

No. _____

IN THE
Supreme Court of the United States

_____†_____

MARITZA REYES,
Petitioner

v.

**FLORIDA A&M
UNIVERSITY BOARD
OF TRUSTEES,**
Respondent.

_____†_____

**On Petition For Writ of Certiorari
To The United States Court of Appeals
For the Eleventh Circuit**

_____†_____

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Court decided *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) (“*McDonnell Douglas*”) fifty-three years ago.

The questions presented are:

1. Whether the *McDonnell Douglas* framework “remains a workable and useful evidentiary tool” “for evaluating Title VII claims at summary judgment” as Justice Thomas joined by Justice Gorsuch questioned in *Hittle v. City of Stockton*, 145 S. Ct. 759, 764 (2025) and in *Ames v. Ohio Dep’t of Youth Servs.*, 605 U.S. 303, 326 (2025).
2. Whether the district court and the court of appeals abused their discretion by not allowing Petitioner to submit a corrected, complete response to Respondent’s motion for summary judgment with citations to her record evidence, which was timely filed in the district court, when the reason for Petitioner’s inability to submit a complete response by the deadline was due to “good cause” and “excusable neglect,” namely unforeseen, sudden illness.
3. Whether a *pro se* party or attorney who asserts that she could not file a complete response to a motion for summary judgment by the deadline due to sudden illness does not demonstrate that she acted diligently, *per se*, because she received three (3) prior “good cause” extensions (of a total of 18 days).

PARTIES TO THE PROCEEDING

Petitioner Maritza Reyes (“Petitioner,” “Professor Reyes,” “Prof. Reyes,” “Reyes,” “Appellant,” or “Plaintiff”) was plaintiff in the district court and plaintiff-appellant in the court of appeals. Respondent Florida A&M University Board of Trustees (“Respondent,” “FAMU,” “University,” “Appellee,” or “Defendant”) was defendant in the district court and defendant-appellee in the court of appeals.

DIRECTLY RELATED PROCEEDINGS

The directly related proceedings are:¹

United States District Court (M.D. Fla.): *Reyes v. Fla. A&M Univ. Bd. of Trs.*, No. 6:22-cv-1525-WWB-EJK (final judgment entered on Jan. 13, 2025).

United States Court of Appeals (11th Cir.): *Reyes v. Fla. A&M Univ. Bd. of Trs.*, No. 25-10453-G (judgment entered on Mar. 23, 2026) (order denying petition for rehearing and petition for rehearing *en banc* entered on June 22, 2026) (mandate issued on June 30, 2026).

¹ Supreme Court Rule 12.7 states: “In any document filed with this Court, a party may cite or quote from the record, even if it has not been transmitted to this Court.” In this Petition, as in Petitioner’s briefs in the court of appeals, (a) citations in the format (D.E. or D.Es.) shall refer to document number(s) of materials filed in the United States Court of Appeals for the Eleventh Circuit in Case No. 25-10453-G; and (b) citations in the format (Doc. or Docs.) shall refer to document number(s) of materials filed in Case No. 6:22-cv-01525-WWB-DCI in the United States District Court for the Middle District of Florida.

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OPINIONS BELOW

The order of the court of appeals denying rehearing and rehearing *en banc* (Pet. App. 1a-2a) is not reported but is available at 2026 U.S. App. LEXIS 18075 (June 22, 2026). The judgment of the court of appeals (Pet. App. 3a-13a) is not reported but is available at 2026 U.S. App. LEXIS 8505 (Mar. 23, 2026). The summary judgment order of the district court giving rise to these decisions (Pet. App. 14a-31a) is not reported but is available at 2025 U.S. Dist. LEXIS 5250 (Jan. 10, 2025).

STATEMENT OF JURISDICTION

The judgement of the court of appeals was entered on March 23, 2026. The order of the court of appeals denying rehearing and rehearing *en banc* was entered on June 22, 2026. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

STATUTES AND RULES INVOLVED

42 U.S.C. § 2000e-2. Unlawful employment practices

(a) Employer practices

It shall be an unlawful employment practice for an employer-

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

(m) Impermissible consideration of race, color, religion, sex, or national origin in employment practices

Except as otherwise provided in this subchapter, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated the practice.

42 U.S.C. § 2000e–3. Other unlawful employment practices

(a) Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings

It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this subchapter, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter.

Federal Rule of Civil Procedure 6(b):

(b) Extending Time.

(1) *In General.* When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

Federal Rule of Civil Procedure 56(a):

(a) Motion for Summary Judgment or Partial Summary Judgment. 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.

STATEMENT OF THE CASE

Petitioner is a former law professor who spent her academic career in Respondent's College of Law from 2009 until 2024. Professor Reyes was wrongfully terminated from her tenured, full professor position during the discovery phase of this litigation in the district court as she was representing herself *pro se*, same as in the appeal to the court of appeals and now before this Court. The wrongful termination was not part of the litigation in this case because the district court denied Professor Reyes's motion to stay the case pending exhaustion of administrative remedies after her wrongful termination. (Docs. 106, 126).

Context matters. *Burlington Northern & Santa Fe Ry. v. White*, 548 U.S. 53, 69 (11th Cir. 2006) (citation omitted). In 2009, Petitioner became the first Hispanic person ever hired in a tenure-track position in the Florida A&M University ("FAMU") College of Law as the law school was seeking full ABA accreditation. In 2015, Petitioner became the first Hispanic professor to earn tenure. LP(192:5-8).²

Petitioner invoked original jurisdiction in the United States District Court for the Middle District of

² References to deposition transcripts are as follows: Professor LeRoy Pernell (LP); President Larry Robinson (LR); Professor Patricia Broussard (PB); and Plaintiff Maritza Reyes (PL). Page and line numbers are included. The document number for the audio recordings, surveillance videos, and deposition transcripts (with exhibits) that Petitioner filed on August 12, 2024, as record evidence, is the same because the materials were filed in the district court via a USB drive due to their large size. (Doc. 86). (Pet. App. 32a-35a).

