

No. 25-5100

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

DAVID J. PETERSON - PETITIONER

vs.

**BLACK BODY CORPORATION, d/b/a Antec,
Incorporated ("BBC"),**

SPX CORPORATION (SPX"),

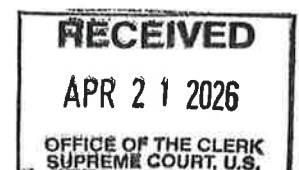
**ASPEQ HEATING
GROUP, LLC ("ASPEQ") - RESPONDENTS**

On Petition for a Writ of Certiorari to the United States Court of
Appeals for the Forth Circuit.

Forth Circuit Court of Appeals number 24-1786

Circuit Court number 3:23-cv-00034

On April 10, 2026 Petitioner received a letter from the
Clerks office allowing Petitioner to resubmit this petition to comply
with rule 44 of this court.



I hearby certify that the following Petition for Rehearing is presented in good faith and not for delay.

CERTIFICATE OF COMPLIANCE

This petition complies with rule 44.2 because it is limited to points of law and fact that the Court has overlooked.

This petition contains approximately 1,950 words.

APPENDIX

APPENDIX A. (App.A), Order of the U.S. Court of Appeals for the Forth Circuit denying Appeal.

APPENDIX B. (App.B), Order of the U.S. Court of Appeals for the Forth Circuit denying Rehearing.

APPENDIX C. (App. C), Memorandum/Opinion of the U.S. Circuit Court for the Forth Circuit, Western District.

APPENDIX D. (App. D), Denial of Cert by this Court.

PETITION FOR REHEARING

(Pursuant to Rule 44.2)

David. J. Peterson, pro se

2706 Covered Bridge Road

Kents Store, VA 23084

Phone 434-996-7601

QUESTION PRESENTED

Whether this Court overlooked controlling precedent and material of substantial effect.

The decision below rests on the resolution of sharply disputed factual issues in favor of Respondents. In affirming summary judgment, the Fourt Circuit credited Respondents' version of events, rejected Petitioner's evidence, and resolved credibility disputes - actions that directly conflict with this Court's precedents.

I. THE COURT OVERLOOKED THAT THE FOURTH

CIRCUIT RESOLVED DISPUTED FACTS ON TIMELINESS.

The Fourth Circuit granted summary judgment on the ground that Petitioner's claim was untimely, accepting Respondents' assertion that that Petitioner's employment ended on February 1, 2021.

However, the record contains substantial evidence to the contrary:

- * Respondents claimed Petitioner "refused to return to work" **JA 3** and that they were "not aware" he continued working; yet contemporaneous emails show Petitioner actively performing sales work and receiving leads throughout 2020 and into 2021. **JA 31-35**

- * Respondents' assertion that Petitioner ceased working is directly contradicted by documentary evidence demonstrating continued employment activity. **JA 31-55, JA 61**

- * The February 1 meeting was characterized by Respondents' own witness as something Petitioner treated as a "negotiation", not a termination. **JA 60**

- * No definitive termination decision was communicated at that time,

and Petitioner continued working thereafter. **JA 59**

These facts create a genuine dispute as to:

- * Whether and when termination occurred; and
- * When the alleged discriminatory act accrued.

The courts below resolved this dispute by **crediting Respondents' version and rejecting Petitioner's evidence**, contrary to *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242(1986), and *Tolan v. Cotton*, 572 U.S. 650 (2014), which prohibit courts from weighing evidence or making credibility determinations a summary judgment.

II. THE COURT OVERLOOKED THAT RESPONDENTS' INCONSISTENT EXPLANATIONS CONSTITUTE EVIDENCE OF PRETEXT.

Respondents offered shifting and contradictory explanations:

- * That Petitioner refused to return to work after Covid furlough;
- * That Petitioner's employment ended February 1, 2021;
- * That Respondents were unaware Petitioner continued working.

Each of these assertions is contradicted by documentary evidence.

JA 31-35, JA 61

Such inconsistencies are classic evidence of pretext under *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133 (2000).

By accepting Respondents' explanations despite contradictory evidence, the courts below improperly **weighed competing evidence and resolved credibility**, rather than allowing a jury to determine the truth.

III. THE COURT OVERLOOKED DIRECT EVIDENCE OF AGE DISCRIMINATION.

The record contains direct evidence that the company president stated:

" Dave, we have a problem with your age," **JA 62**
as corroborated by witness testimony.

This is not circumstantial evidence-it is an explicit statement of age-based animus by a decisionmaker.

