well as identifying all of the parent company's subsidiaries, and, thus, "sibling

corporations," as joint employers under the Act. *England*, 249 N.E. 3d at 624.

Moreover, this Court can be confident that the decision of the Indiana Court of Appeals is a correct statement of Indiana law. After the Indiana Court of Appeals issued its decision, England sought transfer to the Indiana Supreme Court for review of the Indiana Court of Appeals opinion. However, the Indiana Supreme Court denied England's Petition to Transfer which clearly establishes that the Indiana Supreme Court, Indiana's highest court, determined that the Indiana Court of Appeals' interpretation of the language of the WCA was accurate. *England*, 255 N.E.3d 438 (Ind. 2025). Thus, this Court has "convincing evidence that the highest court of [Indiana]" would have interpreted the WCA exactly as the Indiana Court of Appeals. *Stoner*, 311 U.S. at 467, 61 S. Ct. at 338, 85 L. Ed. 284.

The Indiana Court of Appeals Opinion Does Not Conflict with Any Decisions of The United States Supreme Court or The United States Courts of Appeals

This Court should also deny Certiorari because the Indiana Court of Appeals opinion does not conflict with any decisions of this Court or the United States Courts of Appeals. To this end, FX Freight and Siebe note that England did not cite to any decisions of this Court or the Seventh Circuit Court of Appeals addressing issues related to the WCA. England did, however, cite to *Green v. Windsor Mach. Prods., Inc.*, 173 F.3d 591 (6th Cir. 1999) for her proposition that

the Indiana Court's decision was incorrect. However, the holding in *Green* does not create a conflict between federal law and the Indiana Court of Appeals decision. In *Green*, the Sixth Circuit was sitting in diversity and attempting to determine if subsidiaries of a parent corporation were shielded by the exclusive remedies provision of the Michigan Worker's Disability Compensation Act ("Michigan's Act"), not the Indiana Worker's Compensation Act. *See generally Id*. FX Freight and Siebe note that language of Michigan's Act was substantially different that the language of the Indiana WCA in that it only shielded "employers", and not subsidiaries of a parent corporation. *Id*. at 593. Moreover, as noted in *Green*, the Sixth Circuit was guided by two Michigan state court cases which provided a framework for determining the issues before it. *Id*. at 593-593. Additionally, the Sixth Circuit noted that Michigan applies the "economic realities test" to determine who is considered an employer under the Michigan Act. *Id*. at 593.

However, Indiana applies no such test. Instead, the Indiana General Assembly had explicitly defined who is considered an employer under the WCA. I.C. § 22-3-6-1(a). The Indiana General Assembly's definition of an employer has been reviewed by the Indiana Court of Appeals (and the Indiana Supreme Court) which determined that the plain, unambiguous language of the WCA requires wholly-owned subsidiaries to be deemed "joint employers" under the WCA. *England*, 249 N.E.3d at 623. The fact that the Sixth Circuit, sitting in diversity, determining the application of Michigan's Act, and found that Michigan's Act treats subsidiaries differently than Indiana does not

create a conflict between the Indiana Court of Appeals and the Sixth Circuit. It merely evidences that two different states (Michigan and Indiana) have chosen, through their respective legislatures and their respective courts, to define an employer under their respective Worker's Compensation Acts differently. Thus, there exists no conflict between the Indiana Court of Appeals and any United States Courts of Appeals that warrants this Court reviewing the Indiana Court of Appeals decision in this matter. As such, this Court should deny England's Petition.

In addition to not conflicting with any opinions of this Court or any United States Courts of Appeals, the Indiana Court of Appeals opinion was consistent with standing Indiana precedent. England argues in her Petition that *McQuade v. Draw Tite, Inc.*, 659 N.E.2d 1016, 1018 (Ind. 1995), should control the outcome of this case. However, it is well settled that McQuade has been abrogated by statute.; *See Hall v. Dallman Contractors, LLC*, 51 N.E.3d at 265 (recognizing abrogation by statute).

