

No. 26 - _____

SUPREME COURT OF THE UNITED STATES

Joe Martin Bravo,
Petitioner,

v.

Dallas Independent School District,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

The Fifth Circuit Court of Appeals concluded that Petitioner Joe Martin Bravo failed to identify a legally sufficient comparator and, because his Title VII claim failed that “threshold inquiry,” declined to reach his remaining arguments.¹

The federal circuit courts employ materially different methodologies for determining whether comparator insufficiency prevents other circumstantial evidence from receiving judicial consideration. The petition therefore asks whether failure to identify a legally sufficient comparator may become a threshold barrier to consideration of circumstantial evidence bearing on intentional discrimination. The question presented is whether Title VII and Rule 56 permit a court, after determining that a plaintiff lacks a legally sufficient comparator under a judicially developed *prima facie* framework, to terminate the summary judgment inquiry without considering other circumstantial evidence bearing on intentional discrimination.

¹ The Fifth Circuit’s Opinion reads in relevant part, “Because Bravo’s Title VII claim fails this threshold inquiry, we do not reach his other arguments.” Pet. App. 8, n.3.

PARTIES TO THE PROCEEDING

Petitioner Joe Martin Bravo was Plaintiff below.

Respondent Dallas Independent School District was Defendant below.

RELATED CASES

Joe Martin Bravo v. Dallas Independent School District, Cause No. 3:23-CV-1596, United States Court for the Northern District of Texas (July 30, 2025, Order Granting Dallas Independent School District Motion for Summary Judgment. Available at No. 3:23-cv-01596-K, 2025 WL 2163272 (N.D. Tex. Jul. 30, 2025). Pet. App. 9

Joe Martin Bravo v. Dallas Independent School District; Tarrant Appraisal District,² Case No. 25-10982, United States Court of Appeals for the Fifth Circuit (June 1, 2026, Opinion affirming trial court summary judgment. Available at 177 F.4th 604 (5th Cir. 2026). Pet. App. 4

Joe Martin Bravo v. Dallas Independent School District; Tarrant Appraisal District, Case No. 25-10982, United States Court of Appeals for the Fifth Circuit (June 29, 2026, Order Denying Petition for Rehearing En Banc). Pet. App. 45

² Tarrant Appraisal District is named in the Fifth Circuit case style per local rules. It appeared in the trial court action only as a third-party movant contesting a subpoena served on it by Dallas Independent School District.

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OPINION BELOW

Joe Martin Bravo v. Dallas Independent School District; Tarrant Appraisal District, Case No. 25-10982, United States Court of Appeals for the Fifth Circuit (June 1, 2026), Opinion affirming trial court summary judgment. Available at 177 F.4th 604 (5th Cir. 2026). Pet. App. 4.

JURISDICTION

The Court of Appeals entered judgment on June 1, 2026, and denied timely petitions for panel rehearing and rehearing en banc on June 29, 2026. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

STATUTES/RULES

The relevant provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, and Federal Rule of Civil Procedure 56 are reproduced in the Appendix.

STATEMENT OF THE CASE

The Decision Below

The Court of Appeals affirmed summary judgment after concluding that Petitioner failed to identify a legally sufficient comparator. Although acknowledging this Court's warning in *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303 (2025), against rigid application of prima facie formulations, the panel concluded: "Hence, our previous decisions that require a similarly situated comparator still bind us." Pet. App. 8. It therefore held that Petitioner failed at the prima facie stage and, because his claim failed that "threshold inquiry," stopped its analysis after resolving the comparator issue. *Id* The methodology employed below thus presents the question whether comparator insufficiency may become the endpoint of Rule 56 review rather than one evidentiary consideration within the required evaluation of evidence.

Factual Context

Petitioner alleged that Respondent subjected him to adverse employment actions because of his Caucasian race and national origin in violation of Title VII. In opposing summary judgment, Petitioner identified multiple categories of circumstantial evidence that he contended bore independently on discriminatory intent and pretext, including statistical evidence, coworker affidavits, investigative and procedural irregularities, and evidence concerning Respondent's explanations and decision-making process. For purposes of the question presented, the Court need not determine whether those matters ultimately

establish discrimination. Their significance to the question presented is that Petitioner invoked them as circumstantial evidence bearing on discriminatory intent and pretext, yet the Court of Appeals expressly declined to reach those arguments after resolving the comparator issue.

