



No. 26-383

In the Supreme Court of the United States

FELICIA SCROGGINS,

Petitioner,

v.

CITY OF SHREVEPORT, LOUISIANA,

Respondent.

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

PETITION FOR WRIT OF CERTIORARI

Felicia Scroggins

9314 Sandalwood Dr
Shreveport, LA 71118
(318) 349-8944

Pro Se Petitioner

SEPTEMBER MMXXVI

QUESTIONS PRESENTED

The Americans with Disabilities Act defines a "qualified individual" by reference to whether the employee, "with or without reasonable accommodation," can perform the essential functions of the employment position. 42 U.S.C. §12111(8). Federal Rule of Civil Procedure 56 requires courts at summary judgment to view the evidence and draw reasonable inferences in favor of the nonmoving party.

Petitioner had returned to work and was actually performing assigned limited-duty work when Respondent terminated her employment. The district court nevertheless held that she was not a "qualified individual," relying substantially upon her historical absences and predictions concerning her ability to maintain regular attendance. The Fifth Circuit affirmed in a one-page unpublished opinion stating only that it found "no reversible error."

The questions presented are:

1. Whether, under 42 U.S.C. §12111(8), an employee who has returned to work and is actually performing assigned duties under an existing accommodation may be held unqualified as a matter of law based principally upon historical absenteeism and predictions concerning future attendance, without permitting a factfinder to consider evidence of the employee's actual work status, reasonable accommodation, and present ability to work.
2. Whether summary judgment conflicts with this Court's decisions in *Tolan v. Cotton*, *Reeves v. Sanderson Plumbing Products, Inc.*, and *Anderson v. Liberty Lobby, Inc.*, when a court resolves competing inferences concerning qualification, accommodation,

attendance, and pretext against the nonmoving employee rather than allowing a jury to resolve genuine disputes of material fact.

PARTIES TO THE PROCEEDING

Petitioner Felicia Scroggins was the plaintiff-appellant below.

Respondent City of Shreveport, Louisiana, was the defendant-appellee below.

RELATED PROCEEDINGS

United States District Court (WD La.):

Felicia Scroggins v. City of Shreveport, No. 5:23-cv-01549-SMH-KDM (Oct. 30, 2025) (judgment entered)

Felicia Scroggins v. City of Shreveport, No. 5:18-cv-00201-SMH-KDM (Nov. 13, 2024) (summary judgment and dismissal with prejudice)

United States Court of Appeals (CA5):

Felicia Scroggins v. City of Shreveport, No. 25-30695 (May 13, 2026) (district court affirmed)

Felicia Scroggins v. City of Shreveport, No. 25-30695 (June 23, 2026) (rehearing denied)

Felicia Scroggins v. City of Shreveport, No. 24-30777 (Oct. 17, 2025) (district court affirmed)

Felicia Scroggins v. City of Shreveport, No. 24-30777 (Jan. 6, 2026) (rehearing denied)

Supreme Court of the United States:

Felicia Scroggins v. City of Shreveport, Louisiana, No. 26-80 (Mar. 23, 2026) (petition for writ of certiorari filed; certiorari pending)

TABLE OF CONTENTS

Questions Presented	i
Parties to the Proceeding	iii
Related Proceedings	iii
Table of Authorities	vi
Opinions Below	1
Jurisdiction	1
Constitutional, Statutory, and Rule Provisions Involved	1
Statement of the Case	3
I. Petitioner's Employment and Return to Work	3
II. Investigation and Termination	4
III. Proceedings Below	5
A. ADA Claim	5
B. Retaliation Claim	6
C. Due Process	7
D. Fifth Circuit Proceedings	7
Reasons for Granting the Petition	8
I. The Decision Below Presents an Important Question Concerning ADA Qualification at the Time of Termination	8
A. Qualification Must Be Evaluated at the Relevant Time	9
B. This Case Is Materially Different From an Indefinite-Leave Case.	9