Florida (“district court”) pursuant to 28 U.S.C. § 1331. She brought suit against Respondent for violations of Title VII of the Civil Rights Act of 1964, as amended and codified at 42 U.S.C. § 2000e, *et seq.* (“Title VII”). (Doc. 34 at 1, ¶¶ 1, 8-10). On January 10, 2025, the district court granted Respondent’s Motion for Summary Final Judgment on all counts of Petitioner’s Second Amended Complaint. (Doc. 153). On January 13, 2025, the clerk’s office entered Judgment in a Civil Case for Respondent. (Doc. 154). On February 10, 2025, Petitioner filed a timely Notice of Appeal. (Doc. 157). The United States Court of Appeals for the Eleventh Circuit (“court of appeals”) had appellate jurisdiction pursuant to 28 U.S.C. § 1291.

A. Proceedings in the District Court

When the district court granted FAMU’s Motion for Summary Final Judgment (Doc. 153), it stated regarding the evidence:

As a preliminary matter, Defendant argues in its Reply that Plaintiff has failed to respond to its Statement of Material Facts, and therefore the Court may consider those facts undisputed in resolving the instant Motion. . . . Defendant is correct that Plaintiff’s Response does not dispute the Statement of Material Facts contained in the Motion with citation to record evidence. Indeed, the Response contains few citations to the record at all. . . . Accordingly, to the extent that Plaintiff has failed to dispute Defendant’s statement of facts or otherwise support her arguments with record

evidence, the Court will treat the facts laid out on the Motion as undisputed.

(Doc. 153 at 3-4) (Pet. App. 17a-19a). Failure “to cite to record evidence” was the theme and substance of the district court’s order, same as FAMU’s six-page reply (with the first four pages just citing the boilerplate, copy and paste summary judgment standard). The district court never mentioned in its entire order, *not even in a footnote*, that Professor Reyes did not cite to the record evidence *because she had a medical emergency on the day of the deadline to file her response and she filed a draft/incomplete response*.

In its Order, the district court set forth the *McDonnell Douglas* burden-shifting framework. (Pet. App. 21a-25a). And then, it found that “Plaintiff’s Response contain[ed] only argument” “without citation to *any* record evidence for support.” (*Id.* at 22a). Next, the district court dispensed with allegations about “similarly situated” comparators for lack of “citation to the record.” (*Id.* at 22a). The district court concluded: “Without record support, Plaintiff necessarily cannot produce ‘sufficient evidence to support an inference that the defendant employer based its employment decision on an illegal criterion.’” (*Id.*). “Accordingly, Plaintiff’s claims for employment discrimination fail at the outset.” (*Id.*). (internal citation omitted). The district court judge never stated anywhere in her Order the reasons why Professor Reyes did not cite to her record evidence, which was filed in the court a week before she filed her incomplete/draft response. The district court judge did not mention that Professor Reyes repeatedly

asked for leave to submit a corrected response with her declaration and citation to her record evidence.

Next, the district court judge found that “[e]ven assuming that Plaintiff could establish a prima facie case of discrimination,” Defendant “articulated a nondiscriminatory reason for the denial of promotion.” (*Id.* at 23a) (citation omitted). That reason was the alleged “fail[ure] to meet the standard for production of scholarship” as stated in the recommendation of the RPT Committee. (*Id.*). Then, the district court judge found that Provost Maurice Edington was “the final decisionmaker” and he articulated the same reason for denial of promotion. (*Id.*). According to the district court, this was “sufficient to satisfy Defendant’s ‘exceedingly light’ burden of rebuttal.” (*Id.*) (citations omitted). Then, the district court added: “Moreover, apart from several conclusory comments, Plaintiff has failed to develop and support any argument that this reason is pretextual. Any such argument is thus waived.” (*Id.* at 23a-24a) (citations omitted). Again, the district court judge did not mention that Professor Reyes repeatedly asked for permission to submit a corrected response with her declaration so she could refute the alleged reason for termination with citation to her evidence, which included admissions in deposition transcripts and the University’s own records that disputed the alleged reason for failure to promote and who was the final decisionmaker, which Professor Reyes asserted was President Robinson.

Finally, in passing, the district court judge addressed Plaintiff’s argument that she could “prove her case with what the Eleventh Circuit has called a

‘convincing mosaic of circumstantial evidence that would allow a jury to infer intentional discrimination by the decisionmaker.’ (*Id.* at 24a) (citation omitted). In response to Plaintiff’s argument, the district court judge, in a conclusory manner, stated that “[u]nder any standard or procedural framework [‘convincing mosaic’ or ‘mixed-motive’], however, Plaintiff’s claims cannot survive summary judgment” for the same reason as in the *McDonnell Douglas* analysis. (*Id.* at 24a-25a). Following the “no evidence in the record” theme, the district court judge also stated that Plaintiff “d[id] not point to any such evidence, direct or circumstantial, in the record.” (*Id.* at 25a). Therefore, the district court judge concluded that “Plaintiff accordingly fail[ed] to create any genuine dispute of material fact” from which a jury could infer unlawful discriminatory animus. (*Id.*).

Next, on the hostile work environment harassment counts, the district court judge found that “any harassing conduct or behavior was too infrequent or sporadic to be considered pervasive.” (*Id.* at 28a). And, once more, the district court judge stated that “Plaintiff cite[d] no record evidence to refute these conclusions.” (*Id.*). Again, there was no mention of the district court’s refusal to allow Plaintiff to file a corrected response with citations to her record evidence.

Finally, as to the retaliation counts, the district court judge found that “Plaintiff fail[ed] to identify *any* instances of such retaliatory conduct or to cite to the same in the record.” (*Id.* at 30a). The court added that there was no evidence of “causal connection”

between the complaints and an adverse employment action. (*Id.*).

The district court judge granted summary judgment in favor of Defendant on each of Plaintiff's claims. (*Id.*). In the final analysis, the district court used *McDonnell Douglas* to reach its conclusions (even if it mentioned "mosaic" and "mixed motive" in passing). It was all *McDonnell Douglas*'s burden-shifting, "legitimate non-discriminatory reason," and "pretext." The court did not apply the standard of Federal Rule of Civil Procedure 56(a). Instead, the court put the burden on Plaintiff (the nonmovant) to "create [a] genuine dispute of material fact." (*Id.* at 25a). The court also did not even acknowledge the evidence that was timely filed in the court (Doc. 86) (Pet. App. 32a-35a). The court did not mention that the court did not allow Plaintiff to cite to her record evidence (which was voluminous).