In *Hall*, the Indiana Court of Appeals addressed a case with facts virtually identical to the facts here where an employee of one subsidiary company was injured on the premises of a second subsidiary company owned by the same parent company. *Hall*, 51 N.E.3d at 262. In *Hall*, Hall was an employee of Ameritech Services, Inc. ("Ameritech"). *Id*. at 263. Hall was injured while walking into work at an AT&T building in Indianapolis. *Id*. at 263. The relevant corporate structure was such that AT&T, Inc. owned 83.1% of AT&T Services, Inc. ("AT&T Services") and 100% of AT&T

Teleholdings, Inc. ("AT&T Teleholdings"). AT&T Teleholdings owned 100% of Illinois Bell Telephone Company, Wisconsin Bell, Inc., Indiana Bell Telephone Company, Inc., Michigan Bell Telephone Company, and The Ohio Bell Telephone Company, which in turn collectively owned 100% of Ameritech. *Id*. at 266. Hall, as an employee of Ameritech, brought suit against AT&T Services for her workplace injuries. *Id*. at 263. AT&T Services filed a motion for summary judgment, claiming that Hall's claims were barred under the exclusivity provision of the Act. *Hall*, 51 N.E.3d at 262. The court held for AT&T Services, finding that "[b]ecause Ameritech and AT&T Services are both subsidiaries of AT&T, Inc., they should be considered joint employers pursuant to the Act's definition of 'employer.'" *Id*. at 267.

Moreover, in *Hall*, the Court held that AT&T Services and Ameritech, as subsidiaries of AT&T Corp., were joint employers of Hall under the Act as a matter of law, even despite AT&T Services not being wholly-owned by AT&T Corp. In fact, Ameritech was collectively owned by several entities, and was a third-tier subsidiary of AT&T Corp. *Hall*, 51 N.E.3d at 267. In this case, both FX Express and FX Freight, Inc. are wholly-owned subsidiaries of FX Corp. Thus, the trial court's conclusion and the Indiana Court of Appeals decision that FX Freight and FX Express are joint employers of England is even more compelling in this case than it was in *Hall* because FX Corp. owned a larger percentage of both subsidiaries than AT&T Corp. did in *Hall*.

England argues that the Indiana Court of Appeals, in *Hall*, incorrectly read immunity for sibling corporations into the Act, deviating from the statutory text. England's Petition at 6. *Hall* correctly determined that subsidiaries which share the same parent company "should be considered joint employers pursuant to the Act's definition of 'employer.'" *Hall*, 51 N.E.3d at 267. Further, as stated above, the explicit language of I.C. § 22-3-6-1(a), as it pertains to the issue raised in this appeal, clearly demonstrates that not only did the General Assembly seek to immunize parent corporations from suits filed by an employee of a direct subsidiary, it also sought to protect other subsidiaries under the same corporate umbrella from suit by an employee of a separate subsidiary. I.C. § 22-3-6-1(a). Further, the plain language of I.C. § 22-3-6-1(a) explicitly states that a parent company and any entity that is commonly owned by the parent company, including any wholly-owned subsidiaries, are "each considered joint employers" of the other entity for purposes of the Act. *Id*.

Thus, the Indiana Court of Appeals correctly followed precedent established by *Hall* when it determined that FX Express and FX Freight, Inc. were joint employers of England. Therefore, review of this Indiana State Law issue by this Court is not warranted and England's Petition should be denied.

The Indiana Court of Appeals Opinion does not violate England's Constitutional Rights

The interpretation of the Act by the Indiana Court of Appeals does not deprive England of her rights

under the Constitution of the United States, or for that Matter, the Indiana Constitution.