The question therefore concerns the antecedent analytical rule governing whether those arguments receive consideration at all, not the subsequent determination whether the evidence supporting them is sufficient to survive summary judgment. The employment history supplied additional context for those contentions. Respondent maintained that Petitioner had engaged in serious misconduct warranting termination, but later reinstated him, restored employment privileges, awarded back pay, and imposed no corrective discipline. Petitioner contended that these circumstances, together with evidence concerning whether Respondent followed its own investigative and employment procedures, bore on whether Respondent's stated reasons for the challenged actions were worthy of belief.

The Court of Appeals did not determine that this circumstantial evidence was insufficient to permit an inference of intentional discrimination. After concluding that Petitioner had not identified a legally sufficient comparator, it did not reach his arguments. The question presented therefore arises without any appellate determination concerning the sufficiency of Petitioner's circumstantial evidence.

The absence of an appellate ruling on the sufficiency of that evidence is a feature of the question presented, not an impediment for review. It isolates the antecedent methodological issue: whether a court may decline to reach the sufficiency of other circumstantial evidence bearing on intentional discrimination solely because the plaintiff failed to identify a legally sufficient comparator. Whether Petitioner's remaining evidence is ultimately sufficient to survive summary judgment is a distinct question for the lower courts to address in the first instance.

Proceedings Below

The district court entered summary judgment for Respondent. The Court of Appeals affirmed on comparator grounds and declined to reach Petitioner's remaining arguments. Petitioner timely sought panel rehearing and rehearing en banc. Both were denied.

Petitioner preserved the methodological question throughout the appeal. His opening brief challenged the Fifth Circuit's comparator requirement as inflexible, argued that the trial court failed to consider other routes to establishing a *prima facie* case, and relied on *Tynes v. Florida Dep't of Juvenile Justice*, 88 F.4th 939 (11th Cir. 2023), and decisions of other federal circuits, for an alternative circumstantial evidence approach. The brief further invoked *U.S. Postal Serv. Bd. of Governors v. Aikens*, 460 U.S. 711 (1983), in arguing that, once the employer meets its burden of production, the inquiry turns to the ultimate question of discrimination,

including at summary judgment. Petitioner’s reply reiterated that he was not required to identify a comparator under the circumstances presented and argued that the circumstantial evidence must be evaluated as a whole. After the panel declined to reach Petitioner’s remaining arguments, the rehearing petition squarely challenged comparator insufficiency as a “threshold barrier” preventing consideration of the totality of the circumstantial evidence.

SUMMARY OF THE ARGUMENT

This petition presents a narrow question of federal procedure with consequences extending beyond this case: whether the *McDonnell Douglas* burden-shifting framework to establish employment discrimination permits a court to treat a plaintiff’s failure to identify a legally sufficient comparator as dispositive, thereby ending judicial review before considering other circumstantial evidence bearing on discrimination under Rule 56.

The question is consequential because some employment decisions produce no meaningful comparator. If the absence of a comparator becomes the gateway to judicial review, consideration of a Title VII claim may turn on the unique structure of the employer’s decision rather than on the circumstantial record as a whole.

This Court’s precedents establish a consistent methodological principle. The *McDonnell Douglas* framework organizes circumstantial proof but does

not supplant Title VII's ultimate inquiry. A succession of decisions by this Court establishes that an evidentiary framework must serve—not replace—the governing statutory and Rule 56 standards.³

The decision below cleanly presents that issue. After concluding that Petitioner lacked a legally sufficient comparator, the Court of Appeals expressly declined to reach his remaining arguments. This petition therefore does not ask the Court to reweigh Petitioner's circumstantial evidence; it asks whether Title VII, Rule 56, and this Court's precedents permitted the Court of Appeals to terminate its inquiry before considering that evidence.

The issue has produced materially different methodologies among the circuits. The Eleventh Circuit permits a Title VII plaintiff to proceed without comparator evidence when other circumstantial evidence supports an inference of discrimination, while the decision below treated comparator insufficiency as dispositive. Other circuits likewise employ methodologies that do not invariably make comparator evidence a prerequisite to consideration of the circumstantial record. The disagreement is unlikely to resolve itself because an ordinary Fifth Circuit panel cannot reconsider precedent it understands to be binding under the rule of orderliness.

³ *U.S. Postal Serv. Bd. of Governors v. Aikens*, 460 U.S. 711 (1983); *Reeves v. Sanderson Plumbing Prods., Inc.* 530 U.S. 133 (2000); *Tolan v. Cotton*, 572 U.S. 650 (2014); *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303 (2025).