FAMU would not have suffered prejudice if Professor Reyes had been allowed to submit her complete/corrected response. (Doc. 102, ¶¶ 30-33). Professor Reyes, via phone and in emails, made FAMU's counsel aware of her medical emergency within three days, once she received urgent medical care. (Doc. 92, ¶¶ 7-10; 102, ¶ 9; 130-1, ¶ 15). She pleaded with FAMU's counsel not to oppose her request for an extension of time to file a corrected response and declaration, but FAMU's counsel repeatedly refused no matter how she explained that FAMU would not be prejudiced because she would ask

the court to grant FAMU an extension to file its reply. (Doc. 130-1, ¶¶ 16-17).³

Granting the extension when Professor Reyes requested it would not have affected any of the other deadlines in the case. Moreover, it would have been easier to prepare an unopposed motion than the opposed motion that she had to wait to prepare until her vision allowed her to do the extensive computer use (eyes on a screen) required to prepare an opposed motion. (Doc. 130-1, ¶¶ 12-14, 18-20).

B. Proceedings in the Court of Appeals

The Panel, citing a factually distinguishable case, *Young v. City of Palm Bay*, 358 F.3d 859, 861-64 (11th Cir. 2004), first decided that “[a] plaintiff who has received multiple extensions and asserts she cannot meet a deadline due to illness does not demonstrate she acted diligently.” (Pet. App. 5a). This means that, if a plaintiff asks for three (3) extensions for a total of 18 days, each granted upon a showing of “good cause,” and then has a stroke and becomes physically incapacitated, she cannot *per se* demonstrate that she acted diligently. This is a dangerous holding. *Young* did not state such a holding.

Young involved a law firm of two attorneys, and the court found the reasons and circumstances alleged in the requests questionable. To show the difference

³ “A lawyer’s duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer’s client.” Fla. R. Prof. Conduct 4.1.3, Comment.

in the facts, Petitioner prepared a table comparison of the facts of *Young* with the facts of her case and submitted it to the court of appeals as Exhibit C to the Addendum to the Petition for Rehearing *En Banc*. (D.E. 43 at Ex. C). Surely, this Court must not allow such a holding to remain and be misused and perpetuated by the process of citation and repetition in court opinions.

The Panel made a blanket decision without the required fact-specific analysis. Moreover, as it did in the rest of its Opinion, it stated the facts in the light least favorable to Professor Reyes. The Panel stated that she “did not diligently attempt to offer a full response . . . because she filed an incomplete response after receiving three extensions and a total of 48 days to draft her response.” (Pet. App. 5a-6a). The Panel, like FAMU and the district court, never stated that the three (3) extensions totaled 18 days for different reasons each of which established “good cause.” All of the reasons could have been easily substantiated by Petitioner if the district court had any doubts as to the good faith of her requests. (Docs. 79, 82, 87).

Each of Professor Reyes’s motions for extension of time included a showing of good cause and diligence. *Id.* In addition, on February 16, 2024, FAMU noticed Professor Reyes for dismissal with a false allegation of misconduct for sending three (3) emails in a public forum without any prior disciplinary action during 15 years of employment. (Doc. 47-1). This caused Professor Reyes to have to deal with internal grievance proceedings to try to stop the intended dismissal and subsequently to appeal it. (Doc. 51-1). Professor Reyes made the district court aware of all of

this. (*Id.*; D.E. 29 at 24 (quoting hearing transcript)). Professor Reyes’s human body reacted to COVID plus all the additional stress by going blind, thereby forcing her to stop and prioritize her health and potentially her life.⁴ Professor Reyes repeatedly explained all these circumstances, which affected her medical health, to the district court. (Docs. 47-1, 51-1, 92, 102, 130, 130-1).

For its analysis of “excusable neglect,” the Panel cited to the factors identified in *United States v. Beaufils*, 160 F.4th 1147, 1170 (11th Cir. 2025). (Pet. App. 5a). (Pet. App. 6a). *Beaufils* was a criminal case that analyzed “excusable neglect” in the context of an extension of the time to request a new trial, under Federal Rule of Criminal Procedure 45(b)(1)(B), after the deadline expired. *Id.* at 1170-71 (deciding that “an attorney’s mistake of law generally cannot constitute excusable neglect”). However, the Panel did not apply *Beaufils*’ factors to the facts of Professor Reyes’s circumstances.

The Panel construed the single fact that Professor Reyes waited 44 days to file a motion to replace her incomplete response as lack of excusable neglect. (Pet. App. 6a). The Panel overlooked the reasons for this delay, including that she was still recovering, and she had informed the district court that she planned to file

⁴ A “sudden loss of vision may be caused by the onset of a serious medical condition, including retinal detachment, stroke, and vitreous hemorrhage.” (Doc. 130 at 22-23 n.26) (citing Cleveland Clinic, *Sudden Vision Loss*, <https://my.clevelandclinic.org/health/symptoms/24803-sudden-vision-loss>).

her substantive motion by the CMSO's deadline for all motions, which she did. (Docs. 92, ¶¶ 14-18; 130-1, ¶¶ 17-20, 26-27). Professor Reyes knew that she had to seek leave of court, *via a motion*, before filing a corrected response. (Doc. 92, ¶ 4). *See CFTC v. Fintech Inv. Grp., Inc.*, No. 6:20-cv-652-WWB-EJK, 2021 U.S. Dist. LEXIS 225148, at *2 (M.D. Fla. Nov. 9, 2021) (denying motion that was filed over three months after the deadline *without obtaining leave of court*). Reyes repeatedly explained that, because FAMU opposed her request to replace her response, she had to prepare a substantive motion with sufficient legal research; however, she was still dealing with getting medical care and waiting to recover her vision. (Doc. 102, ¶¶ 12, 14). So, on September 3, 2024, she filed a Notice alerting the district court that she intended to file a motion by the October 2, 2024 deadline to file all motions in accordance with the CMSO. (Doc. 92, ¶¶ 14-16) (R.B. at D.E. 29 at 9, 11). And that is why she timely filed her motion on October 2, 2024 in accordance with the deadline in the CMSO.

