

IN THE SUPREME COURT OF THE UNITED STATES

DR. SAMAR AZAWI,

Petitioner,

v.

DENIS MCDONOUGH,

Secretary of Veterans Affairs,

Respondent.

No. 22-56157 (9th Cir.)

APPLICATION FOR EXTENSION OF TIME

TO FILE A PETITION FOR A WRIT OF CERTIORARI

To the Honorable Justice Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Petitioner Dr. Samar Azawi, proceeding pro se, respectfully requests an extension of time of 60 days, to and including June 6, 2026, within which to file a petition for a writ of certiorari.



1. Jurisdiction

The judgment of the United States Court of Appeals for the Ninth Circuit was entered on October 2, 2025. The court of appeals denied rehearing on January 7, 2026. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1). The time to file a petition for a writ of certiorari currently expires on April 7, 2026.

2. Reasons for Extension

This application is made in good faith and not for purposes of delay. An extension is warranted for the following reasons:

1. Pro Se Status.

Petitioner is proceeding without counsel and is preparing a petition involving complex federal legal issues.

2. Complexity of the Case.

This case involves federal employment law, due process claims, National Practitioner Data Bank (NPDB) reporting issues, Office of Inspector General (OIG) findings, and administrative and judicial proceedings spanning several years.

3. Extensive Record.

The record below is substantial and requires careful review to ensure accurate presentation of facts and issues for this Court.

4. Prior Counsel's Deficiencies.

Petitioner's prior counsel failed to adequately present critical issues and evidence at the district court level, requiring Petitioner to reconstruct and clarify the record in preparing this petition.

5. Need for Careful Preparation.

Additional time is necessary to ensure that the petition properly presents significant constitutional questions and issues of national importance.

3. Conclusion

For the foregoing reasons, Petitioner respectfully requests that an extension of time of 60 days, to and including June 6, 2026, be granted within which to file the petition for a writ of certiorari.

Respectfully submitted,

Dated: March 27, 2026

Dr. Samar Azawi, M.D.

A handwritten signature in cursive script, appearing to read "Samar Azawi".

Petitioner Pro Se

Email: samar.azawi@gmail.com

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 2 2025

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SAMAR AZAWI, M.D.,

Plaintiff-Appellant,

v.

DENIS MCDONOUGH, Secretary of the
United States Department of Veterans
Affairs,

Defendant-Appellee.

No. 22-56157

D.C. No. 2:18-cv-00744-MRW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Michael R. Wilner, Magistrate Judge, Presiding**

Submitted September 29, 2025***
San Francisco, California

Before: O'SCANNLAIN, BERZON, and N.R. SMITH, Circuit Judges.

Dr. Samar Azawi appeals pro se from the district court's grant of summary

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

judgment in her action arising out of her employment with and recommended termination by the United States Department of Veterans Affairs (“VA”). Azawi alleged gender, age, and national origin discrimination, hostile work environment, retaliation, and unequal pay claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.* (“Title VII”), the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, *et seq.* (“ADEA”), and the Equal Pay Act, 29 U.S.C. § 206(d) (“EPA”). We have jurisdiction under 28 U.S.C. § 1291. We review *de novo*. *Davis v. Team Elec. Co.*, 520 F.3d 1080, 1088 (9th Cir. 2008). “[W]e may affirm on any ground raised below and supported by the record[.]” *Wendell v. GlaxoSmithKline LLC*, 858 F.3d 1227 (9th Cir. 2017) (internal citation omitted). We affirm.

1. We evaluate Title VII and ADEA claims under the burden-shifting framework laid out in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). “Under this framework, the employee must first establish a *prima facie* case of ... discrimination.” *Diaz v. Eagle Produce Ltd. Partnership*, 521 F.3d 1201, 1207 (9th Cir. 2008). Then “the burden shifts to the employer to articulate a legitimate, non-discriminatory reason for its adverse employment action.” *Id.* “If the employer satisfies its burden, the employee must then prove that the reason advanced by the employer constitutes mere pretext for unlawful discrimination.” *Id.*

To establish a *prima facie* discrimination claim under Title VII, a plaintiff

must show that “(1) she belongs to a protected class; (2) she was qualified for her position; (3) she was subject to an adverse employment action; and (4) similarly situated individuals outside her protected class were treated more favorably.” *Id.* at 1089. To establish a prima facie discrimination claim under the ADEA, a plaintiff must show that he was “(1) at least forty years old, (2) performing his job satisfactorily, (3) discharged, and (4) either replaced by substantially younger employees with equal or inferior qualifications or discharged under circumstances otherwise giving rise to an inference of age discrimination.” *Id.* at 1207 (citation and internal quotation marks omitted).