Under *Reeves*, such evidence, combined with proof of pretext, permits a reasonable jury to find discrimination.

The failure to credit this evidence at summary judgment demonstrates that the courts below improperly **rejected testimony and made credibility determinations**, in direct conflict with this Court's precedent.

IV. THE COURT OVERLOOKED THAT EMPLOYEE NUMEROSITY PRESENTED A JURY QUESTION

The Fourth Circuit granted summary judgment on the ground that Petitioner's claim did not meet the employee numerosity threshold.

However, Petitioner presented substantial evidence that BBC and Antec functioned as an integrated employer thereby meeting that

threshold;

- * Common ownership and financial control; JA 64-69, JA 57,
- * Commingled operations and shared functions;
- * Joint control over labor and employment decisions;
- * Shared payroll, sales support, and production responsibilities.

JA 57, JA 70

This evidence supports a finding that the entities collectively satisfied the statutory threshold.

Rather than allow a jury to evaluate these facts, the courts below **disregarded Petitioner's evidence and resolved the issue as a matter of law**, contrary to governing standards.

V. THE DECISION BELOW VIOLATES THE SEVENTH AMENDMENT

The Seventh Amendment guarantees the right to trial by jury where genuine disputes of material fact exist.

By:

- * Accepting Respondents' disputed account of termination;
- * Rejecting evidence of continued employment;
- * Disregarding proof of integrated operations; and
- * Discounting direct evidence of discriminatory intent,

the courts below **usurped the role of the jury.**

As this Court held in *Anderson*, summary judgment cannot be used to resolve factual disputes or determine the truth of the matter.

VI. THIS CASE PRESENTS A SUBSTANTIAL AND RECURRING ISSUE

The decision below permits courts to:

- * Resolve disputed facts in favor of defendants;
- * Disregard direct evidence of discrimination; and
- * Remove jury questions at summary judgment.

This conflicts with this Court's precedents and undermines the role of

juries in civil rights cases.

CONCLUSION

Petitioner respectfully submits that this Court overlooked controlling precedent and material facts demonstrating that the decision below conflicts with established law governing summary judgment and the Seventh Amendment.

The petition for rehearing should be granted. The Court should vacate its denial of certiorari and grant the petition.

Petitioner, pro se, welcomes any and all questions the Court may have for him regarding this matter.

Respectfully submitted,



David J. Peterson

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Email justbekind@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2026, I filed the foregoing
PETITION FOR REHEARING with the Clerk of the U.S. Supreme
Court by ~~overnight~~ **PRIORITY MAIL EXPRESS** US Mail and forwarded a true copy by first class
mail to A. Tevis Marshall and Kevin D. Holden, counsels of record for
the respondents.



David J. Peterson
Petitioner, pro se

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UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 24-1786

Appendix A**DAVID JOSEPH PETERSON,****Plaintiff - Appellant,****v.****BLACK BODY CORPORATION, d/b/a Antec, Incorporated; SPX CORPORATION, As successor in interest to Aspeq Heating Group, LLC; ASPEQ HEATING GROUP, LLC, As successor in interest to Black Body Corporation; MR. RONALD G. VINYARD, President, former (retired) c/o Black Body Corporation; ERIC STOGSDILL, Formerly Vice President, Black Body Corporation; ANTEC, INCORPORATED,****Defendants - Appellees.**

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. Norman K. Moon, Senior District Judge. (3:23-cv-00034-NKM-JCH)

Submitted: February 20, 2025**Decided: February 24, 2025**

Before AGEE, HARRIS, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

David Joseph Peterson, Appellant Pro Se. Timothy J. Gorde, Jr., Kevin D. Holden, JACKSON LEWIS PC, Richmond, Virginia; Alexander Tevis Marshall, OGLETREE DEAKINS, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Joseph Peterson appeals the district court's order granting Defendants' motion for summary judgment on his Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621-634, claim.* On appeal, Peterson argues that the district court erred in concluding that his ADEA claim was time-barred and that the court erred in concluding, in the alternative, that his employer was not subject to the ADEA because it did not have more than 20 employees. We affirm.

Under the ADEA, when a state has “a law prohibiting discrimination in employment because of age and establishing or authorizing a State authority to grant or seek relief from such discriminatory practice,” 29 U.S.C. § 633(b), plaintiffs must file a charge alleging unlawful discrimination with the Equal Employment Opportunity Commission (EEOC) “within 300 days after the alleged unlawful practice occurred,” 29 U.S.C. § 626(d)(1)(B). The filing period commences when the employer informs the plaintiff that the plaintiff's employment is ending, “not from the time that the employee discovered its discriminatory nature.” *Hamilton v. 1st Source Bank*, 928 F.2d 86, 87-88 (4th Cir. 1990) (en banc); see *Del. State Coll. v. Ricks*, 449 U.S. 250, 258-59 (1980).