REASONS FOR GRANTING THE PETITION

In *Ames v. Ohio Dep't of Youth Servs.*, 605 U.S. 303, 308 n.2 (2025), this Court stated: “For purposes of this case, we assume without deciding that the *McDonnell Douglas* framework applies at the summary-judgment stage of litigation.” Respectfully, it is time for this Court to finally decide, ditch *McDonnell Douglas*, and apply Federal Rule of Civil Procedure 56(a) (“Rule 56(a)”) at the summary-judgment stage in Title VII cases.

In this case, to reach its conclusions, the Eleventh Circuit Panel made credibility determinations about disputed facts in favor of FAMU. “By failing to credit evidence that contradicted some of its key factual conclusions, the [Panel] improperly ‘weigh[ed] the evidence’ and resolved disputed issues in favor of the moving party.” *Tolan v. Cotton*, 572 U.S. 650, 657 (2014) (citation omitted). Professor Reyes’s evidence was not considered. Professor Reyes included references to depositions in her briefs that demonstrated material issues of disputed facts.

**I. MCDONNELL DOUGLAS IS NOT AN
APPROPRIATE TOOL FOR
EVALUATING TITLE VII CLAIMS AT
SUMMARY JUDGMENT**

**A. There is Widespread Confusion in the
Lower Courts**

The confusion in the courts of appeals and district courts over application of *McDonnell Douglas* has been amply documented, including recently in this Court. See Brief Amicus Curiae of the Nat’l Emp. Laws. Ass’n in Support of Petitioner at 10-18, *Ames v. Ohio Dep’t. of Youth Servs.*, 605 U.S. 303 (2025) (No. 23-1039). “State court judges have joined in this criticism.” *Id.* at 15 (citations omitted). At least three Justices in this Court have voiced criticism of the plethora of problems created by *McDonnell Douglas*. *Hittle*, 145 S. Ct. at 764 (Thomas, J., Gorsuch, J., dissenting from denial of petition for writ of certiorari); *Ames*, 605 U.S. at 326 (Thomas, J., Gorsuch, J., concurring); *Brady v. Sergeant of Arms*, 520 F.3d 490, 494 (D.C. Cir. 2008) (Kavanaugh, J.);

Walton v. Powell, 821 F.3d 1204, 1210-11 (10th Cir. 2016)(Gorsuch, J.).

[L]itigants seeking a reconsideration of *McDonnell Douglas* seem to be only one vote away from the four they need for the Court to take up the matter. With the chorus of lower court judges criticizing *McDonnell Douglas* growing, it may only be a matter of time before the Court decides whether *McDonnell Douglas* has outlived its usefulness.

Michael J. Yelnosky, *Nothing to See Here. Yet.: Ames v. Ohio Dep't of Youth Servs.*, 31 ROGER WILLIAMS U. L. REV. 93, 104 (2026). Law professor Katie Eyer theorized that Justices Thomas's and Gorsuch's textualism, calling for a return to the text of rules rather than judge-made doctrines, can be an equality practice. See Katie Eyer, *Textualism as an Equality Practice?*, 104 TEX. L. REV. 901, 907 (2026).

Strikingly, some of the Court's most conservative Justices, Justices Thomas and Gorsuch, have recently assumed leadership on the Court in arguing that these judge-made doctrines should be eliminated. In a dissent from denial of certiorari, and subsequently in a concurring opinion, Justice Thomas (joined by Justice Gorsuch) opined that these non-textual rules “[are] incompatible with the summary-judgment standard; [] fail[] to encompass the various ways in which a plaintiff could prove his claim; [] require[] courts to maintain

artificial distinctions between direct and circumstantial evidence; and [] ha[ve] created outsized judicial confusion.” Moreover, the rules “have no basis in the text of Title VII.”

Id. at 953 (citations omitted).

In *Daubert v. Merrell Dow Phars., Inc.*, 509 U.S. 579, 589, 597 (1993), this Court held that the then 70-year old judge-made “general acceptance” standard promulgated in *Frye v. United States*, 293 F. 1013, 1014 (1923), for admission of expert scientific testimony, was incompatible with the Federal Rules of Evidence, especially Rule 702, and should not be applied in the federal courts. Similarly, the judge-made *McDonnell Douglas* standard is incompatible with Rule 56(a)’s summary judgment standard and should not be applied in the federal courts. *McDonnell Douglas* was not even a case dealing with a summary judgment decision. *Tynes v. Fla. Dep’t of Juv. Just.*, 88 F.4th 939, 954 (11th Cir. 2023) (Newsom concurring). *McDonnell Douglas*’s “multi-step burden-shifting formula” “disregards the duly promulgated rules of summary-judgment procedure” and “overrides the substance of Title VII.” *Id.* at 953-54 (Newsom concurring) (citing decisions by Justices Kavanaugh and Gorsuch when they were Circuit Court judges) (citations omitted).

B. Judge-Created Frameworks to Review Summary Judgment in Title VII Cases Violate Rule 56(a)’s Standard

It’s time to “ditch[]” “*McDonnell Douglas*’s judge-

created elements and sub-elements[, which] are currently causing courts to grant summary judgment in cases where, in Rule 56 terms, a genuine dispute exists.” *Id.* at 955-56 (Newsom concurring). In applying *McDonnell Douglas*’s burden-shifting analysis, “lower courts have become progressively obsessed with its minutiae, allowing it to drive substantive outcomes” “rather than simply asking the controlling question whether the facts give rise to a triable issue of discrimination.” *Id.* at 952, 953. Because this Court has not ditched *McDonnell Douglas*, lower courts continue to create judge-made standards to try to get closer to the Rule 56(a) standard. *Id.* at 955. In the Eleventh Circuit, one such alternative standard is the “convincing-mosaic standard.” *Id.* However, Rule 56(a)’s summary judgment standard does not require “convincing.” *Id.*

Summary judgment turns on the existence of a genuine factual dispute; courts deciding summary-judgment motions don't weigh evidence, and they don't decide (let alone announce) whether they're convinced. And a mosaic—in its truest sense a collection—isn't necessary to defeat summary judgment; a single item of evidence can at least theoretically suffice.