The need for review is particularly clear because the panel concluded that prior Fifth Circuit decisions requiring a similarly situated comparator to “still bind us,” while expressly identifying contrary Eleventh Circuit authority and separate opinions questioning the Fifth Circuit's methodology, and without identifying any binding prior-panel decision squarely resolving the distinct question presented here. The disagreement therefore appears on the face of the decision below and cannot readily be resolved through ordinary panel adjudication.

The Court can resolve that methodological question without deciding whether Petitioner's evidence ultimately establishes a genuine dispute of material fact. If the Court of Appeals terminated its inquiry prematurely, the sufficiency of the remaining evidence can be addressed by the lower courts in the first instance.

REASONS FOR GRANTING THE PETITION

I. The Circuits Are Divided Over Whether Comparator Insufficiency Can Foreclose Consideration of Other Circumstantial Evidence

The Fifth Circuit Court of Appeals did not merely conclude that Petitioner failed to identify a legally sufficient comparator. It treated that determination as dispositive: Because Petitioner's claim failed what the panel called a “threshold inquiry,” the circuit court declined to reach his remaining arguments. On the other hand, the Eleventh Circuit permits a materially different methodology. That conflict

determines whether comparator insufficiency ends the inquiry or whether other circumstantial evidence remains subject to judicial consideration.

The conflict is straightforward and outcome-determinative. In the Fifth Circuit, the absence of a legally sufficient comparator may result in failure of the prima facie case and termination of the summary judgment inquiry without consideration of the plaintiff's remaining circumstantial evidence. In the Eleventh Circuit, by contrast, failure to satisfy the *McDonnell Douglas* framework—including the absence of comparator evidence—does not necessarily end the Rule 56 inquiry. A plaintiff may survive summary judgment if the remaining circumstantial evidence would permit a reasonable inference of intentional discrimination. In *Tynes v. Florida Department of Juvenile Justice*, the Eleventh Circuit Court of Appeals explained that “the plaintiff's failure to produce a comparator does not necessarily doom the plaintiff's case.” 88 F.4th at 946. “Under *McDonnell Douglas*, the failure to establish a prima facie case is fatal only where it reflects a failure to put forward enough evidence for a jury to find for the plaintiff on the ultimate question of discrimination.” *Id.* at 947.

The decision below identified that disagreement, citing *Tynes* as an example of contrary authority. Pet. App. 8, n.2. The conflict therefore concerns not how closely comparators must resemble one another, but the legal consequence of having no qualifying comparator at all: whether comparator insufficiency ends judicial consideration or whether the remaining

circumstantial evidence must still be evaluated under Rule 56.

Whatever flexibility may exist elsewhere in Fifth Circuit doctrine, the disposition below did not employ it. The panel held that, to survive summary judgment, Petitioner “must” show that he was treated less favorably than a similarly situated employee outside his protected class. Pet. App. 8. After concluding that Petitioner lacked a legally sufficient comparator, the panel treated that determination as dispositive: “Because Bravo’s Title VII claim fails this threshold inquiry, we do not reach his other arguments.” Pet. App. 8, n.3. The conflict presented here therefore turns on the methodology actually applied below—not on whether Fifth Circuit precedent might permit a different approach in another case.

The development of Fifth Circuit comparator doctrine further illustrates why the question presented is distinct from the traditional inquiry into comparator similarity. That development is consequential here. *McDonnell Douglas* established a flexible evidentiary framework whose prima facie requirements vary with differing factual circumstances. *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 n.13 (1973). *Lee v. Kansas City S. Ry. Co.*, 574 F.3d 253, 259 (5th Cir. 2009), prescribed the requirements for conducting comparator analysis in the Fifth Circuit, but, as the appellate court later acknowledged in a separate decision, *Lee* “does not affirmatively state that such an analysis is required to satisfy the fourth [comparator] prong and make a prima facie case.” *Saketkoo v. Adm’rs of Tulane Educ. Fund*, 31 F.4th

990, 998 n.3 (5th Cir. 2022). Rather, subsequent Fifth Circuit decisions interpreted *Lee* to impose that requirement. *Id.* The decision below then treated intervening decisions as controlling, explaining that they “still bind us,” and consequently treated comparator insufficiency as a “threshold inquiry” that foreclosed consideration of Petitioner’s remaining arguments. Pet. App. 8. The dispositive gateway applied below thus arose through the Fifth Circuit’s development of the *McDonnell Douglas* framework—not from an express comparator command in Title VII, *McDonnell Douglas*, or even *Lee*.