Here, Virginia has enacted a law prohibiting age-based discrimination in employment, see 1 Va. Admin. Code § 45-20-30 (2023), so Peterson had 300 days to file his charge of discrimination with the EEOC. Defendants informed Peterson that he was

* Although Peterson filed a notice of appeal from the district court's order entered on July 18, 2024, he fails to challenge that order in his informal brief and, therefore, has forfeited appellate review. See 4th Cir. R. 34(b).

terminated on February 1, 2021, and Peterson filed his EEOC charge on December 2, 2021, which is more than 300 days after the alleged unlawful practice occurred. The district court thus correctly concluded that Peterson's ADEA claim was time-barred.

Because Peterson's ADEA claim is time-barred, we need not reach the court's alternative ground for summary judgment. Accordingly, we affirm the district court's order. *Peterson v. Black Body Corp.*, No. 3:23-cv-00034-NKM-JCH (W.D. Va. July 29, 2024). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: February 24, 2025

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

**No. 24-1786
(3:23-cv-00034-NKM-JCH)**

DAVID JOSEPH PETERSON

Plaintiff - Appellant

v.

**BLACK BODY CORPORATION, d/b/a Antec, Incorporated; SPX CORPORATION,
As successor in interest to Aspeq Heating Group, LLC; ASPEQ HEATING GROUP,
LLC, As successor in interest to Black Body Corporation; MR. RONALD G.
VINYARD, President, former (retired) c/o Black Body Corporation; ERIC
STOGSDILL, Formerly Vice President, Black Body Corporation; ANTEC,
INCORPORATED**

Defendants - Appellees

J U D G M E N T

**In accordance with the decision of this court, the judgment of the district court is
affirmed.**

**This judgment shall take effect upon issuance of this court's mandate in
accordance with Fed. R. App. P. 41.**

/s/ NWAMAKA ANOWI, CLERK

FILED: March 28, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-1786
(3:23-cv-00034-NKM-JCH)

Appendix B

DAVID JOSEPH PETERSON

Plaintiff - Appellant

v.

BLACK BODY CORPORATION, d/b/a Antec, Incorporated; SPX CORPORATION, As successor in interest to Aspeq Heating Group, LLC; ASPEQ HEATING GROUP, LLC, As successor in interest to Black Body Corporation; MR. RONALD G. VINYARD, President, former (retired) c/o Black Body Corporation; ERIC STOGSDILL, Formerly Vice President, Black Body Corporation; ANTEC, INCORPORATED

Defendants - Appellees

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Agee, Judge Harris, and Judge Rushing.

For the Court

/s/ Nwamaka Anowi, Clerk

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA
FILED
July 29, 2024
LAURRA AUSTIN, CLERK
BY: #10 ALDIA
DEPUTY CLERK

DAVID J. PETERSON,

Plaintiff,

v.

BLACK BODY CORPORATION, *et al.*,

Defendants.

CASE NO. 3:23-cv-34

Appendix C

MEMORANDUM OPINION

JUDGE NORMAN K. MOON

Plaintiff David Peterson, proceeding pro se, brings an Age Discrimination Act claim against Defendants. While the events described by Plaintiff present an unfortunate end to a long employment relationship, the Defendants are entitled to summary judgment for the reasons explained below.

BACKGROUND

Plaintiff began working for Antec, a printing equipment business in Charlottesville, Virginia, in 1990, as a sales employee earning an 11% commission. Dkt. 52 ¶¶ 1, 2. Black Body Corporation (“BBC”), a Missouri company, purchased the stock of Antec in 2018. *Id.* ¶ 4. Plaintiff remained an employee of Antec after this sale, as Antec continued to operate out of its Charlottesville facility. *Id.* ¶ 5.

Ron Vinyard owns 73% of BBC’s outstanding capital stock. *Id.* ¶ 4. In addition, Vinyard was the president of Antec. *Id.* ¶ 7. Eric Stogsdill was Antec’s vice president. *Id.*

Due to COVID-19, Antec placed its employees on furlough on April 1, 2020. *Id.* ¶ 8. The furlough ended September 1, 2020. *Id.* ¶ 9. What happened during and after the furlough period are points of contention between the parties. BBC and Antec assert that Plaintiff refused to return to work, voluntarily ending his employment with Antec. *Id.* ¶ 10. Plaintiff asserts that, to the

contrary, he had continued to work through the furlough period and had agreed to delay his “official” return until Antec was ready to resume providing Plaintiff’s medical and vacation benefits. Dkt. 60 at 4–5.

