26-89

No.

Supreme Court, U.S.
FILED
JUN 17 2026
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In The

Supreme Court of the United States

VINAY SAINI,

Petitioner,

v.

HOSPITAL CARE CONSULTANTS, INC.,

Respondent.

On Petition For Writ Of Certiorari

To The United States

Court Of Appeals For The Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Should accrual of the limitations period for a claim under Title VII of the Civil Rights Act of 1964 be subject to the federal fraud-based discovery rule when a plaintiff does not realize that he has been treated differently than other employees because the employer misrepresented relevant facts to cloak disparate treatment?

PARTIES TO THE PROCEEDING

Petitioner is Vinay Saini, the Appellant-Plaintiff below. Respondent is Hospital Care Consultants, Inc., Appellee-Defendant below.

RULE 29.6 STATEMENT

Petitioner is a natural individual.

RELATED CASES

United States Court of Appeals for the Tenth Circuit, No. 24-2162, Saini v. Hospital Care Consultants, Inc. (April 6, 2026).

United States District Court for the District of New Mexico, No. 24-113 MV/GBW, Saini v. Hospital Care Consultants, Inc. (September 30, 2024).

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Petitioner (Appellant-Plaintiff), Vinay Saini respectfully petitions this Court for a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit.

OPINIONS BELOW

The Order and Judgement of the United States Court of Appeals for the Tenth Circuit was issued on April 6, 2026 and is reproduced in the Petition Appendix at App. 1-12a.

The September 30, 2024 Order and Judgement of the United States District Court for the District of New Mexico adopting the Magistrate's Report and Recommendation is reproduced in the Appendix at App. 13-23a.

The July 30, 2024 Magistrate Judge's Proposed Finding and Recommended Disposition is reproduced in the Appendix at App. 24-54a.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1). A petition for rehearing was denied by the Court of Appeals for the Tenth Circuit on April 6, 2026. The Petition for Writ of Certiorari was timely filed on June 16, 2026.

STATUTORY PROVISIONS

42 U.S.C. § 2000e–5(e)(1) states: "A charge under this section shall be filed [within 180 or 300 days] after the alleged unlawful employment practice occurred."

STATEMENT OF THE CASE

I. The Underlying Events

Petitioner, Vinay Saini, was employed by the Respondent Hospital Care Consultants ("HCC") as a medical doctor under the H-1B provisions of the Immigration and Nationality Act ("INA"). HCC terminated his employment for an alleged breach of the employment agreement in October 2018. Around July 2019, he filed a complaint with the Department of Labor ("DOL") alleging various violations of the INA by HCC. Four years later, in October 2022, in course of hearing proceedings arising from the DOL investigation, he for the first time discovered that HCC claimed to have terminated his employment for patient care issues. Challenging this reason as false and discriminatory, he timely filed an EEOC Charge which subsequently issued a Right to Sue letter. App. 25-26a.

II. The District Court Proceedings

In February 2024, Dr. Saini initiated proceedings in the Federal District Court of New Mexico alleging, *inter alia*, violations of Title VII. HCC moved under F.R.C.P. Rule 12(b)(6) to dismiss the claims on statute of limitations grounds. The Court acknowledged that the October 2018 reason for Dr. Saini's discharge was "vague," his allegations plausibly satisfied the "misrepresentation element," and he had no "reason or ability" to discover the subsequently challenged October 2022 statement earlier. App. 31a, 45a, 48a n6. Nonetheless, the District Court rejected timeliness arguments invoking the federal fraud-based discovery rule and equitable tolling doctrines.

III. The Appellate Proceedings

Dr. Saini timely appealed the judgement of the District Court to the Tenth Circuit Court of Appeals. The appellate panel found that the discrimination claims accrued in October 2018 because a plaintiff "need not be aware of the unlawful discriminatory intent behind that act for the limitations clock to start ticking," declined to extend equitable relief because HCC's statement in October 2022 was an "adequate basis" to support its purported reason for his discharge in October 2018, and declined to construe his Title VII claim as premised upon disparate discipline because it could not be an "adverse action" under Title VII. App. 5-6a.