At the same time, the panel’s accompanying footnote⁴ cited this contrary Eleventh Circuit authority and separate opinions from members of the Fifth Circuit questioning the circuit’s approach. The decision below thus squarely presents whether failure to identify a legally sufficient comparator may foreclose consideration of circumstantial evidence bearing on intentional discrimination. In that footnote, the panel cited *Tynes*, which permits a Title VII plaintiff to

⁴ Contra *Tynes v. Fla. Dep’t of Juv. Just.*, 88 F.4th 939, 944–45 (11th Cir. 2023) (allowing a plaintiff to survive summary judgment without evidence of a comparator employee because the *McDonnell Douglas* prima facie case is an “evidentiary tool” not “a substantive standard of liability”); see also *Awe v. Harris Health Sys.*, 163 F.4th 969, 975–76 (5th Cir. 2026) (Elrod, C.J., concurring) (“[T]he Fifth Circuit’s reading of the *McDonnell Douglas* standard [is] foreign to both Title VII and Rule 56, [and] puts on blinders to the various ways . . . a plaintiff could prove [their] claim.” (citation modified)); *Nall v. BNSF Ry. Co.*, 917 F.3d 335, 349–50 (5th Cir. 2019) (Costa, J., specially concurring); *Green v. HCTec Partners, L.L.C.*, No. 24-20554, 2026 WL 839112, at 6–8 (5th Cir. Mar. 26, 2026) (Oldham, J., concurring in the judgment). Pet. App. 8, n.2.

survive summary judgment without comparator evidence because the *McDonnell Douglas* prima facie case is an "evidentiary tool," not "a substantive standard of liability." 88 F.4th at 945. That disagreement directly determines whether the inquiry proceeds beyond the comparator stage. *Tynes* expressly rejects treating the *McDonnell Douglas* prima facie showing as a substantive prerequisite to surviving summary judgment. Failure at that stage is fatal only when the evidentiary record itself is insufficient to permit a finding of intentional discrimination. The decision below applied the opposite rule. It required Petitioner to satisfy the comparator-based prima facie formulation to survive summary judgment and, because he could not, treated that failure as dispositive without reaching his remaining circumstantial evidence arguments. The conflict therefore concerns the legal consequence of comparator insufficiency, not merely the degree of similarity required between proposed comparators. In the Fifth Circuit, failure of the comparator-based formulation may end the inquiry before other circumstantial evidence is considered.

Tynes thus presents the clearest direct conflict with the methodology employed below. The significance of *Tynes* is not merely that Petitioner has identified contrary authority from another circuit. The panel itself identified *Tynes* as contrary authority—introducing it with “contra”—immediately after concluding that Fifth Circuit precedent requiring a similarly situated comparator “still bind[s]” it. The conflict therefore does not depend solely on Petitioner’s comparison of decisions from different

circuits. The decision below identifies the competing Eleventh Circuit rule while explaining that binding Fifth Circuit precedent required a different result. The competing approaches thus appear on the face of the decision under review.

The conflict is not diminished by the fact that *Tynes* reached the Eleventh Circuit after trial. In explaining the governing rule, *Tynes* expressly addressed summary judgment, noting that *McDonnell Douglas* is not “a set of elements that the employee must prove—either to survive summary judgment or prevail at trial.” 88 F.4th at 949 (Newsome, J., concurring). The court further explained that satisfying the elements of the *McDonnell Douglas* framework “is not, and never was intended to be, the sine qua non for a plaintiff to survive a summary judgment motion.” *Id.* at 945. The decision in this case below adopted the opposite methodology. It held that a plaintiff relying on circumstantial evidence must satisfy *McDonnell Douglas* to survive summary judgment and that, because Petitioner lacked a legally sufficient comparator, his claim failed at that “threshold inquiry” without consideration of his remaining arguments. The conflict therefore concerns the governing rule at summary judgment, not merely the procedural posture in which *Tynes* arose.

Nor is the conflict avoided by an alternative means of considering Petitioner’s circumstantial evidence within the Fifth Circuit’s methodology. The decision below identified none. It held that, to survive summary judgment, Petitioner “must” offer evidence that he was treated less favorably than a similarly

situated employee outside his protected class. Because he could not, he failed the prima facie inquiry, and the appellate court expressly declined to reach his remaining arguments. Thus, the decision did not reject Petitioner's other circumstantial evidence as insufficient under some alternative evidentiary route. It declined to consider those arguments in the first place because the comparator requirement was unsatisfied. That disposition foreclosed the alternative evidentiary route recognized in *Tynes*.