C.	The ADA Expressly Requires Consideration of Reasonable Accommodation.....	10
D.	The Question Has Significance Beyond This Case.	11
II.	Summary Judgment Was Entered by Resolving Material Factual Inferences Against Petitioner.....	12
A.	Petitioner's Actual Work Status Supported a Reasonable Inference of Qualification.	13
B.	Predictions About Future Attendance Were Not Undisputed Historical Facts.	13
C.	The Fifth Circuit Did Not Address the Rule 56 Problem.	14
III.	The Record Presents a Substantial Question Concerning the ADA Interactive Process and Reasonable Accommodation.....	15
IV.	The Treatment of Pretext Evidence Conflicts With the Governing Summary- Judgment Standard.	16
V.	The Due-Process Issue Warrants Review..	18
VI.	The Fifth Circuit's Summary Affirmance Leaves Important Federal Questions Unresolved.	20
	Conclusion	22

Appendix

Appendix A

Opinion [unpublished], United States Court of Appeals for the Fifth Circuit, *Felicia Scroggins v. City of Shreveport*,
No. 25–30695 (May 13, 2026) App–1

Appendix B

Memorandum Ruling, United States District Court for the Western District of Louisiana, *Felicia Scroggins v. City of Shreveport*,
No. 5:23-cv-01549-SMH-KDM
(Oct. 30, 2025) App–2

Appendix C

Order [rehearing denied], United States Court of Appeals for the Fifth Circuit, *Felicia Scroggins v. City of Shreveport*,
No. 25–30695 (June 23, 2026) App–23

TABLE OF AUTHORITIES

Cases

<i>Anderson v. Liberty Lobby, Inc.</i> , 477 U. S. 242 (1986).....	12, 14
<i>Chevron Phillips Chemical Co. v. EEOC</i> , 570 F. 3d 606 (CA5 2009)	15
<i>Cleveland Board of Education v. Loudermill</i> , 470 U. S. 532 (1985).....	7, 18–20
<i>Cleveland v. Policy Management Systems Corp.</i> , 526 U. S. 795 (1999).....	10

<i>EEOC v. LHC Group, Inc.</i> , 773 F. 3d 688 (CA5 2014)	15
<i>McDonnell Douglas Corp. v. Green</i> , 411 U. S. 792 (1973)	16
<i>Reeves v. Sanderson Plumbing Products, Inc.</i> , 530 U. S. 133 (2000)	12, 14, 16–17
<i>Tolan v. Cotton</i> , 572 U. S. 650 (2014)	12, 14
<i>Weber v. BNSF Railway Co.</i> , 989 F. 3d 320 (CA5 2021)	6, 10
Constitutional Provisions, Statutes, and Rules	
U. S. Const. Amdt. XIV, §1	1, 17
28 U. S. C. §1254(1)	1
42 U. S. C. §12111(8)	1–2, 6, 8, 15, 21
42 U. S. C. §12112	2, 14
La. Stat. Ann. §33:2500(A)(1)	4
S. Ct. R. 10	20
Fed. R. Civ. P. 56	2, 11, 13–14, 16, 19–21
5th Cir. R. 47.6	8

OPINIONS BELOW

The Fifth Circuit's opinion is reproduced in the Appendix at App. 1. The Western District of Louisiana's memorandum ruling is reproduced in the Appendix at App. 2–22. The Fifth Circuit's order denying rehearing is reproduced in the Appendix at App. 23.

JURISDICTION

The Fifth Circuit's judgment was entered on May 13, 2026. The Fifth Circuit denied rehearing on June 23, 2026. This Court has jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED

U.S. Const., Amdt. 14, §1, provides:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const., Amdt. 14, §1.

42 U.S.C. §12111(8) provides:

“The term “qualified individual” means an individual who, with or without reasonable accommodation, can perform the essential functions of the

employment position that such individual holds or desires. For the purposes of this subchapter, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job." 42 U.S.C. §12111(8)

42 U.S.C. §12112(a) provides: "No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment."

42 U.S.C. §12112(b)(5)(A) provides: "not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity;"

Federal Rule of Civil Procedure 56(a) provides:

"A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion." Fed. R. Civ. P. 56(a)

STATEMENT OF THE CASE

I. Petitioner's Employment and Return to Work

This case arises from the termination of a long-serving municipal firefighter while she was actually working under a limited-duty arrangement.

