

ORIGINAL

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No. 25-A966

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

Joe Holbert — PETITIONER
(Your Name)

vs.

Thompson Industrial — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fifth Circuit of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joe Holbert
(Your Name)

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(City, State, Zip Code)

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QUESTION(S) PRESENTED

1. Whether the Fifth Circuit Court of Appeals erred by applying a heightened standard to a Title VII discrimination claim which was in direct conflict with the June 2025 decision in *Ames v Ohio Department of Youth Services*, No. 23-1039, 605 U.S. __ (2025), which held that the “Any individual” language of 42 U.S.C. § 2000e2(A)(1) prohibited the implementation of evidentiary hurdles.
2. Whether a pro se litigant’s Title VII complaint, which alleges specific instances of racial slurs and sexual harassment meets the plausibility requirements of *Ashcroft v Iqbal* No., 556 U.S., 662 (2009), when the lower courts failed to liberally construe the pleading as required for self-represented parties.

LIST OF PARTIES

Thompson Industrial Services, LLC

Clean Harbors Environmental (NYSE: CLH)

Steel Dynamics, Incorporated, Sinton Division (NYSE: STLD)

Louis Garcia

Michael Pena

James Cabler

Ernest Mungia

George Gomez

David Wiggins

Montana Wiggins

Matthew Last Name Unknown (LNU)

RELATED CASES

Trial court docket Holbert v. Thompson Industrial Services, LLC et al.. No: 2:24-cv-00068 U.S. District Court for the Southern District of Texas

Appellate Court Docket for Holbert v. Thompson Industrial Services, LLC et al.. No: 25-40068 U.S. Court of Appeals for the Fifth Circuit.

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TABLE OF AUTHORITIES CITED

CASES

1. Supreme Court: *Ames v Ohio Department of Youth Services*, 605 U.S. (2025).....7, 8, 9, 10
2. Supreme Court: *Ashcroft v Iqbal*, 556 U.S., 662 (2009).....8,
3. Supreme Court, *Loper Bright Enterprises v. Raimondo*, 603 U.S. (2024).....10
4. United States District Court for the Eastern District of New York: *Prichard v. Long Island University*, N. 24-CV 1135, New York (2025).....9, 10

STATUTES AND RULES

1. 28 U.S.C. § 1254(i) – Certiorari
2. 42 U.S.C. § 2000e – 2A(1) Title VIII Discrimination.....7, 8, 9
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OTHER

1. None

I. PETITION FOR WRIT OF CERTIORARI

Joe Holbert, the Plaintiff, acting on his own behalf as a Pro Se litigant, respectfully petitions this court for a writ of certiorari to review the judgment of the Fifth Circuit Court of Appeals' decision.

II. OPINIONS BELOW

The decision of the Fifth Circuit Court of Appeals denying Mr. Holbert's direct appeal is reported in docket number 44-1. The Court of Appeals denied Mr. Holbert's petition for hearing on November 24, 2025. The finding is attached at Appendix J.

(RN) JURISDICTION

Mr. Holbert's petition for hearing to the Fifth Circuit Court of Appeals was denied on November 24, 2025. Mr. Holbert invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the Fifth Circuit Court of Appeal's judgment.

(RN) STATUTORY PROVISIONS INVOLVED

Title VII of the Civil Rights Act of 1964 (codified at 42 U.S.C. § 2000e-2)

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 individuals' 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.

(RN) STATEMENT OF THE CASE

On January 5, 2023, Joe Halbert (also spelled Holbert), began work as a technician with Thompson Industrial Services, LLC (Thompson). At the time that Halbert worked for Thompson, the company was not owned by Clean Harbors Industrial Service (Clean Harbor). Clean Harbor purchased Thompson in May of 2023. Clean Harbors headquarters is located at 42 Longwater Drive, Norwell, Massachusetts 02061, (781) 792-5000.

In 2023, Thompson held a contract with Steele Dynamic in Sinton, Texas, regarding providing environmental cleanup services.

Halbert asserts that on January 5, 2023, a fellow coworker, Ernest Mungia (Mungia), created a toxic work environment by engaging in sexually harassing behaviors and demeaning language aimed at Halbert because of the Plaintiff's affiliation with a protected group, African American individuals. Specifically, Halbert asserts Mungia's unwanted sexual advances included slapping him on the behind which produced feelings of shame, embarrassment, and humiliation. Halbert's degradation was witnessed by fellow co-workers: George Gomez (Gomez), Matthew Solice (Solice), Efrain Hernandaz (Hernandez) Last Name Unknown (LNU), Jordan LNU, and Chris Yanchuniz (Yanchuniz). At the time of the slapping, Halbert turned to Mungia and gave him a look indicating he was not receptive to that sort of behavior. Moreover, Halbert believes the slap was designed to degrade him both sexually and because of his race and national origin. To exacerbate the issue, Mungia was designated as Halbert's team leader meaning that Mungia's order were to be followed as per management protocols.