The D.C., Seventh, Third, and Fourth Circuits reinforce that division through related approaches under which comparator evidence does not invariably control whether other circumstantial evidence receives judicial consideration. The D.C. Circuit takes a still more direct approach once the employer has articulated a legitimate, nondiscriminatory explanation for the challenged action. In *Brady v. Office of Sergeant at Arms*, 520 F.3d 490, 494 (D.C. Cir. 2008), the Court of Appeals held that, at summary judgment, the district court ordinarily need not—and should not—continue resolving whether the plaintiff satisfied the prima facie requirements of *McDonnell Douglas*. Instead, the inquiry turns to whether the evidence would permit a reasonable jury to find that the employer's asserted explanation was not the actual reason and that intentional discrimination occurred. *Id.* Under that inquiry, comparator evidence is one permissible means of showing discrimination, not an indispensable prerequisite to consideration of other circumstantial evidence. *Id.* at 495 & n.3. The D.C. Circuit continues

to apply *Brady* by considering, among other things, inconsistent or dishonest explanations, departures from established procedures or criteria, differential treatment of similarly situated employees, patterns of treatment of employees in the protected group, and other evidence from which discriminatory motive reasonably could be inferred. *Walker v. Johnson*, 798 F.3d 1085, 1092 (D.C. Cir. 2015) (citing *Brady*, 520 F.3d at 495 & n.3); see also *Jeffries v. Barr*, 965 F.3d 843, 859–60 (D.C. Cir. 2020).

That methodology differs materially from the one applied below. Here, Respondent's asserted nondiscriminatory explanation was already before the courts, yet the Court of Appeals treated failure of the comparator-based prima facie formulation as dispositive and expressly declined to reach Petitioner's remaining arguments. Under *Brady*, by contrast, the presence of the employer's explanation redirects the summary judgment inquiry toward whether the evidentiary record would permit a finding of intentional discrimination.

The Seventh Circuit likewise rejects a methodology under which failure of one evidentiary pathway ends consideration of otherwise probative circumstantial evidence. In *Ortiz v. Werner Enters., Inc.*, 834 F.3d 760, 765–66 (7th Cir. 2016), the Court of Appeals instructed that discrimination evidence must be considered as a whole and that the governing question is whether the evidence would permit a reasonable factfinder to conclude that a prohibited characteristic caused the adverse employment action. *Ortiz* preserved *McDonnell Douglas* as an evidentiary

framework, but not as the exclusive means of reaching that ultimate inquiry. See also *Coleman v. Donahoe*, 667 F.3d 835, 857–58 (7th Cir. 2012) (recognizing that prima facie and pretext analyses often overlap). Thus, in the Seventh Circuit, failure to establish one *McDonnell Douglas* route does not necessarily foreclose consideration of circumstantial evidence capable of supporting the ultimate inference of discrimination.

The Third Circuit employs yet a different prima facie formulation. It asks whether the challenged action occurred "under circumstances that could give rise to an inference of intentional discrimination," rather than invariably requiring proof of a similarly situated comparator. *Qin v. Vertex, Inc.*, 100 F.4th 458, 473 (3d Cir. 2024). In *Qin*, the court emphasized the flexibility of *McDonnell Douglas* and held that the district court had applied the fourth prima facie factor too narrowly by treating a particular factual formulation as controlling rather than asking whether the surrounding circumstances supported an inference of discrimination. *Id.* That approach, "taken together with the circumstances," contrasts directly with a methodology in which failure to satisfy a comparator-specific formulation prevents consideration of other circumstantial evidence. The Fourth Circuit similarly formulates the fourth element in terms of whether the adverse action occurred under circumstances giving rise to an inference of unlawful discrimination. *Bryant v. Aiken Regional Med. Ctrs., Inc.*, 333 F.3d 536, 544–45 (4th Cir. 2003).

These decisions do not employ identical formulations, but they reflect a common methodological premise: Comparator evidence is one means of supporting an inference of discrimination, not necessarily an absolute prerequisite to judicial consideration of circumstantial evidence. These approaches are not identical, but they expose the same methodological divisions. The Fifth Circuit’s comparator-specific formulation, as applied below, permitted comparator insufficiency to terminate the appellate inquiry without any alternative route through which Petitioner’s remaining circumstantial evidence arguments received consideration. The Eleventh Circuit directly permits such evidence to remain relevant notwithstanding failure of the comparator-based *prima facie* formulation. The D.C., Seventh, Third, and Fourth Circuits employ related formulas that do not invariably make comparator evidence dispositive. The disagreement between the Fifth Circuit and other federal circuits concerns not merely how similar two employees must be, but whether the absence of a qualifying comparator can prevent other circumstantial evidence from entering the Rule 56 inquiry at all.