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REASONS FOR GRANTING THE WRIT

I. The Question presented is important and recurring with important implications for Title VII litigants.

Under Title VII, "a timely charge [of discrimination] is a prerequisite to having an actionable claim." *Nat'l R.R. Passenger Corp. v. Morgan,* 536 U.S. 101, 120 (2002). The issue here involves the question of two methods for calculating the accrual of limitations period in Title VII cases. Under the first, the "notice rule" expounded in *Delaware State College v. Ricks,* 449 U.S. 250 (1980), the limitations period begins to run on the date the employment decision "[is] made and communicated to [the employee]." *Id.* at 258. Under the second, the federal "fraud discovery rule" when a plaintiff is "injured by fraud . . . the bar of the statute [of limitations] does not begin to run until the fraud is discovered." *Holmberg v. Armbrecht,* 327 U. S. 392, 397 (1946) (quoting *Bailey v. Glover,* 21 Wall. 342, 348 (1875)).

The applicability of the fraud-based discovery rule to the accrual of Title VII claims and the interpretation of this Court's precedents to this question presents an issue of fundamental national importance. A technical reading, which rewards employers for wrongful concealment, would be "particularly inappropriate in a statutory scheme in which laymen, unassisted by trained lawyers, initiate the process." *Love v. Pullman Co.,* 404 U.S. 522, 527 (1972). Because EEOC does not investigate untimely charges, the consequence for failure to timely file a Title VII charge of discrimination is severe especially when the true nature of plaintiff's injury is wrongfully concealed by the employer.

A. A narrow interpretation of *Ricks* undermines the remedial purpose of Title VII.

The majority of federal courts have interpreted *Ricks* to mean that where discrete acts of disparate treatment are alleged the injured employee need not have notice of the employer's discriminatory intent and its subsequent discovery is of no moment to the inquiry into the timeliness of the charge. *See e.g. Hamilton v. 1st Source Bank,* 928 F.2d 86 (4th Cir.1990); *Dring v. McDonnell Douglas Corp.,* 58 F.3d 1323 (8th Cir.1995); *Hulsey v. Kmart, Inc.,* 43 F.3d 555 (10th Cir.1994). However, *Ricks* had cautioned the commencement of the time period "should not run so soon that it becomes difficult for a layman to invoke the protections of a civil rights statute," *Id.* at 262 n.16.

Employers, rarely if ever, admit to the discriminatory intent behind their decisions, and an inflexible interpretation of *Ricks* creates a perverse incentive for employers to be evasive, or worse to provide pretextual reasons, for an employment decision adversely affecting the employee. "Requiring employees to sue anticipatorily or forever hold their peace," *Lorance v. AT&T Technologies, Inc.,* 490 U.S. 900, 914 (1989) (Justice Marshall dissenting), would open the floodgates on Title VII litigation because in majority of such "anticipatory" suits, the plaintiff would be filing on a mere speculation that he or she might have been a victim of unlawful discrimination.

This Court has long recognized that it would be unfair to charge "a plaintiff with knowledge of facts which are unknown and inherently unknowable." *Urie v. Thompson,* 337 U.S. 163, 169 (1949). "Notice or knowledge of a personnel decision is really only one part of the equation for determining when an alleged discriminatory act has occurred. The other part is the victim's belief that the employer's decision is discriminatory. A claim will not be defeated where the complainant had no reason to suspect discrimination until after the charge filing period has passed." 7 Emp. Coord. Employment Practices § 84:63.

An approach more consistent with the remedial purpose of Title VII, should require the adoption of discovery rule where the employee does not realize that he has been treated differently from other employees or whether such different treatment was discriminatory.

B. Fraud-based discovery rule is a presumption read into every statute including Title VII.

Justice Story's exploration of the origins of the fraud-based discovery rule has a long history in law. *Sherwood v. Sutton,* 21 F. Cas. 1303 (C.C.D.N.H. 1828). The thrust of the rule is that wrongdoers should not benefit from their own wrongs because "every statute is to be expounded reasonably, so as to suppress, and not to extend, the mischiefs, which it was designed to cure." *Id.* at 1307. "To hold that by concealing a fraud, or by committing a fraud in a manner that it concealed itself until such time as the party committing the fraud could plead the statute of limitations to protect it, is to make the law which was designed to prevent fraud the means by which it is made successful and secure." *Bailey* at 349. This doctrine was later expanded as a discovery rule to be "read into every federal statute of limitation." *Holmberg at* 397; *Merck & Co.*

v. Reynolds, 559 U.S. 633, 645 (2010) ("state and federal courts have applied forms of the 'discovery rule' to claims other than fraud").

While the expansion of the general discovery rule, in some contexts, has been denounced by this Court as "bad wine of recent vintage," *Rotkiske v. Klemm,* 589 U.S. 8, 14 (2019) (citation omitted), no member of the Court has ever doubted the traditional rule delaying the start of the limitations period in cases of fraud where the victim's injury is not reasonably discoverable. True, Congress did not expressly include a discovery rule when it enacted Title VII, but it also did not intend to abrogate the common law presumption of fraud-based discovery rule. *See Astoria Fed. Sav. & Loan Ass'n v. Solimino,* 501 U.S. 104, 108 (1991) ("Congress is understood to legislate against a background of common-law adjudicatory principles.").

