No. 25A-_____

IN THE

Supreme Court of the United States

BRIAN ARMSTRONG,

Applicant,

v.

WB STUDIO ENTERPRISES, INC., ET AL.,

Respondents.

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

APPLICATION FOR AN EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI

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CORPORATE DISCLOSURE STATEMENT

Applicant has no information to disclose under Rule 29.6.

APPLICATION FOR AN EXTENSION OF TIME TO FILE

PETITION FOR WRIT OF CERTIORARI

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

In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicant Brian Armstrong ("Applicant") respectfully requests that the time to file his petition for a writ of certiorari be extended for 60 days, up to and including Friday, March 27, 2026. The Court of Appeals issued memorandum disposition on October 27, 2025. (Exhibit A) Absent an extension of time, the petition would be due on January 26, 2026. The jurisdiction of this Court is based on 28 U.S.C. § 1331. The judgment under review is a Ninth Circuit Court of Appeals memorandum disposition affirming the trial court's dismissal of Applicant's 42 U.S.C. § 1981 cause of action.

BACKGROUND

This case arises under Section 1981 of the Civil Rights Act of 1864, for race and color discrimination, harassment, and retaliation at the workplace. Applicant Brian Armstrong had a successful career as a television camera operator for Respondents when Respondents issued their "Commitment to Diversity and Inclusion," (referred to herein as "The Commitment") which ultimately resulted in a hostile work environment rife with a racially charged slurs, Applicant's loss of his job, and Applicant's loss of his career.

The federal district court granted Respondents' motion for summary judgment on the grounds that The Commitment was not a discriminatory policy, that admissions from Respondents' management that they were using race as the sole basis to hire employees were not relevant if not made by the lowest level employee that Respondents attributed to making the employment selections, that comments directed at Applicant such as "honkey," "schvartze," and "endangered species" were generalized discussion about diversity and not offensive comments for purposes of a Section 1981 hostile work environment claim, and other findings of law seeking to prevent Section 1981 from providing any protections to Applicant from race discrimination.

The Ninth Circuit affirmed the summary judgment order in a short, unpublished decision that did not grapple with the unique facts and legal issues the case presented. Applicant contends the Court of Appeals erred by not holding The Commitment to constitute an unlawful policy, disregarding Respondents' upper level management's admissions to using race as a sole factor in making selections for the show, implicitly creating a higher standard for employees challenging DEI policies even when, as here, the Applicant showed race and color were the but for reasons for the decisions caused by a DEI policy that Respondents' management admitted to implementing toward Applicant, and holding comments such as "honkey," "schvartze," and "endangered species," to constitute general discussion about diversity rather than offensive slurs constituting a hostile work environment.

REASONS FOR REQUESTING AN EXTENSION OF TIME

Applicant's attorney of record in the trial court and Court of Appeals is not admitted to practice before the Supreme Court and only recently learned of this prerequisite to file a petition for certiorari. Applicant is in the process of retaining a lawyer admitted to practice before this Court. That counsel needs time to review the record and prepare the petition. That work cannot be completed before the current deadline.

CONCLUSION

Therefore, Applicant respectfully requests that the time to file a petition for a writ of certiorari be extended by a period of 60 days up to and including Friday, March 27, 2026.

Respectfully submitted,

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APPLICATION EXHIBIT

NOT FOR PUBLICATION

FILED

OCT 27 2025

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRIAN ARMSTRONG, Plaintiff - Appellant, v. WB STUDIO ENTERPRISES, INC.; WARNER BROTHERS ENTERTAINMENT, INC., Defendants - Appellees.	No. 24-5049 D.C. No. 2:23-cv-03854-GW-JPR MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. Wu, District Judge, Presiding

Argued and Submitted October 8, 2025
Pasadena, California

Before: RAWLINSON, MILLER, and JOHNSTONE, Circuit Judges.

Brian Armstrong appeals from the district court's grant of summary judgment for WB Studio Enterprises, Inc. and Warner Brothers Entertainment, Inc. (collectively, "Warner Brothers"), on his 42 U.S.C. § 1981 discrimination, retaliation, and hostile work environment claims. We have jurisdiction under

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

28 U.S.C. § 1291. We review de novo a district court's grant of summary judgment. *Surrell v. Cal. Water Serv. Co.*, 518 F.3d 1097, 1103 (9th Cir. 2008). We affirm.

Section 1981 makes it unlawful to intentionally discriminate because of race when "mak[ing] and enforc[ing] contracts," which includes "the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship." 42 U.S.C. § 1981(b); *Gen. Bldg. Contractors Ass'n, Inc. v. Pennsylvania*, 458 U.S. 375, 391 (1982). To show intentional discrimination because of race, plaintiffs must prove that "but for" race, they would not have suffered the loss of a right protected by the statute. *Comcast Corp. v. Nat'l Ass'n of Afr. Am.-Owned Media*, 589 U.S. 327, 333, 341 (2020).

1. The district court properly granted summary judgment on Armstrong's § 1981 discriminatory failure-to-hire claim. Armstrong failed to raise a genuine dispute of material fact that the hiring decision maker, Patti Lee, made her decisions because of race rather than legitimate reasons. *See id.*; *Vasquez v. Cnty. of Los Angeles*, 349 F.3d 634, 638, 640 (9th Cir. 2003). Statements made by people who were not involved in the hiring process are not material because Armstrong failed to establish a genuine dispute that those statements were connected to the hiring authority for the position at issue. *See Vasquez*, 349 F.3d at 640 (analyzing conduct of facility director who made decision to transfer plaintiff

rather than conduct of co-worker who made racially charged statements). Warner Brothers's statement regarding its "Commitment to Diversity and Inclusion" did not constitute a race-based reason for hiring other candidates because the commitment did not contain any specific instructions or directive on whom to hire, nor is there evidence that Patti Lee relied on the commitment in making her hiring decisions.

2. The district court properly granted summary judgment on Armstrong's § 1981 retaliation claim. Even assuming Armstrong engaged in a protected activity and suffered an adverse employment action, he failed to raise a genuine dispute of material fact that there was a causal link between the two. *See Surrell*, 518 F.3d at 1108. Whether a causal link may be inferred depends on some showing that the relevant decision maker was aware of the protected activity, which Armstrong did not genuinely dispute. *See Raad v. Fairbanks N. Star Borough Sch. Dist.*, 323 F.3d 1185, 1197 (9th Cir. 2003) (affirming summary judgment for school district because no evidence of requisite awareness by "the particular principals" who made allegedly retaliatory hiring decision).

3. The district court properly granted summary judgment on Armstrong's § 1981 hostile work environment claim. Armstrong failed to raise a genuine dispute of material fact that the alleged conduct was sufficiently severe or pervasive to alter the conditions of his employment and create an abusive work

environment. *See Manatt v. Bank of Am., NA*, 339 F.3d 792, 798 (9th Cir. 2003). Generally, "teasing, offhand comments, and isolated incidents (unless extremely serious) will not amount to discriminatory changes" in the conditions of employment. *Id.* There is no genuine dispute that the conduct challenged by Armstrong was not severe, pervasive, or unreasonably interfered with his work performance. *See McGinest v. GTE Serv. Corp.*, 360 F.3d 1103, 1113 (9th Cir. 2004).

AFFIRMED.