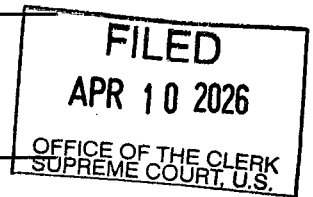


25-7539

No. _____

ORIGINAL

SUPREME COURT OF THE UNITED STATES



SEBASTIEN DJESSOUHO

Petitioners,

v.

IHMS (BOSTON), LLC d/b/a TAJ BOSTON,

Respondent,

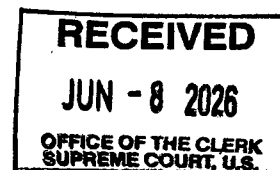
On Petition for a Writ of Certiorari to
the Massachusetts Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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I. Question Presented

1. Whether the Superior Court erred, and whether the Appeals Court erred in affirming, by treating Petitioner's jury-trial waiver as knowing and voluntary where the record reflects Petitioner's assent to a bench trial was conditioned on the live appearance of a key witness (Laura Moye), and the trial court emphasized practical disadvantages of a jury trial to a self-represented, interpreter-assisted litigant before accepting the waiver.
2. Whether the Superior Court committed reversible error in resolving central credibility disputes against Petitioner where the defense's key witness repeatedly testified she did not recall key details of the alleged workplace incident, and where Petitioner contends the evidentiary presentation was incomplete due to the absence of key witnesses.
3. Whether the Superior Court and Appeals Court erred in concluding Petitioner failed to establish discrimination and retaliation under G.L. c. 151B where Petitioner contends the employer's stated reasons were pretextual, including alleged irregularities in the internal transfer process and shifting characterization of the Accounts Receivable Clerk position.

Parties to the Proceeding:

Petitioner: Sebastien Djessouho (Plaintiff/Appellant below).

Respondent: IHMS (Boston), LLC d/b/a Taj Boston; Represented by:

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List of Proceedings:

- Petitioner filed this employment discrimination and retaliation action in Suffolk Superior Court.
- Trial was conducted as a jury-waived bench trial between August 19 and August 23, 2024.
- The Superior Court issued Findings of Fact, Rulings of Law, and Order for Judgment dated September 9, 2024, and judgment entered September 11, 2024.
- Petitioner appealed; the Appeals Court affirmed on December 4, 2025.
- The Supreme Judicial Court denied further appellate review on February 12, 2026, and denied reconsideration on March 13, 2026.

Citations of Opinions and Orders:

- Superior Court Findings of Fact, Rulings of Law, and Order for Judgment (September 9, 2024).
- COMMONWEALTH OF MASSACHUSETTS APPEALS COURT 25-P-17
MEMORANDUM AND ORDER PURSUANT TO RULE 23.0
- Supreme Judicial Court Notice of Denial of Application for Further Appellate Review (February 12, 2026).
- Supreme Judicial Court Notice of Docket Entry-Denial of Petition to Reconsider Denial of FAR Application (March 13, 2026).

Basis for Jurisdiction:

This Petition seeks review by the Supreme Judicial Court of the Appeals Court's disposition in Appeals Court No. 2025-P-0017 and the underlying Superior Court judgment in Civil Action No. 1884CV03261.

Petitioner further notes that the Supreme Judicial Court denied further appellate review on February 12, 2026 and denied reconsideration on March 13, 2026.

Petitioner also preserves federal issues for potential review under 28 U.S.C. § 1257(a) in the Supreme Court of the United States, including due process concerns arising from the jury-waiver colloquy and trial-management rulings in a case involving a self-represented, interpreter-assisted litigant.

Constitutional Provisions Involved:

U.S. Const. amend. XIV, § 1

Statement of the Case:

1. Petitioner Sebastien Djessouho brought claims alleging discrimination and retaliation arising from his employment at the Taj Boston, including a failure to transfer/hire into an Accounts Receivable Clerk position in October 2015 and a termination in June 2016.
2. Trial proceeded as a jury-waived bench trial before the Honorable Michael Pineault despite the petitioner demanding a jury trial before being coerced to take a bench trial by the judge offering a false promise which he reneged on right before trial.
3. On the first day of trial, the court explained that the case was fifth in line for jurors and that a jury trial might not begin that day, and the court contrasted the stricter evidentiary environment of a jury trial with the flexibility of a bench trial for a self-represented litigant.
4. Petitioner stated he had no objection to a bench trial, but tied his assent to the appearance of Laura Moyer, a union representative whom Petitioner believed was central to his case.
5. The court explained it could not locate witnesses for Petitioner and required Petitioner to choose between jury trial and bench trial notwithstanding the witness issue.
6. Petitioner ultimately agreed on the record to a bench trial and signed a written waiver form.
7. Petitioner attempted to secure testimony from Laura Moyer and attorney Allison MacLellan; the court addressed subpoena and hearsay issues concerning

MacLellan's proposed testimony about Moye's affidavit.