We assume here that Dr. Azawi made out a prima facie discrimination claim under both Title VII and the ADEA. The VA proffered sufficient evidence that Dr. Azawi was removed from her position based on performance deficiencies, including the findings of an unrestricted peer review of her performance conducted by a doctor who worked at a different VA facility.

Dr. Azawi did not proffer substantial evidence that the VA’s “showing was untrue or pretextual.” *See Dep’t of Fair Emp. & Hous. v. Lucent Techs., Inc.*, 642 F.3d 728, 746 (9th Cir. 2011) (internal citation omitted). Azawi argues primarily that any deficiency in her performance as a doctor was attributable to her unmanageable workload. Azawi’s proffered evidence may support an inference that “the employer’s decision was wrong, mistaken, or unwise.” *Id.* (internal

citation omitted). But such evidence is insufficient to meet the required burden of showing that employer's proffered legitimate reason for termination is pretextual and thus "unworthy of credence." *Id.* As *Villiarimo v. Aloha Island Air, Inc.* explained, when a plaintiff "fail[s] to demonstrate that the legitimate, non-discriminatory reasons for her termination offered by [her employer] ... are pretextual," then "her federal [discrimination] claim fails" under the *McDonnell Douglas* "burden-shifting approach." 281 F.3d 1054, 1064 (9th Cir. 2002).

2. To establish a prima facie case of retaliation under Title VII or the ADEA, a plaintiff must show that "1) he engaged in a protected activity; 2) he suffered an adverse employment decision; and 3) there was a causal link between the protected activity and the adverse employment decision." *Villiarimo*, 281 F.3d at 1064; *see Poland v. Chertoff*, 494 F.3d 1174, 1179-80 (9th Cir. 2007); *see also* 29 U.S.C. § 215(a)(3) (Equal Pay Act, stating that it is unlawful for "any [person] to discharge or in any other manner discriminate against any employee because such employee has filed any complaint . . . under or related to this chapter"). The district court properly granted summary judgment on Dr. Azawi's retaliation claims because, once again, she failed to raise a triable dispute as to whether the VA's proffered non-retaliatory reasons for discharging her were pretextual.

3. Dr. Azawi also did not introduce evidence creating a triable dispute as to any element of her hostile work environment claim. To prove a hostile work

environment claim, a plaintiff must show that (1) she was subjected to verbal or physical conduct of a harassing nature, (2) the conduct was unwelcome, and (3) the conduct was sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. *Kortan v. Cal. Youth Auth.*, 217 F.3d 1104, 1110 (9th Cir. 2000). Dr. Azawi did not allege verbal or physical conduct of a harassing nature in her opposition to summary judgment or her supporting declaration. The district court properly granted summary judgment.

4. As to Dr. Azawi's EPA claim, dismissal was proper because she did not respond to the VA's motion for summary judgment on these claims, despite the District Court's order to "make clear ... whether and which EPA claims remain in this case or are voluntarily dismissed." The district court did not err in concluding that Dr. Azawi abandoned these claims. *Jenkins v. Cnty. of Riverside*, 398 F.3d 1093, 1095 n.4 (9th Cir. 2005). We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 7 2026

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U.S. COURT OF APPEALS

SAMAR AZAWI, M.D.,

Plaintiff-Appellant,

v.

DENIS MCDONOUGH, Secretary of the
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No. 22-56157

D.C. No. 2:18-cv-00744-MRW
Central District of California,
Los Angeles

ORDER

Before: O'SCANNLAIN, BERZON, and N.R. SMITH, Circuit Judges.

The panel has unanimously voted to deny the petition for panel rehearing and to recommend denial of the petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40. The petition for rehearing and the petition for rehearing en banc are denied. (Dkt. No. 47).