A. Due Process

England argues that the Indiana Court of Appeals decision deprives England of her Due Process Rights under the Fourteenth Amendment. However, if England's argument is correct, then all worker's compensation laws would be unconstitutional. When enacted, the WCA created new rights and remedies, unknown to the common law, and specifically provided a mechanism for the presentation and enforcement of those rights and remedies. *Fogle v. Pullman Standard Car Mfg. Co.*, 173 N.E.2d 668, 671 (Ind. 1961). Moreover, the Act provides remedies for injured employees regardless of whether the employee or employer was at fault for causing the injury. *Waldridge v. Futurex Industries*, 714 N.E.2d 783, 786 (Ind. Ct. App. 1999), citing *Ross v. Schubert*, 383 N.E.2d 623, 627 (Ind. Ct. App. 1979).

England argues that the definition of an employer under the WCA deprives her of her opportunity to litigate her claim against FX Freight and Siebe. England Petition at 17. However, the WCA's definition of the term "employer" does not prevent England from recovering from FX Freight and Siebe because the WCA provides exclusive remedies for England's injuries. *Sims v. United States Fidelity & Guaranty Co*, 782 N.E.2d 345, at 352 (Ind. 2003).

The Act does not deny England due process. It merely contains an exclusive remedy provision which

bars her from filing suit against her employer, including any joint employers such as FX Freight, Inc. and fellow employees such as Siebe. *Id*. at 349, citing I.C. § 22-3-2-6. As such, England is provided a remedy by due course of law (namely, the exclusive remedy provision of the Act). Therefore, England's Due Process argument must fail.

B. Equal Protection of the Law

England further argues that the WCA violates the Fourteenth Amendment's Equal Protection Clause. However, the WCA does not create disparate treatment under the Equal Protection Clause. FX Freight and Siebe respectfully submit that any worker, injured on-the-job in Indiana, belongs to the same class of individuals. Moreover, all individuals injured on the job are treated equally under the WCA. For England's argument to prevail, for example, the determination that FX Freight, Inc. was a joint employer of England would have to deny England both benefits under the WCA and prevent her from asserting a legal claim against FX Freight, Inc. and/or FX Express. However, that is not the case. England is entitled to benefits under the WCA and has, in fact, received benefits under the WCA for the injuries she received in the subject accident. Thus, neither the WCA nor the definition of an "employer" under the WCA infringes on the Fourteen Amendment's Equal Protection Clause.

C. Trial by Jury

England also argues that the dismissal of her case violates her constitutional right to trial protected by the Seventh Amendment. However, the WCA does not violate the Seventh Amendment because the WCA provides a method of compensation for injured employees regardless of whether the employee or the employer was at fault for causing the injury. *Waldridge*, 714 N.E.2d 783, 786 (Ind. Ct. App. 1999). The entire purpose of the WCA is to eliminate the need for litigation between an injured worker and his or her employer. *Bedwell v. Dixie Bee Coal Corp.*, 192 N.E. 723, 724-725 (Ind. Ct. App. 1934). Therefore, instead of litigation, the WCA contemplates that an employee's claims (and his or her employer's liability) will be determined and resolved expeditiously, keeping delay to a minimum. *Hibler v. Globe Am. Corp.*, 147 N.E.2d 19, 23 (Ind. Ct. App. 1958). This renders jury verdicts unnecessary, and businesses can more adequately predict the costs associated with employee injuries. *Evans v. Yankeetown Dock Corp.*, 491 N.E.2d 969, 971 (Ind. 1986).

England argues that the Indiana Court of Appeals holding violates her right to trial by jury because co-defendant, Pratt, could name FX Freight and Siebe as non-parties. England's Petition at 24. Thus, a jury would then have the opportunity to apportion fault as to FX Freight and Siebe without any potential for recovery from FX Freight and Siebe. *Id.* However, England does have the potential to recover, and has, in fact, achieved that potential from FX Freight and Siebe as her joint employer under the WCA. Thus,

England's Seventh Amendment rights are not violated by the WCA. To hold otherwise would render the WCA, and frankly, the worker's compensation acts of all other states, unconstitutional. Therefore, England's Petition should be denied.

CONCLUSION

For the reasons stated and upon the authorities cited, FX Freight Defendants respectfully request that England's Petition for Writ of Certiorari be denied.

Respectfully submitted,

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