

No. 25-7520

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

TERRA WARGO,
Petitioner,
v.
**MJR PARTRIDGE CREEK
DIGITAL CINEMA 14,**
Respondent.

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

**SUPPLEMENTAL BRIEF FOR PETITIONER
PURSUANT TO SUPREME COURT RULE 15.8**

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SUPPLEMENTAL BRIEF FOR PETITIONER
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Petitioner Terra Wargo respectfully submits this supplemental brief under Supreme Court Rule 15.8 to call the Court’s attention to a docket development in *Cross v. Central Contra Costa Transit Authority*, No. 26-100. After the petition in this case was filed and distributed for the September 28, 2026 conference, this Court requested a response in *Cross*. On September 1, 2026, the Court extended the response deadline in *Cross* to October 14, 2026.

The Court’s response request in *Cross* underscores why this petition should not be denied before the response in *Cross* is filed. *Cross* presents the same *McDonnell Douglas*/Rule 56 problem in another Title VII case. Here, the Sixth Circuit held that petitioner’s discrimination claim could not “get off the ground” because she lacked a male comparator the panel deemed sufficiently similar. App. 12a. *Cross* asks whether “the judicially-imposed application of the *McDonnell Douglas* burden-shifting framework at summary judgment” caused the lower courts to credit the employer’s disputed account in a manner incompatible with Rule 56. *Cross v. Central Contra Costa Transit Authority*, No. 26-100, Pet. i.

The shared problem is not the protected class or the particular workplace facts. It is the summary judgment rule being applied. In both cases, *McDonnell Douglas* was used as a dispositive screen that prevented the ordinary Rule 56 inquiry: whether the evidence, viewed as a whole and in the employee’s favor, would permit a jury to find discrimination. In *Wargo*, that screen operated at the prima facie stage. In *Cross*, petitioner contends the same framework allowed the lower courts to credit the employer’s disputed account and disregard record evidence from which a jury could find discrimination. How the Court disposes of *Cross* may affect *Wargo*’s second question presented.

Because *Wargo* has already been distributed for the September 28, 2026 conference, while *Cross* is proceeding under a Court-requested response deadline, petitioner respectfully asks that the Court grant this petition or, in the alternative, hold it pending disposition of *Cross* and then dispose of it as appropriate.

Respectfully submitted,

/s/ Carla D. Aikens

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