The panel also cited separate opinions from several members of the Fifth Circuit questioning the circuit’s approach. *Awe v. Harris Health System*, 163 F.4th 969, 975–76 (5th Cir. 2026) (Elrod, C.J., concurring); *Nall v. BNSF Railway Co.*, 917 F.3d 335, 349–50 (5th Cir. 2019) (Costa, J., specially concurring); *Green v. HCTec Partners, L.L.C.*, No. 24-20554, 2026 WL 839112, at 6–8 (5th Cir. Mar. 26, 2026) (Oldham, J., concurring in the judgment). Chief Judge Elrod

described a “resounding chorus” criticizing rigid applications of *McDonnell Douglas* and concluded that the Fifth Circuit's approach “puts on blinders to the various ways” a plaintiff may prove discrimination. *Awe*, 163 F.4th at 975–76. That internal criticism reinforces the importance of the methodological question presented here: whether an evidentiary framework designed to assist adjudication may obscure the Rule 56 inquiry it was meant to facilitate. That methodological disagreement also implicates this Court's repeated instructions concerning the treatment of evidence under Title VII and Rule 56, discussed below. Further Title VII precedent is unlikely to settle the question presented. The competing methodologies are already established and outcome-determinative. The Eleventh Circuit has expressly held that failure to satisfy the *McDonnell Douglas* framework is not the sine qua non of surviving summary judgment, while the decision below treated the failure of its comparator-based formulation as a threshold ending the inquiry. The panel itself recognized the contrary Eleventh Circuit rule yet concluded that binding circuit precedent required the result below. Additional cases may illustrate the consequences of that disagreement, but they are unlikely to clarify the legal question already squarely presented.

Because an ordinary panel cannot reconsider binding circuit precedent, the disagreement is unlikely to be resolved through ordinary appellate adjudication. The Fifth Circuit subsequently denied rehearing en banc, leaving intact the panel's acknowledged obligation to follow existing circuit precedent. This

Court's review is warranted to establish a uniform rule governing the relationship among comparator evidence, Title VII, and Rule 56. The conflict is therefore neither hypothetical nor dependent solely on Petitioner's characterization of circuit law.

II. The Decision Below Conflicts with This Court's Instructions Concerning *McDonnell Douglas* and Rule 56

This Court's precedents establish principles governing the relationship between the *McDonnell Douglas* framework, Title VII's ultimate inquiry, and evidentiary sufficiency. Read together, *McDonnell Douglas*, *Aikens*, *Reeves*, *Ames*, and *Tolan* establish a consistent methodological principle: Judicially created evidentiary frameworks organize the proof relevant to discrimination.⁵ They do not supplant Title VII's ultimate question of intentional discrimination or Rule 56's governing standard for assessing evidentiary sufficiency. *McDonnell Douglas* established a flexible evidentiary framework and recognized that the prima facie showing necessarily varies with differing factual circumstances. *McDonnell Douglas Corp.*, 411 U.S. at 802 n.13 (1973). That preliminary burden was never intended to become a demanding substantive threshold. Once satisfied, it creates a rebuttable presumption

⁵ *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973); *U.S. Postal Serv. Bd. of Governors v. Aikens*, 460 U.S. 711 (1983); *Reeves v. Sanderson Plumbing Prods., Inc.* 530 U.S. 133 (2000); *Tolan v. Cotton*, 572 U.S. 650 (2014); *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303 (2025).

requiring the employer to articulate a legitimate, nondiscriminatory explanation. *Texas Dep't of Comm. Affairs v. Burdine*, 450 U.S. 248, 254–55 (1981). That limited function reinforces the distinction presented here between using the prima facie framework to organize circumstantial proof and treating one component of that framework as an absolute barrier to consideration of the remaining evidentiary record.

Respondent may contend that failure to satisfy a comparator-based prima facie formulation necessarily ends the inquiry. But comparator evidence is not itself an element of a Title VII disparate treatment claim. *McDonnell Douglas* supplies an evidentiary framework for proving intentional discrimination indirectly; it does not add substantive elements to the statute. The plaintiff's preliminary burden under that framework is “not onerous,” *Burdine*, 450 U.S. at 253, and the framework itself is only a “procedural device, designed only to establish an order of proof and production.” *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502, 521 (1993).

Federal Rule of Civil Procedure 56 supplies the governing standard for summary judgment. The question presented is not whether Rule 56 excuses failure to prove an element of Title VII, nor whether a court must address every argument advanced by a nonmovant. It is whether failure to satisfy one judicially developed means of organizing circumstantial proof may be treated as dispositive when other evidence independently bears on the statutory question of intentional discrimination.