Id. Moreover, in the Eleventh Circuit judges are conflating the *McDonnell Douglas* framework with the “convincing mosaic” standard and still violating the Rule 56(a) standard. *See e.g., Ismael v. Roundtree*, 161 F.4th 752 (11th Cir. 2025). That is what the district court and the court of appeals did in this case. This Petition is a good and timely vehicle for this

Court to finally retire *McDonnell Douglas* and other judicially “conjured” frameworks.⁵

Rule 56(a) states in pertinent part: “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.” Fed. R. Civ. P. 56(a). “A genuine issue of material fact exists when ‘the evidence is such that a reasonable jury could return a verdict for the nonmoving party [under the preponderance of the evidence standard].’” *Carrizosa v. Chiquita Brands Int’l, Inc.*, 47 F.4th 1278, 1328 (11th Cir. 2022) (citing *Bowen v. Manheim Remktg., Inc.*, 882 F.3d 1358, 1362 (11th Cir. 2018) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986))).

C. The text of Title VII Does Not State a Heightened Evidentiary Standard

“Title VII makes it unlawful for an employer ‘to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.’” *Muldrow*

⁵ Judicially “conjured” frameworks are creatures of their time, sometimes without textual foundation in the language of the applicable rule or statute. See *Tynes*, 88 F.4th at 951-52 (Newsom concurring) (citations omitted). These frameworks lead to inconsistent decisions because at the dispositive motion stage those decisions depend on the “luck of the draw” as to which judge gets to use her or his eye of the beholder in place of the reasonable juror. See *id.* at 952 n.2.

v. City of St. Louis, 144 S. Ct. 967, 974 (2024) (citing § 2000e-2(a)(1)). “Discriminate against’ means treat worse.” *Id.* (quoting *Bostock v. Clayton Cnty.*, 590 U.S. 644, 657-58, 681 (2020)). Title VII does not state “significantly” discriminate. *See id.* There are also no qualifying words, “significant” or otherwise, before “compensation, terms, conditions, or privileges of employment.” *Id.* (“And there is nothing to otherwise establish an elevated threshold of harm. To demand ‘significance’ is to add words—and significant words, as it were—to the statute Congress enacted. It is to impose a new requirement on a Title VII claimant, so that the law as applied demands something more of her than the law as written.”). There are also no qualifiers, such as “only” or “solely,” before “because of.”

In *Muldrow*, 144 S. Ct. at 978 , this Court provided factual examples of decisions of appellate courts that were applying an incorrect, “heightened-harm requirement” beyond the textual language of Title VII. Courts are also applying incorrect, heightened evidentiary standards at the summary judgment stage in Title VII cases. The text of Title VII does not state a heightened evidentiary standard. *See Desert Palace, Inc. v. Costa*, 539 U.S. 90 (2003). Therefore, it is time for this Court to unequivocally apply the Rule 56(a) summary judgment standard in Title VII cases.

II. THE DISTRICT COURT AND THE COURT OF APPEALS ABUSED THEIR DISCRETION BY NOT ALLOWING PETITIONER TO CITE TO HER RECORD EVIDENCE

In her Order denying Plaintiff's request to file her "Corrected Response" and her declaration (with citation to her record evidence and accompanying affidavits), the district court judge "recognize[d] that Plaintiff's medical issues [we]re outside of her control." (Doc. 124 at 3). The district court judge acknowledged that Petitioner asserted "that, despite her diligence, a medical emergency" caused her to file a draft version of her response, not her complete response. (*Id.* at 2). Petitioner explained repeatedly the exigent medical circumstances she faced and why she had to wait to prepare a notice and then a motion while she was still recovering; she even prepared a "Diligence Timeline." (Docs. 92, 102, 130, 130-1). However, the district court judge ignored Petitioner's explanations and then claimed that she did not explain what she did explain. (Docs. 124, 144). Petitioner explained every single circumstance and situation that the district court judge raised (before and after the district court judge raised them). The facts of this case clearly indicate that the district court judge abused her discretion when she denied Petitioner's request to file a corrected response with citations to her evidence, which was timely filed in the district court.

In *Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380, 391-92 (1993), this Court analyzed the meaning of "excusable neglect,"

including in the context of Federal Rule of Civil Procedure 6(b).

It is not surprising, then, that in applying Rule 6(b), the Courts of Appeals have generally recognized that "excusable neglect" may extend to inadvertent delays. Although inadvertence, ignorance of the rules, or mistakes construing the rules do not usually constitute "excusable" neglect, it is clear that "excusable neglect" under Rule 6(b) is a somewhat "elastic concept" and is not limited strictly to omissions caused by circumstances beyond the control of the movant.

Id. at 391-92. Under *Pioneer*, a sudden, medical emergency followed by a period of medical incapacity, such as what Petitioner faced, qualifies as "excusable neglect." *See also United States v. Wrice*, 954 F.2d 406, 408-09 (6th Cir. 1992) (finding excusable neglect where attorney explained to trial court that he was suffering from severe depression which caused his tardiness in requesting extension of time); *Islamic Republic of Iran v. Boeing Co.*, 739 F.2d 464, 465 (9th Cir. 1984) (finding excusable neglect when counsel was physically and mentally incapacitated at time for filing appeal); *Columbie v. Clear Blue Specialty Ins. Co.*, No. 2:23-cv-00889-SPC-NPM, 2024 U.S. Dist. LEXIS 151061, at *3-4 (M.D. Fla. July 21, 2024) (finding counsel's "untimely illness" was excusable neglect).

The "abuse of discretion" standard exists to remedy situations as in this case when the district

court judge clearly abused her discretion by not permitting Petitioner to submit a complete response with citations to her record evidence, *which she filed in the court a week before her draft response*. The district court did not consider this good faith preparation in her orders. The district court also did not consider the expense that Petitioner incurred to take several depositions and purchase transcripts, which she filed in the court on August 12, 2024, to support her response in opposition to FAMU's motion for summary judgment. Those preparations showed that Petitioner acted diligently and in good faith and planned to submit her response by the August 19, 2024 deadline. However, the district court judge twisted and turned the facts against Petitioner and reached inferences and conclusions by misstating the facts, making up facts, and mischaracterizing Petitioner's good faith actions and explanations. That is certainly abuse of discretion. *See Hinterberger v. Am. Nurses Assn.*, 643 Fed. Appx. 310, 314 (4th Cir. 2016) (citation omitted).

