

No. 25-945

IN THE
Supreme Court of the United States

ROD WARREN, *et al.*,

Petitioners,

v.

NUCOR CORPORATION,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF IN OPPOSITION

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**COUNTERSTATEMENT OF
QUESTIONS PRESENTED**

The questions presented are:

1. Whether Petitioners' claims under the Arkansas Civil Rights Act provide an appropriate vehicle for this Court to review application of the *McDonnell Douglas* framework to Title VII cases at the summary judgment stage, when the Arkansas statute at issue specifically limits Arkansas courts' use of federal precedent as persuasive authority only.

2. Whether Petitioner Booker's voluntarily nonsuited race discrimination claim is subject to revival based on the issuance of an opinion from this Court while his claim was on appeal before the Eighth Circuit Court of Appeals.

**PARTIES TO THE PROCEEDING
AND RULE 29.6 STATEMENT**

Petitioners are Rod Warren and Eric Booker.

Respondent is Nucor Corporation. Nucor Corporation is a privately held corporation, has no parent corporation, and no publicly held corporation owns 10% or more of Nucor Corporation's stock.

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CITATIONS TO OPINIONS AND ORDERS

McKinney v. Ammunition Operations, LLC, 2026 U.S. Dist. LEXIS 72045, (E.D. AR) (citing *Warren v. Nucor Corp.*, 150 F.4th 990 (8th Cir. 2025)); *Weston v. Tyson Shared Svcs.*, 2026 U.S. Dist. LEXIS 9536 (citing *Warren v. Nucor Corp.*, 150 F.4th 990, 996-97 (8th Cir. 2025)).

BASIS FOR JURISDICTION AND STATUTE INVOLVED

Petitioners Rod Warren and Eric Booker request via their Petition for Writ of Certiorari that the United States Supreme Court exercise its discretion to review the decision by the Eighth Circuit Court of Appeals granting Respondent Nucor's motion for summary judgment upon their claims arising under the Arkansas Civil Rights Act of 1993, ACA 16-123-101, et seq. Thus, Petitioners assert jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

On September 9, 2025, the Eighth Circuit Court of Appeals affirmed the Eastern District of Arkansas' grant of Respondent Nucor's motion for summary judgment upon Petitioners' race discrimination, retaliation, and hostile work environment claims filed pursuant to the Arkansas Civil Rights Act.

The district court granted Respondent's motion for summary judgment as to Petitioner Warren's claims, because it determined he failed to produce evidence of other similarly situated white employees treated more

favorably to support a discrimination claim, failed to provide sufficient evidence to permit an inference of causation to support his retaliation claim, and failed to provide evidence of severe or pervasive conduct not promptly and effectively addressed by Nucor to support his hostile work environment claim. As for Booker, the district court granted Respondent's motion for summary judgment because Booker had filed a voluntary nonsuit as to his race discrimination claim, had not suffered an adverse employment action to support a retaliation claim, and had failed to identify conduct not promptly and effectively addressed by Nucor to support his hostile work environment claim.

The Eighth Circuit affirmed the district court's decision, because it determined Warren failed to establish a *prima facie* case of discrimination, failed to establish a genuine dispute of material fact as to whether his protected conduct was causally connected to his termination to support his retaliation claim, and failed to meet the "demanding" standard for a hostile work environment claim. As for Booker, the Eighth Circuit affirmed the district court's decision, because it determined Booker voluntarily nonsuited his discrimination claim before the district court, failed to establish that he suffered an adverse employment action to support his retaliation claim, and failed to meet the "demanding" standard for a hostile work environment claim.

REASONS FOR DENYING THE PETITION

Respondent Nucor Corporation ("Nucor"), pursuant to Supreme Court Rules 15.1, 15.2, 33.2, and 39.5 and by and through its Counsel of Record, opposes the Petition

for Writ of Certiorari filed by Petitioners Rod Warren (“Warren”) and Eric Booker (“Booker”) upon the following grounds:

I. The Underlying Case is Limited to Interpretation of the Arkansas Civil Rights Act.

Petitioners urge this Court to use their case as an opportunity to review the application of the *McDonnell Douglas* test at the summary judgment stage of employment discrimination cases brought pursuant to Title VII of the Civil Rights Act. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). Whether this Court is inclined generally to conduct a review of the *McDonnell Douglas* standard, this case does not present an appropriate vehicle for such a review, as it solely involved alleged violations of the Arkansas Civil Rights Act (“ACRA”) and any ruling in this case would therefore lack broad application.

Respondent acknowledges that Arkansas law permits the use of federal law to interpret claims brought under the ACRA, but notes that the statute critically limits the use of federal law to interpretive guidance only. The Arkansas Supreme Court has recognized that Ark. Code Ann. § 16-123-105(c) expressly provides that Arkansas courts *may* look to state and federal decisions interpreting federal civil rights laws as guidance when interpreting the ACRA, but that those decisions “shall have persuasive authority only.” *Island v. Buena Vista Resort*, 352 Ark. 548, 103 S.W.3d 671 (2003); *Med. Liab. Mut. Ins. Co. v. Alan Curtis LLC*, 519 F.3d 466 (8th Cir. 2008). Therefore, while Arkansas courts are authorized by § 16-123-105(c) to use federal civil rights decisions for guidance, they are not authorized to use it to displace Arkansas judicial judgment.

As a result of the limited claims at issue in this case, it is not an appropriate vehicle for this Court to review the application of *McDonnell Douglas* to Title VII cases at the summary judgment stage.

II. Petitioner Booker Cannot Revive His Abandoned Race Discrimination Claim.

Petitioner Booker argues that he should be permitted to revive his voluntarily nonsuited race discrimination claim based on his assertion that he would not have dismissed his claim had this Court's opinion in *Muldrow v. City of St. Louis* been issued before he did so. 601 U.S. 346, 359 (2024). Notably, Booker makes no showing that his claim would have been viable if he had not voluntarily dismissed it. Further, as the Eighth Circuit correctly noted, “[o]nce a party has intentionally relinquished a claim, the claim is waived and therefore unreviewable on appeal.” Opinion, FN 4 (internal citations omitted). Finally, this question results from an uncommon situation in which caselaw is issued while a previously nonsuited claim is on appeal. Such a limited question does not argue in favor of further review by this Court. Even Petitioner Booker characterizes this issue as one involving an “exceptionally unique procedural timing of events” and a “rare procedural posture.” Petition, p. 31, 32.

III. Petitioners Have Stated No Other Sufficient Basis for Granting the Petition.

While Petitioners claim this case presents important issues and questions about the law, they fail to establish any sufficient basis for reviewing the Eighth Circuit's decision. As demonstrated above, there is no issue of wide

applicability present in this case, and Petitioners have failed to identify any sufficient basis for granting their Petition.

CONCLUSION

The Court should deny the Petition for Writ of Certiorari.

Respectfully submitted, this the 10th day of April, 2026.

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