Further, Petitioner's invocation of the *McDonnell Douglas* framework does not convert its prima facie formulation into the exclusive means of proving intentional discrimination. The framework is a method of organizing circumstantial proof, not a device that displaces Title VII's ultimate inquiry or Rule 56's governing standard. A plaintiff's inability to satisfy one judicially developed method of raising an inference of intentional discrimination therefore does not, by itself, establish that the remaining circumstantial evidence could not permit a reasonable jury to find discrimination. A contrary view would otherwise transform an evidentiary tool into the substantive limitation this Court has repeatedly cautioned against.

Respondent may also answer that courts need not address alternative arguments once a dispositive deficiency has been identified. But that principle begs the question presented: whether comparator insufficiency is itself such a deficiency when comparator evidence is not a substantive element of Title VII and other circumstantial evidence is offered to support an inference of intentional discrimination.

The proper methodology does not favor any party. A plaintiff whose evidence would not permit a reasonable inference of intentional discrimination should not survive summary judgment. To be sure, comparator insufficiency does not entitle a plaintiff to trial. Nor should it, standing alone, foreclose consideration of other circumstantial evidence offered to support an inference of intentional discrimination.

But that determination should follow application of Rule 56 to the legally relevant evidentiary record, not termination of the inquiry at one prong of a judicially created framework.

Aikens redirected attention from prima facie mechanics to the ultimate question of whether the employer intentionally discriminated. 460 U.S. 711, 714–15 (1983). Although *Aikens* arose in a different procedural posture, its instruction identifies the ultimate statutory inquiry that the prima facie framework serves.

Reeves required consideration of the complete evidentiary record when assessing sufficiency. 530 U.S. at 150–151. And *Ames* most recently rejected a judicially developed prima facie requirement imposing an additional evidentiary burden not authorized by Title VII. 605 U.S. at 313.

Reeves is particularly instructive. There, as here, the judgment under review came from the Fifth Circuit and concerned the proper judicial treatment of evidence in an employment discrimination action. This Court unanimously reversed. 530 U.S. at 153–54. In doing so, the Court explained that the standard governing judgment as a matter of law “mirrors” the standard governing summary judgment under Rule 56 and instructed courts to review the record as a whole, draw legitimate inferences in favor of the nonmovant, and refrain from weighing evidence or making credibility determinations. *Id.* at 150–51. The Court further concluded that the Fifth Circuit had disregarded evidence favorable to *Reeves* and failed

to draw inferences that the governing standard required. *Id.* at 152–53.

Reeves addressed a different stage of the discrimination inquiry, but the Rule 56 principle that it enforces directly informs the question presented here. *Reeves* did not decide whether comparator evidence is required to establish a prima facie case. Its relevance lies not in the content of the prima facie showing, but in its instruction concerning how courts assess evidentiary sufficiency once Rule 56 requires a determination of whether the record permits a reasonable inference of discrimination. The question here is what analytical duty remains after a court concludes that no legally sufficient comparator exists. The Court of Appeals here treated that determination as dispositive. Because Petitioner's Title VII claim failed what the panel called a “threshold inquiry,” the balance of his circumstantial evidence bearing on discriminatory intent never entered the appellate court's Rule 56 analysis.

That result is also difficult to reconcile with *Aikens*. *Aikens* likewise cautions against allowing prima facie mechanics to obscure Title VII's ultimate inquiry once the employer's explanation is before the court. 460 U.S. at 714–15. Here, comparator insufficiency operated as precisely such an endpoint, preventing consideration of Petitioner's remaining circumstantial evidence.

Ames supplies the Court's most recent confirmation of the same methodological principle. There, this Court rejected the Sixth Circuit's “background

circumstances” rule because Title VII did not authorize a heightened evidentiary burden for majority-group plaintiffs and because the requirement could not be squared with this Court's precedents. 605 U.S. at 313. The Court vacated the judgment and remanded for application of the proper prima facie standard. *Id.* *Ames* did not decide whether comparator evidence is required or what analytical obligation remains when a plaintiff cannot identify a legally sufficient comparator. Its relevance is therefore instructive, not controlling. *Ames* confirms that judicially developed prima facie requirements remain subordinate to Title VII and may not be applied in a manner inconsistent with the statute. The question presented here boils down to whether a comparator-based prima facie formulation may operate as an absolute threshold that prevents other circumstantial evidence from entering the Rule 56 inquiry.

Justice Thomas's concurrence reinforces the importance of the question. He observed that this Court has never squarely held that *McDonnell Douglas* governs summary judgment and questioned applications that impose burdens beyond Rule 56. *Ames*, 605 U.S. at 322–23. This petition does not ask the Court to abandon *McDonnell Douglas*, but only to decide whether a comparator-specific implementation of that framework may prevent other circumstantial evidence from being considered at all.