The district court judge also took it upon herself to argue "prejudice" that was not argued by FAMU because it was nonexistent. Petitioner contacted FAMU's counsel soon after her medical emergency to make them aware of her exigent circumstances. Rather than act with civility and not oppose Petitioner's request to be allowed to file a corrected response with citations to her record evidence, FAMU and its counsel pounced on the opportunity to be granted summary judgment without due

consideration of Petitioner's evidence.⁶ The district court rewarded such incivility. The district court judge did not consider or mention in her orders that Petitioner communicated with FAMU's counsel about her medical emergency soon after it happened when she could not communicate directly with the district court due to the prohibition in the Local Rules.

The district court judge gave FAMU's counsel an extension of forty-five (45) days, which Petitioner did not oppose, giving them a total of sixty-six (66) days to prepare a motion to dismiss. (Doc. 130 at 17 n.21). Yet, the district court judge repeatedly cited against Petitioner the three (3) extensions that Petitioner received, which totaled eighteen (18) days. The district court judge even used against Petitioner the fact that she diligently requested and received leave to file two (2) replies to responses to her motions when that is the procedure in the Middle District of Florida to be allowed to file a reply. (Doc. 144 at 5).

In her Motion for Reconsideration of the district court judge's denial of her Motion for Corrected Response, Petitioner cited a case in which the district court judge granted reconsideration and allowed a

⁶ The Guidelines for Professional Conduct state that counsel should, as a matter of courtesy, "agree to extensions of time via email or other correspondence to create efficient and cost effective litigation, and to avoid unnecessary motion practice." "A lawyer should advise clients against the strategy of not granting time extensions for the sake of appearing 'tough.'" Guidelines for Professional Conduct, § B.9, 10, *available at* <https://www.floridabar.org/prof/regulating-professionalism/presources002/#b>.

defendant to file a late answer “despite Defendant’s repeated and inexcusable neglect to justify its failure to timely answer.” (Doc. 130 at 7-8) (citing and quoting *Arch Specialty Ins. Co. v. BP Inv. Partners, LLC*, No. 6:18-cv-1149-WWB-DCI, 2020 U.S. Dist. LEXIS 171764, at *4-5 (M.D. Fla. Apr. 1, 2020) (granting reconsideration under the court’s “inherent authority to manage its docket and in the interests of justice” and citing the Eleventh Circuit’s strong preference “to resolve matters on the merits as opposed to procedural technicalities” “to give every litigant its day in court”) (citation omitted). Petitioner also cited another case in which the district court judge also exercised her inherent power “[i]n the interests of justice” and granted defendant’s motion to dismiss even though it did not comply with the Court’s Standing Order. (Doc. 130 at 8) (citing *Bent v. Riley*, No. 6:21-cv-75-WWB-EJK, 2022 U.S. Dist. LEXIS 167844, at *1, n.1 (M.D. Fla. Sept. 16, 2022)).

In yet another case, *State Farm Mutual Auto. Ins. Co. v. Complete Care Ctrs., LLC*, No. 6:20-cv-1240-WWB-EJK (M.D. Fla. 2020), the district court judge found good cause for granting several extensions for reasons similar to those Petitioner faced when she requested extensions (recovering from COVID, medical tests, conflicts in scheduling during Thanksgiving week, personal matters, and emergency family medical issues). In *State Farm*, the district court judge readily agreed that counsel’s stated need “to attend to personal matter[s]” was “good cause” to extend the deadlines. (Doc. 413 at 1) (“The Court finds that good cause has been shown for the extension of

the remaining deadlines, which will also necessitate the extension of all trial deadlines in this case.”). In *State Farm*, the parties were represented by counsel from large firms on both sides. The district court even helped the attorneys by issuing an order to show cause when they forgot to file a court-ordered joint notice by the deadline because, as they explained, plaintiff’s lead counsel got sick with COVID and defendants’ lead counsel had a medical procedure. (Docs. 217, 220). The record in *State Farm* shows that the district court judge bent over backwards to accommodate the attorneys’ requests for extension of time and readily found “good cause,” but she did not do the same for Professor Reyes.⁷

The Panel of the Eleventh Circuit decided that “[t]he district court did not abuse its discretion by determining that Reyes was not diligent and denying [her] motion to file a corrected response [to FAMU’s motion for summary judgment].” (Pet. App. 5a). However, the Panel misapplied the Circuit’s precedent to reach this conclusion and cited cases that are clearly distinguishable. It also failed to consider the relevant facts that warranted a finding that the district court abused its discretion by not finding “good cause” and “excusable neglect.” Petitioner’s

⁷ In *Bethune-Cookman v. Dr. Mary McLeod Bethune Nat’l Alumni Ass’n, Inc.*, No. 6:22-cv-47-WWB-DAB, 2022 U.S. Dist. LEXIS 239447, at *5 (M.D. Fla. Dec. 23, 2022), the district court judge expressed sympathy toward an attorney facing medical issues and noted that health issues may make a timely filing more difficult for a solo practitioner than for an attorney who works in a law firm with additional attorneys. The district court judge did not express any such sympathy to Petitioner.

filings setting forth “good cause” and “excusable neglect” fully demonstrated that the district court abused its discretion. (See Docs. 92, 102, 103, 107, 130, 130-1, 139).

“[A]n abuse of discretion occurs if the district court imposes some harm, disadvantage, or restriction upon someone that is unnecessarily broad or does not result in any *offsetting* gain to anyone else or society at large.” *Glover v. City of Pensacola*, 372 Fed. Appx. 952, 954 (11th Cir. 2010) (citing *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1096 (11th Cir. 2004)). Under the holding of *Glover*, the district court abused its discretion when it imposed grave harm, disadvantage, and restriction upon Petitioner, and the penalty was unnecessarily broad. The penalty did not provide a benefit to society because society has an interest in the people of this nation believing that the judicial system will provide impartial access to justice. The people need to believe that the federal courts are open to individuals who seek redress for violations of statutory anti-discrimination laws. FAMU benefited unjustly by the district court’s rulings and management of the case.