Petitioner began working for the Shreveport Fire Department in 2001 and held the classified position of Fire Engineer when the events underlying this action occurred.

Respondent maintained policies identifying regular and predictable attendance as an essential employment function. Respondent subsequently relied heavily upon Petitioner's historical use of sick leave in determining that she could not perform the essential functions of her position.

The summary-judgment record, however, contained a critical fact that distinguishes this case from one involving an employee who remained indefinitely unable to work: Petitioner had returned to work before her termination.

The district court expressly recognized that Petitioner returned to work on December 19, 2022, and worked light duty for four hours per day, five days per week, with that schedule intended to continue into January 2023. The City likewise acknowledged on appeal that Petitioner returned on December 19 and was performing limited-duty work.

Thus, when Respondent terminated Petitioner on January 19, 2023, this was not a case in which the employee was entirely absent from the workplace with no present ability to work.

Petitioner was working.

That distinction lies at the center of the question presented.

Petitioner also maintained that she had requested reasonable accommodations and that Respondent had failed to engage adequately in the interactive process required to determine whether an effective reasonable accommodation would permit continued employment.

The district court itself acknowledged Petitioner's position that she had a qualifying condition under the ADA, was working light duty at the time of termination, had requested reasonable accommodations multiple times, and contended that the City failed to engage in the interactive process.

II. Investigation and Termination

In 2022, Respondent's Fire Chief initiated an investigation concerning employee absenteeism.

Respondent identified seven employees under a threshold based upon the percentage of available workdays missed during a five-year period. Petitioner was among those employees investigated. The City calculated Petitioner's historical absences from June 2018 through November 2022 and relied heavily upon those historical figures in its disciplinary decision.

Petitioner received a formal notice of investigation on December 2, 2022, identifying La. Stat. Ann. §33:2500(A)(1), concerning unwillingness or failure to perform duties satisfactorily.

But after that notice—and before the termination—Petitioner returned to work.

On January 5, 2023, Petitioner received notice of a predisciplinary conference scheduled for January 19, 2023.

At that conference, Petitioner was permitted to address the allegations and circumstances concerning her absences. Petitioner maintained that her absences involved protected and legitimate leave and that her actual present work status and ability to work had to be considered.

Nevertheless, Petitioner was terminated on January 19, 2023.

The termination occurred despite the undisputed fact that Petitioner had returned to work and was performing limited-duty work at the time.

Petitioner further maintained that the manner in which the termination occurred permitted an inference that the decision had effectively been made before her response at the predisciplinary conference could receive meaningful consideration.

Petitioner challenged the disciplinary action through the municipal civil-service process. The Civil Service Board ultimately reduced the termination to a 45-day suspension while finding that the Fire Chief acted in good faith. The state district court subsequently affirmed the Board's decision.

III. Proceedings Below

Petitioner filed this federal action in the Western District of Louisiana asserting, among other things, disability discrimination under the ADA, retaliation under Title VII, and denial of procedural due process.

Respondent moved for summary judgment.

A. ADA Claim

The district court recognized that the relevant inquiry was whether Petitioner was a "qualified individual" at the time of termination.

The court also recognized that under 42 U.S.C. § 12111(8), a person is qualified if, with or without reasonable accommodation, she can perform the essential functions of the employment position.

Nevertheless, the district court held that Petitioner was not qualified.

In reaching that conclusion, the court relied substantially upon Petitioner's history of absences and upon evidence that the court believed indicated uncertainty regarding future regular attendance.

The court relied upon *Weber v. BNSF Railway Co.*, 989 F.3d 320 (CA5 2021), for the proposition that regular worksite attendance generally constitutes an essential function of employment.

But Petitioner's circumstances presented a materially different question: at the relevant time she was not simply seeking an indefinite future return to work. She had returned and was working.

The district court nevertheless treated Petitioner's historical attendance record and concerns about future attendance as sufficient to determine, as a matter of law, that she was not qualified.

Alternatively, the court held that Respondent had articulated a legitimate nondiscriminatory reason—excessive absenteeism—and that Petitioner had failed to establish pretext.

B. Retaliation Claim

Petitioner also alleged retaliation arising from protected activity.