Tolan v. Cotton, 572 U.S. 650 (2014), independently reinforces the Rule 56 ingredient of the question. There, this Court summarily vacated a Fifth Circuit

judgment for failure to adhere to Rule 56's requirement that evidence be viewed in the light most favorable to the nonmovant. *Id.* at 657–60. *Tolan* did not address comparator evidence, but it confirms that adherence to Rule 56's required framework is itself an appropriate subject of this Court's review when an appellate analytical approach prevents evidence favorable to the nonmovant from receiving the consideration Rule 56 requires.

Taken together, these decisions reflect a coherent progression. *McDonnell Douglas* recognized the flexibility of prima facie proof; *Aikens* directed courts toward Title VII's ultimate inquiry; *Reeves* required whole-record evaluation when assessing evidentiary sufficiency; *Ames* rejected an inflexible judicially imposed prima facie burden; and *Tolan* enforced proper Rule 56 methodology. The decision in the Fifth Circuit below presents the unresolved question whether the absence of a legally sufficient comparator may itself become an absolute threshold preventing consideration of other circumstantial evidence at summary judgment. Petitioner only asks whether comparator insufficiency may terminate judicial consideration of otherwise relevant circumstantial evidence.

III. The Question Is Important and Distinct from Ordinary Comparator-Similarity Disputes

Traditional comparator decisions address comparator similarity—whether identified employees are sufficiently alike to support an inference of discrimination. This petition instead concerns the

consequence of comparator insufficiency: what analytical obligation remains after a court concludes that no legally sufficient comparator exists. Those questions are materially different.

In individualized employment decisions, whether a legally sufficient comparator exists may depend upon the structure of the employer's decision-making process. If comparator similarity becomes the practical gateway to judicial review, the methodology governing Title VII cases may turn on whether an employer's actions happened to produce a meaningful comparator rather than on whether the record as a whole permits a reasonable inference of intentional discrimination.

Congress enacted Title VII to establish a nationwide prohibition against employment discrimination. *Patterson v. McLean Credit Union*, 491 U.S. 164, 188 (1989). The question presented concerns the methodology federal courts employ when applying that statute at summary judgment and therefore extends beyond the particular evidentiary record in this case. It presents an important question of federal law concerning the relationship among Title VII, Rule 56, and a judicially developed prima facie framework. See U.S. Sup. Ct. R. 10(c).

The question does not turn on whether the Court of Appeals correctly weighed particular evidence; the Court of Appeals did not weigh the evidence at issue. The judgment instead rested on the proposition that comparator insufficiency ended the inquiry before Petitioner's remaining circumstantial evidence

arguments were reached. The threshold legal question is whether that evidence must enter the Rule 56 inquiry at all after a comparator-based prima facie formulation is not satisfied. That question concerns the methodology governing an identifiable category of Title VII cases, not a fact-bound disagreement over the application of settled principles. Resolving this question would provide nationally applicable guidance concerning the analytical duties that remain when a Title VII plaintiff cannot identify a legally sufficient comparator. That guidance would apply before any court reaches the case-specific question whether the plaintiff's remaining evidence is sufficient to survive summary judgment.

IV. This Case Is an Ideal Vehicle

If the Court concludes that comparator insufficiency did not permit termination of the Rule 56 inquiry, it need not decide whether Petitioner's remaining evidence establishes a genuine dispute of material fact. That question can be addressed by the lower courts in the first instance. The possibility that Respondent may prevail under the correct methodology does not impair the vehicle; it is the ordinary consequence of resolving a legal question while leaving application of the proper standard to the lower courts. The case therefore presents the legal issue without requiring this Court to weigh evidence, resolve factual disputes, consider what inferences the evidence supports, whether the record ultimately survives Rule 56, or determine whether intentional discrimination ultimately occurred. The Court need only decide whether the inquiry may terminate solely

because the comparator-specific formulation is unsatisfied.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted. The Court should resolve whether a court may treat failure to identify a legally sufficient comparator under a judicially developed prima facie formulation as dispositive at summary judgment without considering other circumstantial evidence bearing on intentional discrimination.

Alternatively, if the Court concludes that its existing Title VII and Rule 56 precedents already establish that comparator insufficiency cannot, by itself, terminate consideration of otherwise relevant circumstantial evidence, the Court should grant the petition, vacate the judgment below, and remand for further proceedings under the proper legal standard.

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