8. On August 21, 2024, the court ruled that attorney MacLellan could not testify to repeat what Laura Moye told her in preparing the affidavit, explaining the rule against hearsay and granting what the court treated as a motion to quash.
9. On August 23, 2024, the court admitted Laura Moye's affidavit into evidence over the defense objection, after discussing Moye's unavailability and Petitioner's stated purpose for calling her.
10. The defense called April Avras (formerly April Geyer) regarding the alleged workplace altercation; she testified she only vaguely recalled the incident and repeatedly stated she did not recall details.
11. Petitioner cross-examined Ms. Avras and elicited that only Lucia was present, and that Ms. Avras did not recall multiple details Petitioner asked about.
12. The Superior Court entered findings and judgment for Respondents.
13. Petitioner appealed and raised, among other issues, whether the trial court erred in forcing him into a bench trial, whether the court erred in findings regarding the altercation, and whether the court erred in concluding his communication skills were insufficient.
14. Respondents argued on appeal that Petitioner waived a jury trial both orally and in writing and that there was no evidence he was forced into a bench trial.
15. The Supreme Judicial Court denied further appellate review and denied reconsideration.

Argument/Reason to Grant Writ:

The petition presents an important question concerning whether Petitioner's jury waiver was knowing, voluntary, and unconditional under the circumstances reflected in the transcript.

Once a jury trial has been demanded, "the trial of all issues so demanded shall be by jury" unless (1) the parties consent to a bench trial by written stipulation filed with the court or oral stipulation in open court entered on the record, or (2) the court finds no jury right exists. ALM R. Civ. P. Rule 39, *Northeast Line Constr. Corp. v. J.E. Guertin Co.*, 80 Mass. App. Ct. 646.

Massachusetts appellate authority emphasizes that waiver must be affirmative and on the record; "mere failure to object does not amount to an affirmative waiver," and Rule 39 "requires at least an oral stipulation of waiver." *Snell v. Lima*, 97 Mass. App. Ct. 1121.

Relatedly, once a jury demand is properly made, it "may not be withdrawn without the consent of the parties." ALM R. Civ. P. Rule 38

The trial court raised juror unavailability and delay as a practical reason to proceed without a jury, stating the case was fifth in line for jurors and that jurors might not be available that day.

The trial court also emphasized that a bench trial would allow the court to be more lenient with evidentiary rules for a self-represented litigant because the judge knows what evidence may properly be considered, unlike a jury.

The substance of what occurred was not an unconditional, voluntary

relinquishment: petitioner asserts he agreed to a bench trial only on the condition that Laura Moye would testify live and her affidavit would be admitted as stated in the transcripts.

Petitioner's assent was not simply an unconditional preference; Petitioner stated he would accept a bench trial if Laura Moye would be present to testify, and he repeatedly returned to that condition.

Petitioner contends that, in substance, the waiver was induced by practical pressure (juror delay) and by the court's framing of bench trial as more forgiving for a pro se litigant, while Petitioner's assent was expressly tied to a witness condition that did not materialize. Because of this coercion the petitioner did not get to present his case meaningfully. "...the judge should have been mindful of the principle that "self-represented litigants must be provided 'the opportunity to meaningfully present their cases.'" *Carter v. Lynn Hous. Auth.*, 450 Mass. 626, 637, n.17, 880 N.E.2d 778 (2008),

Petitioner raised this issue on appeal as whether the trial court erred in forcing him into a bench trial despite his preference for a jury trial.

2. The petition warrants review because the trial outcome depended on credibility findings despite testimony that Petitioner contends was inconsistent and incomplete.

The defense witness April Avras testified she only vaguely recalled the incident

and repeatedly stated she did not recall details, while also relying on a prior written statement to supply details.

Petitioner's cross-examination elicited that only Lucia was present, and Ms. Avras did not recall multiple details Petitioner asked about, which Petitioner contends undermines the reliability of the account credited against him.

Petitioner argued on appeal that the trial court erred in its findings regarding the altercation given conflicting testimony and lack of corroborative evidence.

3. The petition warrants review because Petitioner contends the discrimination analysis improperly treated disputed "qualification" and "pretext" issues as routine factfinding.

Petitioner's appellate brief asserted he had extensive accounting qualifications and that the Accounts Receivable Clerk position was awarded to another candidate with a customer-service background.

Petitioner contended the employer's internal transfer policy required 12 months in position before transfer, and that the selected candidate had only 11 months, which Petitioner argues is evidence of irregularity supporting pretext.

Petitioner argued that the employer recharacterized the Accounts Receivable Clerk position as a customer service position during trial, which Petitioner contends was an after-the-fact shift to justify the decision.

The process that produced the credibility findings was fundamentally unfair because the waiver and witness-presentation issues impaired my ability to present my

case as contemplated. The court also did not shift the burden of proof of mitigation on the employer. The burden of proof on mitigation is on the employer. Ryan v. Superintendent of Schs. of Quincy, 374 Mass. 670, 673 (1978). Buckley Nursing Home, Inc. v. Massachusetts Com. against Discrimination, 20 Mass. App. Ct. 172, 185

Petitioner raised on appeal whether the trial court erred in concluding his communication skills were insufficient despite evidence to the contrary.

Conclusion:

For the foregoing reasons, Petitioner respectfully requests that this Court grant the petition for a writ of certiorari, review the judgment below, and grant such further relief as this Court deems just and proper.

Respectfully Submitted,

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