The district court determined that the temporal distance between the protected activity and the 2022 investigation and 2023 termination undermined

causation. It also relied upon the fact that Petitioner was not the only employee investigated.

Petitioner maintained that the evidence had to be considered as a whole and that disputed evidence concerning Respondent's procedures, treatment of employees, stated reasons, and actions presented issues for a factfinder rather than summary resolution.

C. Due Process

The City acknowledged below that Petitioner possessed a property interest requiring procedural protection in her continued employment and sick leave.

The district court nevertheless entered summary judgment on the due-process claim because Petitioner received notice of the investigation and predisciplinary conference, subsequently obtained Civil Service Board review, and had access to state judicial review.

The court additionally concluded that Petitioner had abandoned the due-process claim by failing adequately to brief it in opposition to summary judgment.

Petitioner challenged the due-process issue on appeal, including her contention that the termination process was predetermined and therefore did not provide the meaningful opportunity to respond contemplated by *Loudermill*.

D. Fifth Circuit Proceedings

Petitioner timely appealed.

Her appellate briefing argued that summary judgment improperly resolved factual disputes concerning ADA qualification, reasonable accommodation, the interactive process, pretext, retaliation, and procedural due process.

Respondent's own appellate brief acknowledged that Petitioner returned from leave on December 19, 2022, and worked limited duty four hours per day, five days per week.

On May 13, 2026, the Fifth Circuit issued an unpublished one-page per curiam opinion. The entirety of its substantive analysis stated: "After reviewing the parties' briefs and the record, we find no reversible error. We AFFIRM." The court cited Fifth Circuit Rule 47.6.

Petitioner timely sought panel rehearing and rehearing en banc. On June 23, 2026, the Fifth Circuit denied panel rehearing and stated that no member of the panel or judge in regular active service requested a poll on rehearing en banc.

This petition follows.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Presents an Important Question Concerning ADA Qualification at the Time of Termination.

The central ADA question is straightforward but consequential: how should a court determine whether an employee is "qualified" when, at the time of termination, the employee has actually returned to work and is performing assigned duties under an existing accommodation?

The ADA directs the inquiry to whether the individual, "with or without reasonable accommodation," can perform the essential functions of the position. 42 U.S.C. §12111(8).

The statutory inquiry therefore requires consideration of both present ability and reasonable accommodation.

The district court acknowledged that qualification is evaluated at the time of termination. It nevertheless concluded that Petitioner was unqualified based substantially upon her historical absenteeism and concerns regarding future attendance.

That approach presents an important problem.

A. Qualification Must Be Evaluated at the Relevant Time.

There is no dispute that attendance can constitute an essential function of employment. Petitioner does not ask this Court to announce a rule that attendance is irrelevant or that an employer must tolerate unlimited absence.

The question is narrower.

Where an employee has returned to work and is actually performing assigned work when discharged, may historical absences themselves establish that she is presently unqualified as a matter of law, notwithstanding evidence of her actual return, accommodation, and ability to work?

The district court recognized the rule that qualification is assessed at the time of termination. But the practical effect of its analysis was to permit Petitioner's past absences to overwhelm evidence concerning her status at the time of termination.

That creates substantial tension between the legal test the court identified and the evidence it treated as dispositive.

B. This Case Is Materially Different From an Indefinite-Leave Case.

Cases recognizing attendance as an essential function do not establish that every employee with

substantial historical absences is permanently unqualified.

In *Weber*, the Fifth Circuit considered an attendance problem involving an employee whose requested accommodations themselves contemplated additional absences.

Here, by contrast, Petitioner had returned.

The record established that Petitioner returned to work on December 19, 2022, worked four hours per day and five days per week, and continued under that arrangement into January 2023.

The existence of that actual working arrangement creates a materially different factual question from one involving a person who cannot return to the workplace.

At minimum, it permits competing reasonable inferences concerning whether Petitioner could perform the essential functions of her position with reasonable accommodation.

C. The ADA Expressly Requires Consideration of Reasonable Accommodation.

The statutory definition does not ask only whether an employee can perform every function without modification. It asks whether the individual can perform the essential functions “with or without reasonable accommodation.”