Regardless of precisely which position is correct, it is undisputed that in the fall of 2020, the question arose of Plaintiff striking out on his own. Dkt. 52 ¶ 16. The parties differ as to who came up with this idea and as to the nature of the negotiation. Defendants assert that Plaintiff came up with the idea. *Id.* Plaintiff posits that the idea only arose because it became obvious that he was being pushed out, and that he would only accept a distributor role—as opposed to taking the role of an independent contractor in sales. Dkt. 60 at 6; Dkt. 54-2 at 15. (Peterson Deposition Part 2, at 168).

It is undisputed that around December 2020 or January 2021, Antec decided to close the Charlottesville facility and relocate to Missouri. Dkt. 52 ¶ 21. Likewise, there is no dispute over the fact that Stogsdill traveled to Charlottesville to meet with Antec employees on February 1, 2021, to discuss their relocation options. *Id.* Plaintiff stated in his deposition that he remembers nothing about meeting with Stogsdill on or around February 1, 2021. Dkt. 54-4 (Peterson Deposition 1, at 20–21). BBC and Antec offer evidence that during the meeting, Stogsdill conveyed to Peterson that his employment relationship with Antec was going to end. Dkt. 54-4 at 7 (Stogsdill Declaration ¶ 31); Dkt. 52-6 at 1–2 (Franz Declaration ¶¶ 4–8).

It is likewise undisputed that before and during the meeting, Plaintiff and Antec engaged in exchanges about the possibility of Plaintiff moving to a role as an independent contractor with a 15% commission, and that Plaintiff did not want that role, and that it was clear that Antec and Peterson were going to part ways. Dkt. 54-3 ¶¶ 28–29 (Stogsdill declaration); Dkt. 54-2 at 16 (Peterson Deposition 2, at 173–175); Dkt. 60 at 7–8 (Plaintiff’s Opposition to Antec and BBC’s

Motion for Summary Judgment). Plaintiff was only interested in an independent venture if it was a distributorship, but that was not on the table. *Id.* At some point in the following weeks, Plaintiff attempted to speak with Vinyard, Stogsdill's boss, to "talk some sense into him." Dkt. 60 ¶ 39.

Stogsdill sent (and Plaintiff received) a letter dated March 10, 2021, which stated that Plaintiff's position was being permanently terminated as of that date. Dkt. 60 at 39; Dkt. 60-1 (Exhibit G, Letter); Dkt. 54-2 (Email); Dkt. 52 ¶ 39. Plaintiff called Vinyard the next day, March 11, 2021. Dkt. 52 ¶ 40; Dkt. 60 at 9. Plaintiff's coworker Mark Higgins testified that he overheard part of the conversation, which was in the Antec office on speakerphone. Dkt. 60-12 (Exhibit U). According to Higgins, Vinyard said "Dave, we have a problem with your age" or "Dave, your age is a problem." *Id.* Plaintiff did not, in his own deposition,¹ recall a statement about age during the call. Dkt. 54-2 at 12–13 (Peterson Deposition 2, pp. 137–44).

On March 19, 2021, Peterson sent a letter to Vinyard reiterating his qualifications, that he had worked through furlough, and that business would suffer in his absence. Dkt. 52-7. The letter does not mention age (or any other reason for termination). *Id.* Three weeks after this, Plaintiff flew to Missouri to speak face-to-face with Vinyard without setting up a meeting in advance. Dkt. 54-4 at 12–13 (Peterson Deposition 1, at 172–74). The goal was "to talk some common sense into" Vinyard, but Plaintiff did not succeed. *Id.* He declined to sign a separation agreement. *Id.*

In February 2023, almost two years after all these events, Defendant ASPEQ purchased the assets of BBC and Antec. Dkt. 50 at 2; Dkt. 59 at 2. In April of 2023, Defendant SPX merged with ASPEQ. *Id.* These events are undisputed.

¹ In briefing, Plaintiff contends that he "remembers vividly" that Vinyard stated his age was a problem. Dkt. 60 at 9.

