

No. 25-714

IN THE
SUPREME COURT OF THE UNITED STATES

RAFAEL PAREDES, Petitioner

v.

UNITED AIRLINES, INC., Respondent

On Petition for a Writ of Certiorari to
The United States Court of Appeals
for the Third Circuit

RESPONSE TO BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether a federal court of appeals may deny a pro se litigant's motion to supplement the appellate record with pre-existing medical and investigative materials that were disclosed and exchanged during discovery, grant a motion to strike those materials as outside the record, decline to address confidentiality-based alternatives such as sealing, and nonetheless state that it "considered" the same materials in affirming dismissal.

I respectfully submit this Reply to correct mischaracterizations in Respondent's Brief in Opposition and to clarify the narrow procedural issue presented for this Court's review.

I. The Petition Presents a Narrow Procedural Question

Respondent frames my petition as an attempt to re-litigate the merits of my underlying claims. In reality, the petition presents a limited procedural question regarding the Third Circuit's handling of my pro se motion to supplement the appellate record with pre-existing medical and investigative materials.

These materials were disclosed and exchanged during discovery, well before my termination in 2020, and were not created for the purpose of appeal. Respondent's brief asserts that the materials were "never before the District Court," without addressing their disclosure and exchange during discovery or their provenance.

II. Contradiction in the Third Circuit's Handling

The Third Circuit struck my appendix and denied supplementation, reasoning that the materials were outside the record (see Fed. R. App. P. 10(a)). At the same time, the court stated that it had "considered" the same materials in concluding that the Second Amended Complaint failed to state a plausible claim (PSA 7a–8a).

As the Third Circuit has recognized, "[t]he proper function of a court of appeals is to review the decision below on the basis of the record that was before the District Court"

(Fassett v. Delta Kappa Epsilon, 807 F.2d 1150, 1165 (3d Cir. 1986)). This presents a procedural inconsistency: the court struck the materials as improper, denied supplementation, and nonetheless relied on the same materials to affirm dismissal.

This raises concerns regarding institutional clarity and uniform appellate procedure, particularly for pro se litigants seeking to address materials unavailable earlier due to discovery timing. Respondent's brief does not address this tension and omits discussion of alternatives such as sealing or limited inclusion.

III. Discovery Timing Confirms the Procedural Issue

The materials at issue predate my termination and were disclosed during discovery. Their exclusion from the appellate record was therefore not due to post-hoc fabrication or improper preparation, but rather the timing of their disclosure relative to the pleadings.

As a result, the materials were not before the District Court at the time of dismissal. Respondent's statement that the materials were "never before the District Court" does not address this procedural context. While appellate courts generally do not consider evidence not filed in the district court (*Drexel v. Union Prescription Centers, Inc.*, 582 F.2d 781, 784 n.4 (3d Cir. 1978)), the Third Circuit nonetheless stated that it had considered these materials in affirming dismissal. This illustrates the procedural concern presented by the petition.

IV. Procedural Fairness Requires Review

The question presented is of procedural significance, addressing the standards and transparency appellate courts must observe when handling pro se motions to supplement the record. My inquiry is narrow and concerns pre-existing materials, as well as the absence of guidance on confidentiality-based alternatives such as sealing.

Even pro se litigants are entitled to consistent application of appellate procedure. Courts have recognized that materials outside the record may be properly struck (*Grovelny v.*

Baxter Healthcare Corp., 341 F. App'x 803, 808 (3d Cir. 2009)), yet the Third Circuit stated that it relied on the same materials in affirming dismissal. This procedural inconsistency underscores the need for review to clarify standards governing appellate consideration of pre-existing evidence and to ensure fair and transparent treatment of pro se litigants.

CONCLUSION

For the foregoing reasons, I respectfully request that this Court grant the petition for a writ of certiorari. Review is warranted to address the procedural inconsistency in the Third Circuit's handling of pre-existing materials disclosed during discovery, to promote uniform standards for appellate consideration, and to reinforce principles of fairness and transparency in judicial procedure.

Respectfully submitted,

Rafael Paredes

Petitioner, pro se