On a weekly basis from January 5, through August 16, 2023, Halbert reported that Mungia sexually and racially harassed him. The frequency of the harassment occurred at least once per month. One such occurrence resulted in Mungia requested to see the Plaintiff's penis. Mungia explained to Halbert that he had heard a rumor that black men were endowed with large penises, and he wanted to know if it was true. The harassment did not stop at the request to see the Plaintiff's penis. Mungia also made sexual comments indicating Halbert had a nice ass or that he was fine.

Mungia's advances scared Halbert. The Plaintiff had limited schooling which caused him to believe that Mungia had the authority to make such requests of him especially since he had received previous instructions from other members of management who indicated that Mungia was his superior and his orders were to be followed. Additionally, the company did not provide Halbert with sexual harassment training during his onboarding process; therefore, he was unaware of his rights and available courses of actions.

Mungia's advances often occurred in the presence of Halbert's coworkers, but no one came to his aid or told Mungia to desist. After each instance, Halbert told Mungia his advances were not welcome. On one instance, Halbert specifically told Mungia to refrain from discussing "dicks" in his presence to which Mungia responded that the Plaintiff's dick was not big enough to be a black man's.

Mungia was not the only member of management who sexually harassed Halbert. James Cabler, an operational manager for Thompson, also joined Mungia in the harassment. Cabler and Mungia were brothers-in-law, which Halbert learned three months after starting work at Thompson's. It is Halbert's belief that Mungia told Cabler that the Plaintiff was disobedient and disrespectful while performing his job duties. Moreover, Halbert asserts Mungia's false statements

regarding his work abilities and attitude were retaliation for rejecting Mungia's unwanted sexual advances.

In the Thompson management hierarchy, Mungia was a team leader whose direct supervisor was Michael Pena (Pena), the site supervisor. The highest-ranking site supervisor was David Wiggins, the project manager. As an operational manager, James Cabler reported directly to Wiggins and was the direct supervisor over Pena. The rest of Halbert's crew, including the Plaintiff, were designated as technicians and drivers and reported directly to Mungia.

Mungia's harassment was not just sexual in nature. He also frequently made jokes regarding Halbert's race/color/national origin. On one specific occasion Mungia said, "smile, I can't see you. Why are you so black?" Halbert stated during his employment with Thompson's Mungia made several statements along a similar line.

Other members of the management hierarchy also harassed Halbert based on his race. On or about March 15, 2023, Halbert his coworkers advised Pena that Thompson had not provided him and his fellow co-workers with the proper PPE gear to complete an environmental cleanup job with Steel Dynamic. When Halbert addressed the issue with Pena, Pena told Halbert, "fuck you ni**er, meet me in the parking lot." Halbert stated he ignored the comment and continued to work; however, he was concerned about his safety. The Plaintiff indicated this incident was recorded by work truck video and audio cameras in Bay 16 of Steel Dynamic and was also observed by Hernandez and Solice.

Another incident occurred on June 7, 2023, while Halbert, Mungia, and Montana Wiggins (David Wiggins son) were headed to a safety training in a company truck. Halbert sat in the backseat smoking a cigarette. He requested that Mungia roll down his window because the

cigarette smoke was building up in the truck. Mungia reportedly responded saying, “Fuck you,” along with variety of other inappropriate slurs and words. Mungia did not roll down the window. Halbert then opened the back truck door while the vehicle while the vehicle was in motion. This episode was captured on video with audio.

In or around June 2023, Halbert’s crew worked on a shutdown of the Steele Dynamic plant in order to clean the interior of the plant and ensure the environmental safety of the facility. Thompson sent another crew from LaPorte, Texas, to assist with the shutdown. The LaPorte, Texas crew consisted of crew contained members who identified as African American men and African American women.

After meeting the crews met, Halbert overheard Mungia state, “(those) Black ni**er girls don’t do nothing...they are lazy...and they just want to sit down.” The following day, Mungia told the LaPorte crew that the job ended and to return to LaPorte. Once the LaPorte crew left, Mungia told the Plaintiff that “those nig***s didn’t want to work.”

Halbert advised that Mungia frequently used the ni**er word which made the Plaintiff very uncomfortable. This episode was on video with audio. Further, he believes Mungia’s use of the racial slur indicates Mungia’s bias and discrimination toward African American individuals. Halbert advised that Mungia was Hispanic.

On August 16, 2023, Mungia drove a work truck containing Halbert and Luis Garcia (Garcia). Garcia warned Mungia about an approaching vehicle. Mungia responded by saying, “fuck that car and that ni***er.” While saying this, Mungia looked into the rearview mirror directly at Halbert leading Halbert to believe Mungia was calling him a ni***er. Because this occurred in the work truck, there was audio/video of this incidence.