LEGAL STANDARD

Summary judgment is appropriate where “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). “A dispute is genuine if a reasonable [fact finder] could return a verdict for the nonmoving party,” and “[a] fact is material if it might affect the outcome of the suit under the governing law.” *Variety Stores, Inc. v. Wal-Mart Stores, Inc.*, 888 F.3d 651, 659 (4th Cir. 2018).

The moving party bears the burden of establishing that summary judgment is warranted. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986). If the moving party meets this burden, the nonmoving party must set forth specific, admissible facts to demonstrate a genuine issue of fact for trial. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). The non-movant may not rest on allegations in the pleadings; rather, he must present sufficient evidence such that a reasonable fact finder could find by a preponderance of the evidence for the non-movant. *See Celotex Corp.*, 477 U.S. at 322–24; *Sylvia Dev. Corp. v. Calvert Cnty, Md.*, 48 F.3d 810, 818 (4th Cir. 1995). The district court must “view the evidence in the light most favorable to the nonmoving party” and “refrain from weighing the evidence or making credibility determinations.” *Variety Stores, Inc.*, 888 F.3d at 659.

DISCUSSION

1. *Plaintiff's ADEA claim is untimely, and consequently Defendants are entitled to summary judgment*

To pursue an Age Discrimination in Employment Act (ADEA) claim, a plaintiff must first “file a charge [with the EEOC] within either 180 or 300 days of the date of the act or lose the ability to recover for it.” *Nat’l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 110 (2002). In Virginia, 300 days is the operative deadline. *Hardy v. Lewis Gale Med. Ctr., LLC*, 377 F. Supp. 3d 596, 612 (W.D. Va. 2019); VA. ADMIN. CODE § 45-20-30 (E). This statute of limitations is not

a technicality that can lightly be set aside. *See Price v. Litton Bus. Sys., Inc.*, 694 F.2d 963, 965–66 (4th Cir. 1982) (stating that equitable estoppel can only provide a basis to toll the statute of limitations only when “the employee’s failure to file in timely fashion is the consequence either of a deliberate design by the employer or of actions that the employer should unmistakably have understood would cause the employee to delay filing his charge[.]” and that “an employee’s hope for rehire, transfer, promotion, or a continuing employment relationship [] cannot toll the statute absent some employer conduct likely to mislead an employee into sleeping on his rights.”) (citations omitted).

When a plaintiff brings an ADEA suit based on termination of employment, the 300-day clock begins to run when that decision is made and communicated, not on the day when the employment relationship ends. *Delaware State Coll. v. Ricks*, 449 U.S. 250, 259 (1980) (holding that the EEOC charge clock began running when a college chose to deny tenure to a professor and communicated its decision, not when the employment contract elapsed). Notably, this includes circumstances when a plaintiff learns of the occurrence’s discriminatory nature after the fact. The termination decision itself still starts the clock. *Hamilton v. 1st Source Bank*, 928 F.2d 86, 87–88 (4th Cir. 1990).

Plaintiff filed his EEOC charge based on discriminatory discharge on December 2, 2021. Dkt. 60-6 (EEOC Charge). February 5, 2021, is 300 days before this date. Consequently, Plaintiff’s charge is untimely if the discriminatory occurrence which Plaintiff complains of happened before February 5, 2021.

It’s undisputed that the decision to sever Plaintiff from Antec was already made and had been communicated to him by February 1, 2021. Dkt. 54-4 at 7 (Stogsdill Declaration ¶ 31, “I once again told Peterson during this meeting on February 1, 2021 that as Peterson was not an

employee and his position had been eliminated, Antec's relationship with Peterson had come to an end, that Antec would be severing its association and affiliation with Peterson, and it was time to part ways."); *see also* Dkt. 52-6 at 1-2 (Franz Declaration ¶¶ 4-8).

Plaintiff asserts that he was discharged on March 9, 2021. Dkt. 60 at 6. However, he points to nothing that creates a factual dispute as to whether Antec's decision to end his employment had been made, and communicated to him, by February 1, 2021, at the latest. That date is more than 300 days before he filed his EEOC charge, making it untimely.

Consequently, Plaintiff's ADEA claim cannot proceed and all Defendants are entitled to summary judgment. This grounds alone disposes of the case; however, as the Court explains below, there is another independent grounds for dismissal.

2. *The ADEA applies to employers who have at least twenty employees; the record does not show that Antec falls within this category, or that Antec and BBC should be treated as an integrated employer*

The ADEA governs employers who have twenty or more employees. 29 U.S.C. § 630(b).