This Court has likewise recognized that the ADA’s qualification inquiry expressly accounts for reasonable accommodation and that reasonable accommodations may include job restructuring and part-time or modified work schedules. *Cleveland v. Policy Management Systems Corp.*, 526 U.S. 795, 803 (1999).

That principle is particularly significant here because Petitioner was not merely proposing a hypothetical future accommodation—she had actually returned to work and was performing assigned duties under a modified schedule when Respondent terminated her.

That language matters here.

Petitioner was already working under a modified schedule. She also maintained that she had sought accommodations and that the City failed adequately to engage in the interactive process.

The district court expressly recognized those contentions.

Whether the particular arrangement was ultimately required by the ADA is a distinct question from whether the existence and operation of that arrangement created a genuine dispute concerning qualification.

By treating historical attendance as effectively dispositive, the decision below substantially diminished the statutory command to consider qualification with reasonable accommodation.

D. The Question Has Significance Beyond This Case.

Employees frequently return from disability-related leave through transitional schedules, temporary restrictions, light-duty assignments, or other accommodations.

If historical absenteeism alone permits a court to declare such an employee unqualified despite an actual return to work, the statutory focus upon present qualification with reasonable accommodation becomes substantially weakened.

Conversely, recognizing a factual dispute in these circumstances would not require employers to tolerate indefinite absence or eliminate legitimate attendance requirements.

It would simply require courts to apply the statutory inquiry to the employee's actual circumstances at the relevant time and to observe the limitations of Rule 56 where competing reasonable inferences exist.

This Court should grant review to clarify that distinction.

II. Summary Judgment Was Entered by Resolving Material Factual Inferences Against Petitioner.

The decision below also presents a recurring Rule 56 problem.

This Court has repeatedly instructed that a court deciding summary judgment may not weigh evidence, make credibility determinations, or resolve reasonable competing inferences against the nonmoving party.

In *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986), the Court explained that the judge's function at summary judgment is not to weigh the evidence and determine the truth but to determine whether there is a genuine issue for trial.

In *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133 (2000), this Court emphasized that courts must draw reasonable inferences in favor of the nonmoving party and refrain from making credibility determinations or weighing evidence.

And in *Tolan v. Cotton*, 572 U.S. 650 (2014), this Court summarily reversed where a lower court failed to credit evidence contradicting its factual conclusions

and failed to adhere to the requirement that reasonable inferences be drawn in favor of the nonmovant.

Those principles matter here.

**A. Petitioner's Actual Work Status
Supported a Reasonable Inference of
Qualification.**

The undisputed evidence that Petitioner had returned to work supported at least one reasonable inference favorable to her: that she possessed some present capacity to perform work and that accommodation was functioning sufficiently for Respondent to permit her to work.

That inference did not require the court to conclude that Petitioner ultimately would prevail.

It required only that the court recognize the distinction between determining whether a dispute exists and deciding which party's interpretation of the evidence is ultimately more persuasive.

The City argued that Petitioner's historical absences and attendance requirements established that she was unqualified.

Petitioner argued that her actual return to work, existing limited-duty assignment, accommodation evidence, and other circumstances created a factual dispute.

Those competing positions should have been evaluated under Rule 56 in the light most favorable to Petitioner.

**B. Predictions About Future Attendance
Were Not Undisputed Historical Facts.**

The historical number of days absent was evidence.

But what those historical absences demonstrated about Petitioner's future ability to attend work after she had returned involved an inference.

The district court accepted Respondent's inference.

Petitioner was entitled at summary judgment to the reasonable competing inference that her return to work represented a material change in her status and that the effectiveness and continuation of reasonable accommodation required factual evaluation.

The difference is critical.

Rule 56 does not authorize a court to transform an employer's prediction about future attendance into an undisputed fact merely because the employee previously experienced substantial absences.

C. The Fifth Circuit Did Not Address the Rule 56 Problem.

Petitioner squarely presented the summary-judgment issue in her appellate briefing.

Her reply brief specifically relied upon *Anderson*, *Reeves*, and *Tolan* and challenged the City's characterization of the evidence concerning ADA qualification.

The Fifth Circuit nevertheless affirmed without explaining why the competing evidence did not create a genuine dispute.