At the end of the workday on August 16, Pena advised Halbert the company did not have any work for him the following day; however, the Plaintiff was welcome to call in and see if that changed the following morning. Halbert then texted Kenny LNU, the manager of the LaPorte crew, to see if he could take a few days off to return to Mississippi to visit his mother and ill uncle. Halbert never received a response back from Kenny.

Two hours later, Garcia texted Halbert and asked if the Plaintiff was working the following day. Halbert advised Garcia that company did not have any work available. Garcia then told Halbert that he had work with Thompson the next day. Eventually, Halbert came to learn that he was the only person who was told not to report to work the next day. The rest of his crew had work. After learning this, Halbert contacted Kenny and D Wiggins. Halbert advised men that Mungia had called him a ni**er earlier that day.

On August 17, 2023, Halbert reported to the local unemployment office to sign up for benefits, because he believed he had been fired from Thompson Industrial. Later, Halbert learned that representatives from Thompson Industrial told the Texas Workforce Commission that Halbert had been terminated because he was unable to perform work tasks. Halbert contends this is an unfair assertion on behalf of Thompson Industrial. Based on the information presented by both parties, the Texas Workforce Commission granted unemployment benefits to Halbert.

Because of the, Holbert contends that his employer Thompson Industrial and their subsequent owners Clean Harbors retaliated against him for reporting a hostile work environment based upon his gender and race, in violation of Title VII of the Civil Rights Act of 1964 and Chapter 21 of the Texas Labor Code.

The Plaintiff believes that his employer lied about the reasons for firing him, thus meeting and proving a pretext to his termination. Specifically, his employer lied to the Texas Workforce Commission as a larger part of a pattern of fraud. The falsehood thereby creates a genuine dispute concerning the material facts of his termination which should have prevented the lower courts from dismissing the case.

The Plaintiff argues that discovery materials, including video and company emails, must be subpoenaed to prove that the information provided by David Wiggins and the Thompson Industrial Service supervisors to the Texas Work Force Commission was false. Holbert contends that the false information was provided in bad faith by Thompson Industrial Services and their acts of bad faith are key elements in overcoming certain contract defenses for David Wiggins and Thompson Industrial Service in regards to Holbert being terminated for not being able to do the job.

On December 29, 2023, Holbert received a Notice of Right to Sue letter from the Equal Employment Opportunity Office. A copy of the letter was filed along with a Complaint under case number 2:4-cv-00068 in the Southern District of Texas, Corpus Christi division, on March 13, 2024. In the Complaint, Halbert alleged Thompson Industrial Services, LLC, caused a hostile work environment based on his race, color, and gender beginning on January 5, 2023, and ending on August 16, 2023, with his termination. The Plaintiff specifically indicated he was verbally abused by his superiors which included racial slurs such as being called a ni**er and was sexually assaulted. The plaintiff requested compensation for lost wages and punitive damages, because the company lied about Halbert's work abilities in order to fire him which made his daily living situation a hardship. Further the Plaintiff sought additional relief including injunctions, damages, costs and attorney fees.

On April 3, 2024, a status hearing was conducted during which the plaintiff was granted 30-day extension to file an Amended Complaint.

On April 26, 2024, an Amended Complaint was filed.

On September 19, 2024, the Plaintiff's case was denied with prejudice.

On December 11, 2024, a Motion to Dismiss the case was granted dismissing it with prejudice.

On January 8, 2025, the Plaintiff filed a Motion to Appeal in the Fifth Circuit Court of Appeals.

On March 26, 2025, the Plaintiff's Notice of Appeal was denied.

November 24, 2025, the Fifth Circuit Court of Appeal, via a hearing en banc, affirmed its previous decision to dismiss the Plaintiff's case.

On March 16, 2026, a Writ of Certiorari was filed with the U.S. Supreme Court after the Plaintiff was granted a 30-day extension.

(RN) REASONS FOR GRANTING THE PETITION

- A. To avoid a conflict between the U.S. Supreme Court's ruling in *Ames v. Ohio Department of Youth Services* and the dismissal of his case in both the Southern District of Texas and the Fifth Circuit Court of Appeals pursuant to the U.S. Supreme Court Rule 10.

In *Ames v. Ohio Department of Youth Services*, the U.S. Supreme Court (USSC) determined that all individuals are to be treated the same under the law even if the individual is a member of a majority group in the United States. The USSC ruled that an individual who is identified as part of a majority group cannot be held to a higher standard than an individual who is part of minority

group when discrimination has been alleged. The Plaintiff believes the Fifth Circuit Court of Appeal's dismissal in November 2025 ignored the mandate set by the aforementioned case which was decided in June 2025.