III. PROFESSOR REYES HAD AMPLE EVIDENCE TO DEFEAT FAMU’S MOTION FOR SUMMARY JUDGMENT

The Panel affirmed the district court’s grant of summary judgment to FAMU on all counts of Reyes’s Title VII claims by applying a wrong standard to disputed facts. The Panel and the district court did as the district court in *Ismael*, 161 F.4th at 759-64; they

conflated *McDonnell Douglas*'s pretext analysis with the "convincing mosaic" standard. The Panel, like the district court, fully credited FAMU's alleged non-discriminatory reason (alleged "lack of scholarship") and claims of non-discriminatory motive by the alleged decision-maker(s). However, "when a defendant moves for summary judgment, the question for the court is not whether the defendant has *in fact* engaged in unlawful discrimination. Instead, the question is whether the plaintiff has proffered enough evidence to *allow* a reasonable factfinder to find a Title VII violation." *Hittle*, 145 S. Ct. at 761 (Thomas J., Gorsuch J., dissenting from denial of petition for writ of certiorari) (citing Fed. R. Civ. P. 56(a)). The way the *McDonald Douglas* and mosaic analyses were co-mingled in the Panel's opinion supports that *McDonald Douglas* should be retired once and for all. This way, courts can focus on the Rule 56(a) standard and avoid further confusion with judge-made evidentiary burdens.

A. Discrimination

To begin, the Panel concluded that Reyes "cannot establish a *prima facie* case of discrimination under the *McDonnell Douglas* framework" because "she provided no evidence that [Professor] Yolanda Jones, the person she names as a comparator, is similarly situated to her in all material respects." (Pet. App. 7a). (citing *Ismael*, 161 F.4th at 759). However, the Panel did not consider Professor Reyes's evidence. In her response to FAMU's motion for summary judgment, Professor Reyes stated that Y. Jones was supposed to be subjected to the same employment policies and the same process, but she was treated

much better and Reyes was treated much worse than Y. Jones, a Black woman. (Doc. 91 at 16). Professor Reyes also stated that there were other comparators that she named during her deposition (Professors Patricia Broussard, Nicky Boothe-Perry, Ann Marie Cavazos, Phyllis Taite, and Shiv Persaud). (Doc. 91 at 17) (citing PL-217-222). Professor Reyes specifically stated:

The “similarly situated in all material respects” analysis here is that all these professors were professors with the same teaching, scholarship, and service duties; were supposed to be reviewed for tenure and/or promotion under the same standards and procedures, but they were not. Plaintiff was the only one who was harassed, treated much worse, retaliated against, and not recommended for tenure or promotion by the RPT Committee.

(Doc. 91 at 17).

Then, the Panel summarily concluded that “Reyes also cannot establish a convincing mosaic of discrimination because she presented no evidence that Edington, who [(according to FAMU and the Panel)] made the decision to deny [her] application for promotion to full professor, discriminated against her.” (Pet. App. 7a-8a) (citing *Ismael*, 161 F.4th at 764). The entire focus of the Panel’s analysis was based on the premise that Edington was the decision-maker (a highly disputed fact) and that the alleged reason for the denial of promotion was “lack of scholarship” (another highly disputed fact). (Docs. 37,

40, 45, 49, 146). The Panel drew “all factual inferences” unreasonably in the light most favorable to FAMU, which is a violation of the summary judgment review standard. The Panel mixed a pretext analysis with the “mosaic” analysis and ignored Professor Reyes’s evidence of discrimination.

B. Retaliation

Regarding her retaliation claims, the Panel did the same mixing of the “same burden-shifting framework” with a mention of the “convincing mosaic” without analyzing any of Professor Reyes’s evidence. Instead, the Panel once again summarily and fully credited FAMU’s disputed allegation that Edington was the decision-maker and that his motivation was not retaliatory. (Pet. App. 9a-10a). The Panel stated that such was “the only evidence in the record.” (*Id.* at 9a) However, Petitioner’s briefs amply documented, with citation to some of her evidence, that Robinson was the decision-maker and that the discriminatory intent of the RPT Committee followed throughout the process of review at all levels. Professor Reyes stated that the same Black women, including Broussard, who had been called out for their racism against her by a Black male professor, tainted the review with racial discriminatory animus from the bottom all the way to the top. The evidence showed that President Robinson condoned the racial discrimination and harassment against Professor Reyes for years. He retaliated against Professor Reyes for complaining of race discrimination and ongoing hostile work environment, including by denying her promotion to full professor, by denying her the appeal process, and by allowing the harassment to continue. During his

deposition, Robinson acknowledged that the alleged “lack of scholarship” was false. The RPT Committee listed only two (2) articles and not the six (6) articles that Professor Reyes submitted with her application. Broussard and the group of Black women that took control of Reyes’s tenure process also took control of the promotion process; during the tenure process they even tried to get Reyes’s application not processed and denied.

C. Hostile Work Environment

Contrary to the evidence in the record, the Panel stated that Reyes “does not attempt to rebut the district court’s conclusion that she did not suffer any physically threatening conduct, that any other conduct was too infrequent or sporadic to be pervasive, and she did not demonstrate that any conduct unreasonably interfered with her job performance.” (Pet. App. 10a). Then, the Panel stated that Professor Reyes could not substantiate her hostile work environment claim because none of the deposition testimony that Reyes raised on appeal “indicate any FAMU employee took any action against her due to her race.” (Pet. App. 10a). In a conclusory manner, without analysis of Professor Reyes’s evidence, the Panel concluded that because Robinson, Pernell, and Broussard did not admit that their actions against Reyes were because of her race, there was no “race-based harassment,” and as such no “hostile work environment.” (*Id.* at 10a-11a). However, “[t]here will seldom be ‘eyewitness’ testimony as to the employer’s mental processes.” *United States Postal Serv. Bd. of Governors v. Aikens*, 460 U.S. 711, 716 (1983). It was not realistic for the

Panel to expect that law professors and high-level administrators would admit to their discriminatory intent. Title VII does not require such “direct” evidence.

Under the Rule 56(a) standard, Petitioner had sufficient evidence. She even had FAMU’s surveillance videos showing Broussard hunting her down in the elevators of the law school and engaging in hostility against her during a faculty meeting. Broussard is one of the Black women who constantly told Reyes “this is a Black school” to silence her during meetings and to let her know that she did not have the same right to speak or be at FAMU because she is not Black.