First, as to Antec, the business which employed Plaintiff: it is undisputed that Antec had, at most, six employees. Dkt. 60-13 (Exhibit V). It is not clear at what point those six people worked for Antec. Regardless, Antec, standing alone, does not come within the ambit of the ADEA. Nor does the record show that BBC, Antec's parent company, was Plaintiff's employer.

Generally, "when a subsidiary hires employees, there is a strong presumption that the subsidiary, not the parent company, is the employer." *Johnson v. Flowers Indus., Inc.*, 814 F.2d 978, 980 (4th Cir. 1987). This presumption applies except in "extraordinary circumstances," such as where the parent company 1) exercises control over the subsidiary by hiring and firing the subsidiary's employees and supervises daily operations, or 2) has integrated with the subsidiary, such as by commingling funds and sharing the same facilities and workforce. *Id.* at 981.

BBC and Antec offer evidence that the businesses maintained separate operations. This includes Plaintiff's deposition testimony that the same employees carried on at Antec after its acquisition by BBC. Dkt. 54-2 at 9 (Peterson Deposition 2, at 128). Their employment continued on the same terms. Dkt. 54-3 ¶ 38 (Stogsdill Declaration). Antec employees did their work without substantial external oversight or direction. Dkt. 54-1 at 7 (Higgins Deposition at 271–72, stating that he and Plaintiff had the knowledge and experience to run the Charlottesville office, and “pretty much” did so.) Plaintiff had considerable autonomy. For instance, he stated that he had freedom to select customers; that there was no mandated sales script or process; and that he could offer discounts at his discretion. Dkt. 52-2 at 7–8 (Peterson Deposition 2, at 113–16). In addition, Plaintiff could essentially do as he liked in terms of using the Antec office for other purposes: he did not have to obtain permission from anyone to stay overnight in the office for a week, or to store a “kitchen’s worth of cabinets” in the Antec office when he was assisting his daughter with building a house. Dkt. 54-4 at 7 (Peterson Deposition 1, at 33–35).

The sworn statements from Stogsdill and Vinyard state that Antec was a separate business entity from BBC, with its own accounting system, bank account, checking account, assets, liabilities, credit card accounts, financial and business records, and separate payroll. Dkt. 52-3 ¶ 5 (Vinyard Declaration); Dkt. 54-3 ¶ 3 (Stogsdill Declaration). Antec had a separate tax identification number and filed its own separate taxes; and until June 2021, when Antec relocated to Missouri, Antec maintained records at its Charlottesville facilities. *Id.*; Dkt. 54-3 ¶¶ 3, 4 (Stogsdill Declaration).

Plaintiff provides evidence that a BBC employee dealt with administering his compensation and benefits (Dkt. 60, Ex. R: Emails to and from Nany Stout, BBC Controller) as well as Antec payroll generally. (Ex. T). This evidence does not show that BBC was exercising

control over Antec's hiring decisions or day-to-day work. Rather, Plaintiff attested to his own autonomy, as noted above. Nor does Plaintiff's evidence show that BBC and Antec—which had separate employees, offices, assets, and business records—had become an enmeshed, integrated employer.

Because the record shows that Antec is outside the scope of the ADEA, and there is no genuine issue of fact as to whether BBC was also Plaintiff's employer, the Defendants are entitled to summary judgment.²

CONCLUSION

For these reasons, the Court will grant Defendants' Motions for Summary Judgment, Dkts. 49, 51. An Order will issue to this effect.

The Clerk of Court is directed to send this Memorandum Opinion to Plaintiff and all counsel of record.

Entered this 29th day of July, 2024.


NORMAN K. MOON
SENIOR UNITED STATES DISTRICT JUDGE

² This includes Defendant ASPEQ, which purchased the assets of BBC in 2023, and SPX, which ASPEQ merged with later that year. Plaintiff has not shown that BBC was his "employer" for ADEA purposes; consequently, this determination applies equally to the entities which acquired BBC.

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

October 6, 2025

Scott S. Harris
Clerk of the Court
(202) 479-3011

Mr. David Joseph Peterson
2706 Covered Bridge Road
Kents Store, VA 23084

Appendix D

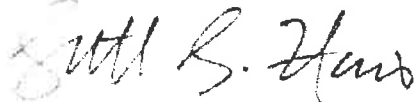
Re: David Joseph Peterson
v. Black Body Corporation, dba Antec, Incorporated, et al.
No. 25-5100

Dear Mr. Peterson:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris", is written over a faint circular embossed seal of the Supreme Court of the United States.

Scott S. Harris, Clerk