Specifically, *Ames v. Ohio Department of Youth Services* established the *Ames Standard* which rejected the idea that there should be a heightened evidentiary hurdle for any individual regardless of the person's identified characteristics and provided clarification to the Title VII "any individual" equally language. The case provides guidance to the lower courts regarding the issue of discrimination and how it should be addressed equally across all categories of individuals.

The Plaintiff believes that by dismissing his allegations relating to racial slurs and sexual harassment which were the cause of a hostile work environment at Thompson Industrial it kept him from being able to effectively state a claim in a lower court. The Plaintiff is pro se and by effectively imposing the same rigid and non-textual barriers to a pro se litigant as a formal attorney the discrimination hurdles for some groups that *Ames v. Ohio Department of Youth Services* sought to eliminate was ignored. The Plaintiff argues that the lower courts departed from the accepted course of judicial proceedings by failing to liberally construe the application of a longstanding rule regarding the less stringent standards that are afforded to pro se pleadings; therefore, implementing heightened evidentiary hurdles which Title VII and *Ames v. Ohio Department of Youth Services* guarantee against.

- B. The Fifth Circuit Court of Appeal's refusal to consider his late filed Equal Employment Opportunity Commission (EEOC) letter resulted in the lack of plausibility needed for an adequate determination of the case.

The Plaintiff's EEOC letter affirms Holbert's case possessed enough factual merit thus he was granted the right to sue his former employer for misconduct. Had the Fifth Circuit Court of

Appeals allowed the late filing of this letter, then pursuant to *Ashcroft v Iqbal*, the plaintiff's case would have inherently possessed enough plausibility to sustain it. In 2009, the U.S. Supreme Court decided the landmark case of *Ashcroft v Iqbal*. The case provided the standard distinguishing between a "conceivable" and a "plausible" claim. In essence it required civil cases to possess more than just statements pertaining to the elements of a claim.

The Plaintiff contends that he would have met the required elements of *Ashcroft v Iqbal* had the Fifth Circuit Court of Appeals did not hold the screening barriers for pro se litigants to an unreasonable standard thus undermining the rulings found in *Ames v. Ohio Department of Youth Services*. The Plaintiff argues had the lower courts abided by the longstanding rule that pro se pleadings must be held to a less stringent standard as is appropriate for an individual unable to obtain legal counsel then his case would not have been dismissed in the two lower courts.

The Plaintiff notes that his case is the perfect case for the U.S. Supreme Court to provide additional clarification on when the *Ames Equal Treatment Principle* (AETP) applies by making a specific ruling that it not only applies at the summary judgment stage but also at the initial pleading stage. By providing this specific clarification concerning the implementation of the AETP, the USSG will unite the circuits who have been handling pro se litigant matters differently. In such an important matter, consistency is needed across the circuits regarding the handling of these cases which a USSG ruling would provide. Failure to apply the AETP consistently across circuits allows the Title VII language of "any individual" to be construed loosely by the lower courts, thus resulting in inconsistent rulings, which is detrimental to the carriage of law. The Plaintiff believes that judicial procedure should be free of ambiguity across the circuits.

- C. The Plaintiff believes that the issuance of the EEOC's Right to Sue Letter was premature and is partially the reason why his case was so readily dismissed by the lower courts.

The EEOC is granted a 180-day waiting period to conduct an investigation into allegations of employer misconduct. Instead of conducting the investigation fully, the EEOC chose to issue a Right to Sue Letter without a proper investigation, thus a factual basis for the Plaintiff's allegations the allegations were not produced.

In 2025, the Eastern District of New York (ED/NY) District Court sought to provide guidance in the issuance of the EEOC's Right to Sue Letter in *Pritchard v. Long Island University*. The district court ruled that the issuance of a premature Right to Sue Letter should result in the cases dismissal without prejudice thus allowing the Plaintiff's allegations to be returned to the EEOC so that the investigative process can be finished.

Instead of receiving a dismissal without prejudice, Halbert received a dismissal with prejudice meaning he could not refile the case. Had the District Court dismissed the case without prejudice, Halbert would have been able to refile the case essentially providing him with a procedural reset which is consistent with the ED/NY District Court's ruling in *Pritchard v Long Island University*. Further, the Plaintiff stated that by dismissing his case with prejudice the courts prevented the EEOC from fulfilling its congressional mandate which included a thorough investigation of employment discrimination claims. The ED/NY District Court's decision relied heavily upon the U.S. Supreme Court's 2024 decision in the *Loper Bright Enterprises v. Raimondo*. The case decided that courts must use their independent judgment to determine the meaning of ambiguous statutes, instead of deferring to a federal or state agency's interpretation.

(RN) CONCLUSION

For the foregoing reasons, Mr. Holbert respectfully requests that this Court issue a writ of certiorari to review the judgment of the Fifth Circuit Court of Appeals.

DATED this 2nd day of May 2026.

Respectfully Submitted,

Joe Holbert

Pro Se Plaintiff