A summary affirmance does not eliminate the underlying federal question. It leaves intact a judgment that Petitioner contends cannot be reconciled with this Court's Rule 56 precedent.

Review is warranted.

III. The Record Presents a Substantial Question Concerning the ADA Interactive Process and Reasonable Accommodation.

The ADA's reasonable-accommodation requirement is not ancillary to the definition of qualification. It is embedded in the statutory framework.

Under 42 U.S.C. §12112(b)(5)(A), discrimination includes failing to make reasonable accommodations to known limitations of an otherwise qualified individual with a disability unless the employer demonstrates undue hardship.

The Fifth Circuit has recognized the significance of reasonable accommodation and the interactive process in cases including *Chevron Phillips Chemical Co. v. EEOC*, 570 F.3d 606 (CA5 2009), and *EEOC v. LHC Group, Inc.*, 773 F.3d 688 (CA5 2014).

Petitioner presented evidence and argument concerning accommodation and the interactive process. Indeed, the district court itself recorded that Petitioner contended she had requested reasonable accommodations multiple times and that the City failed adequately to engage in the interactive process.

The fact that Petitioner was actually working under a limited-duty arrangement makes that issue especially significant.

This is not a case in which accommodation was merely hypothetical.

There was an actual work arrangement.

That evidence raised questions concerning what functions Petitioner was performing, whether the accommodation was effective, what additional accommodation was requested or available, whether continued accommodation was reasonable, and whether

Respondent adequately considered those matters before termination.

Those are precisely the types of fact-dependent questions that should not be resolved through adverse inference at summary judgment when the evidence permits competing conclusions.

The district court's approach effectively allowed the historical attendance record to dispose of the qualification question before the accommodation evidence received its proper significance.

The Court should grant review to clarify that where an employee has actually returned to work under an accommodation, courts cannot disregard that evidence when determining qualification under §12111(8).

IV. The Treatment of Pretext Evidence Conflicts With the Governing Summary- Judgment Standard.

The district court alternatively concluded that Respondent had articulated a legitimate reason for its action—excessive absenteeism—and that Petitioner failed to demonstrate pretext.

But this alternative holding does not eliminate the Rule 56 problem.

Under *McDonnell Douglas Corp. v. Green*, 411 U. S. 792 (1973), and *Reeves*, evidence concerning the truthfulness of an employer's stated explanation and the circumstances surrounding the challenged action must be considered as part of the complete evidentiary record.

Petitioner does not contend that a court must automatically infer unlawful discrimination whenever an employer's explanation is disputed.

The narrower point is that a court may not decide at summary judgment which of competing reasonable explanations is true when the evidence would permit a factfinder to draw different conclusions.

Here, Respondent characterized Petitioner's employment status primarily through her historical absences.

Petitioner relied upon evidence that included her actual return to work, her ongoing limited-duty status, accommodation-related evidence, the timing and manner of the termination, and evidence concerning Respondent's disciplinary process.

Respondent also acknowledged that other Fire Engineers were investigated for absences. Its appellate brief identified Chris Henry and Devon Kennedy as Fire Engineers who met the threshold for investigation.

The district court concluded that Petitioner had not identified an employee with a greater number of absences who was not terminated.

But comparator evidence is not the only means of establishing that an employer's explanation may be unworthy of credence. *Reeves* requires consideration of the evidentiary record as a whole.

Moreover, the issue at summary judgment was not whether Petitioner had already proven discrimination by a preponderance of the evidence. The issue was whether the evidence, viewed favorably to Petitioner, permitted a reasonable factfinder to reject Respondent's explanation and find in her favor.

The combined evidence concerning present work status, accommodation, historical versus current qualification, and the circumstances of termination

was sufficient to require careful application of that standard.

Instead, factual inferences were effectively resolved against Petitioner.

V. The Due-Process Issue Warrants Review.

The Fourteenth Amendment prohibits a State from depriving a person of property without due process of law.

Respondent acknowledged below that Petitioner possessed a property interest requiring procedural protection in her continued employment and sick leave.

Under *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), a public employee with a protected property interest is entitled, before termination, to notice of the charges, an explanation of the employer's evidence, and an opportunity to present her side of the story. The pretermination opportunity must be meaningful because it serves as an initial check against a mistaken or unjustified decision.