During his deposition, then President Larry Robinson admitted that he participated in the decision to deny promotion to Professor Reyes. LR(52:5-6). He admitted that the RPT Committee listed fewer publications than Reyes submitted and, therefore, then Provost Maurice Edington’s stated reason for not promoting (alleged lack of scholarship) was false. LR(93-100). Robinson also admitted that the then Interim Dean LeRoy Pernell and the University T&P Committee followed the same reason stated by the RPT Committee, which is the only committee that evaluates scholarship. LR(106:10-108:2).

Robinson admitted that the College of Law representative in the T&P Committee, Broussard (PL(92:1-4)), would guide the review of scholarship in the T&P Committee. LR(103:21; 105:1-22; 108:3-20). He admitted that he and Edington deferred to the

decision of the RPT Committee. LR(67:2-12). He also admitted that he received Reyes's complaints of discrimination and ongoing hostile work environment for years (including about Broussard) and never followed up with Professor Reyes or with anyone else to see that something was done to help her. *See e.g.*, LR(152-161), Ex. 24).

Pernell testified that the RPT Committee did not follow the proper standard, and that he went along with their reasoning and recommendation. LP(46:11-25, Ex. 5; 53:3-16, Ex. 5; 64:3-13, Ex. 7; 76:6-14, Ex. 8; 85:6-13). Broussard testified that she was a member of the RPT Committee and the University T&P Committee that reviewed Reyes's applications for tenure and promotion. PB(22:3-10; 23:20-25; 24:1-18). When confronted with the evidence (including institutional documents and surveillance videos of Broussard running after Reyes), Broussard admitted the factual allegations that Reyes stated in her Second Amended Complaint about Broussard's harassing actions toward her. *See e.g.*, PB(203:8-24; Ex. elevator video).

Professor Reyes testified that the discrimination from the RPT Committee "carried into the discrimination that happened at the [T&P] Committee." PL(98:23-99:2). Reyes also testified that the RPT Committee discriminated against her in "the way in which they handled [her] application, the way that they treated [her] different than nonblack [sic] faculty members, the way that they set up all the process and put [her] through an investigation, the way of the false allegations." PL(99:3-11). Reyes stated that the RPT Committee "discriminated and

set up from the beginning how the discrimination would carry all the way to the top.” PL(101:24-102:1). Reyes stated that the same people who discriminated against her in the RPT Committee during the tenure process also discriminated against her when she applied for promotion to full professor. PL(136:5-25).

Professor Reyes testified that she was treated differently because of her race as the only Hispanic/Latina in the tenure track. PL(21:3-7). She explained that some of the people who discriminated against her referred to her in racial terms as “light skin.” PL(21:13-18). She stated that she was discriminated as a woman, as a Hispanic, and as a combination of both, as a Latina. PL(22-24). Reyes testified to the truthfulness of the detailed factual allegations in her Second Amended Complaint about the individuals who engaged in discrimination and harassment against her. PL(25:14-26:8). As she stated in her complaint, Reyes testified that Broussard physically bumped into her. PL(29:12-13). She also testified that, prior to Broussard bumping her, she was physically bumped by another employee, Erica Polite, also a Black woman, and, after she complained about it, Reyes suffered “great retaliation and negative consequences.” PL(29:16-22). That incident was also captured in a surveillance video. When Broussard bumped Reyes, she knew about the prior bump and Reyes’s complaint about it. PL(29:23-25).

Professor Reyes explained that the individual professors who participated in the process to deny her tenure and promotion, were the ones who created a hostile environment by “constant[ly] referring to [her]

as white Latina. Sometimes in meetings telling [her], ["t]his is a black school,[" when [she] tr[ied] to speak. The constant message that they sent that . . . they wanted black people and that [she] was not black and that [she] was considered to them a white Latina." PL(148:17-24). In those efforts to silence her or make her feel that she did not belong, she specifically was told "this is a black school" by Professors Phyllis Taite and Broussard. PL(149:6-9). Reyes "was the only nonblack woman in the tenured [faculty]." PL(149:25-150:1). The "discriminators" were the ones who also voted to deny Reyes's application for promotion on November 5, 2018; the ones "that a committee member, a Black man, who was in those [RPT Committee] meetings called racist, malicious, [and] vile against [Reyes]." PL(165:10-20).

Reyes explained that "[her] daily work was made extremely difficult. [She] didn't get the treatment that black faculty members got." PL(224: 7-9). "And it was pervasive, severe, ongoing." PL(224:11). "[T]he constant message that [she] should accept inferior treatment or third-class treatment because she [is] not black." PL(224:19-21). She suffered from insomnia and sleeplessness due to "dealing with the daily things, the constantly feeling like [she] was being accused of false things, [she] was subjected to investigations. Every time [she] went into the law school, it was potentially: What is the next accusation?" PL(245:3-15).

Due to the hostile work environment, Reyes stopped traveling to professional conferences. PL(254:18-19). She had to endure "sabotage of the time that [she] could have devoted to [her]

scholarship, to [her] conferences that [she] could have gone to.” PL(258:3-5). She also witnessed “[t]he targeting of even students.” PL(225:4). There was discrimination against Latino students and the institution allowed it, including by law professor Jeremy Levitt, a Black man, who called Reyes and also Latino students pejorative racial names. PL(225:4-14; 226:2-3). Levitt called Reyes “a white Latina or Hispanic with white privilege. He said that [her] people were enslavers of his people. He said that [their] ancestors were on different sides of the boat, referencing, I guess, the slave ships. He called [her] all kinds of names.” PL(225:17-21). Reyes detailed the racial names that Levitt called her in a memorandum that she sent to Robinson, Edington, and the entire faculty “[b]ecause [Levitt] called [her] those names in writing in emails that [she] attached to the memorandum.” PL(225:22-25). Robinson admitted that he did not follow up with her about the memorandum; no one did. LR(171:10-178:12, Ex. 26). The memorandum included emails that Levit sent to Reyes with copy to the entire faculty. PL(177:9-11, Ex. 26).

This evidence and a lot more that Petitioner filed in the district court should have allowed her case to proceed to a jury trial if the evidence had been analyzed under Rule 56(a)’s summary judgment standard.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted on September 21, 2026,

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