Petitioner's due-process contention is not that she received no notice or that no predisciplinary conference physically occurred. Rather, Petitioner contends that the circumstances surrounding her January 19, 2023 predisciplinary conference and immediate termination permitted a reasonable inference that the termination decision had effectively been predetermined before her response could receive meaningful consideration.

That distinction matters. The constitutional inquiry should not end merely because an employer scheduled a conference and permitted the employee to speak. If the disciplinary decision was effectively

final before the employee was heard, a factfinder could conclude that the opportunity to respond did not perform the function contemplated by *Loudermill*.

The district court relied upon the existence of the investigation notice, the predisciplinary conference, the subsequent Civil Service Board proceedings, and the availability of state-court review. Those procedures are relevant, but they do not necessarily resolve whether the constitutionally required pretermination opportunity to respond was meaningful at the time the deprivation occurred.

Petitioner recognizes that the district court additionally concluded that she failed adequately to brief the due-process claim in opposition to summary judgment and therefore deemed the claim abandoned. That procedural determination presents a potential vehicle issue as to this question. Petitioner does not disregard that ruling or rely upon the due-process issue as the sole basis for certiorari.

Instead, the due-process issue is presented as an additional constitutional question arising from the judgment below. The independently presented ADA qualification and Rule 56 questions provide the principal grounds for certiorari and do not depend upon resolution of the due-process preservation issue.

Nevertheless, if this Court grants review of the judgment, the due-process question should remain available to the extent properly preserved because it concerns whether a public employee's pretermination opportunity to respond is constitutionally meaningful when the record permits a reasonable inference that the disciplinary decision was effectively predetermined.

This question implicates the distinction recognized by *Loudermill* between merely providing the form of a pretermination procedure and providing a meaningful opportunity for the employee's response to be considered before the deprivation occurs.

**VI. The Fifth Circuit's Summary Affirmance
Leaves Important Federal Questions
Unresolved.**

The Fifth Circuit's opinion contains no analysis of the ADA qualification issue, the accommodation evidence, the Rule 56 question, or the due-process argument.

It states only: "After reviewing the parties' briefs and the record, we find no reversible error. We AFFIRM." App. 1.

That disposition leaves the district court's reasoning intact without explaining how it can be reconciled with this Court's precedents.

Petitioner recognizes that certiorari is not ordinarily granted merely to correct an erroneous application of settled law.

Supreme Court Rule 10 makes clear that certiorari is discretionary and that error correction alone generally does not warrant review.

This petition presents more than disagreement with the result.

It presents an important recurring question about the intersection of two federal rules of decision:

First, the ADA directs courts to determine qualification by asking whether an employee can perform essential functions with or without reasonable accommodation.

Second, Rule 56 and this Court's decisions require courts to credit the nonmovant's evidence and reasonable inferences rather than decide disputed factual questions.

When an employee has actually returned to work under an accommodation, those principles converge.

If an employer may rely upon historical absences to establish lack of qualification as a matter of law without a factfinder evaluating the employee's current work status and accommodation evidence, the statutory focus upon qualification at the relevant time risks becoming illusory.

The question affects employees returning from disability-related leave throughout the Nation. Transitional return-to-work arrangements are common. Courts need a clear rule concerning how present work status interacts with historical absenteeism when applying §12111(8).

The rule Petitioner seeks is modest.

Petitioner does not ask this Court to hold that she was qualified as a matter of law.

She does not ask the Court to hold that attendance is never an essential function.

She does not ask the Court to require indefinite leave.

She asks only that qualification and reasonable accommodation be evaluated under the ADA at the relevant time and that genuine disputes concerning those issues be decided under the ordinary protections of Rule 56.

Where an employee is actually working when terminated, evidence of that present work status cannot simply be displaced by an employer's preferred

inference from historical absenteeism if a reasonable jury could draw a different conclusion.

That is a question worthy of this Court's review.

CONCLUSION

This Court should grant certiorari.

Felicia Scroggins
9314 Sandalwood Dr
Shreveport, LA 71118
(318) 349-8944

SEPTEMBER 2026

Pro Se Petitioner