Where a discharged employee does not know that his Title VII rights have been violated because the reason for his discharge is deliberately misrepresented and he has no reason or ability to discover the misrepresentation until years later, he cannot be expected pursue his rights diligently, or indeed at all, because he did not realize that he had been injured. A victim who is unaware of his injury "cannot take any steps to obtain redress." *Amy v. City of Watertown,* 130 U.S. 320, 325 (1889).

A strict interpretation of the *Ricks'* "notice rule," without any consideration of the background presumption of the fraud-based discovery rule, especially when the misrepresentation is central to the manner in which the claim is presented, undermines the remedial goals of Title VII.

C. The fraud-based discovery rule and equitable tolling are not synonymous.

The importance and value of statutorily based limitations periods is not questioned. However, where time limitations for satisfying the statutory perquisites are notoriously short, as in 180/300 day EEOC time filing window, courts must maintain some flexibility in adjudicating such claims. This Court has emphasized that "a just result" must be considered when applying Title VII's time filing requirements. *Morgan* at 121.

The doctrine of equitable tolling grants courts power to give a party additional time to file a claim where fairness dictates that result. However, the use of equitable tolling is highly fact-driven. On the other hand, the "fraud discovery rule" has a "a thrust different from equitable tolling." *Rotkiske* at 18 (2019) (Justice Ginsburg dissenting). "'[E]quitable tolling' describes a doctrine that pauses, or 'tolls,' a statutory limitations period after it has commenced .... By contrast, the fraud-based discovery rule sets the time at which a claim accrues, i.e., the time when the statute of limitations commences to run." *Id.* Accordingly, where alleged facts "[fall] comfortably within the fraud-based discovery rule's scope" and "fraud infects the manner in which the claim is presented," *Id.* at 21, the inquiry into the accrual of the claim should begin with the date of the discovery of the fraud.

While federal courts have occasionally exercised discretion to permit untimely Title VII claims to proceed when employers have made misrepresentations concerning the reason for an employee's discharge, it has been varyingly described as invoking an equitable tolling doctrine or a discovery rule. *See e.g., Oshiver v. Levin, Fishbein, Sedran & Berman,* 38 F.3d 1380, 1389 (3d Cir. 1994) ("[W]here the plaintiff has been actively misled regarding the reason for his or her discharge, the equitable tolling doctrine provides the plaintiff with the full statutory limitations period, starting from the date the facts supporting the plaintiff's cause of action either become apparent to the plaintiff or should have become apparent to a person in the plaintiff's position with a reasonably prudent regard for his or her rights."); *Glass v. Petro-Tex Chemical Corp.,* 757 F.2d 1554 (5th Cir. 1985) (victim must have enough information by which a "reasonably prudent person similarly situated" could have realized that he was the victim of discrimination).

A leading treatise recognizes "the often confusing distinction between accrual and tolling of statutes of limitations" which has been "characterized as performing both functions." 4 Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. § 1056 (4th ed. Apr. 2019). Even this Court has, at times, has used the two terms loosely. *See California Pub. Emps.' Ret. Sys. v. ANZ Securities, Inc.*, 137 S. Ct. 2042, 2055 (2017) ("Tolling may be of great value to allow injured persons to recover for injuries that, through no fault of their own, they did not discover."); *Lampf, Pleva, Lipkind, Prupis & Petigrow v. Gilbertson,* 501 U.S. 350, 363 (1991) (referring to the "venerable principle" of "equitable tolling" but describing the discovery rule).

Title VII plaintiffs should not have to rely on a court's discretionary equity powers which are used sparingly. Rather, where wrongful concealment of facts underlying the discrimination claim is plausibly alleged, the lack of key facts that would support a claim of unlawful discrimination is an issue that goes to whether a cause of action has accrued, and not tolling. After all, "[m]ost of us do not live in a state of constant investigation; absent any reason to think we have been injured, we do not typically spend our days looking for evidence that we were lied to or defrauded." *Gabelli v. SEC,* 568 U.S. 442, 450-51 (2013).

Employers' often have a perverse incentive to lie to individuals they discriminated against to run the fairly short 180/300 day limitations clock for filing a charge of discrimination. In instances where wrongful concealment of key facts is alleged, the courts must give plaintiffs a fair opportunity to develop evidence to support the applicability of the fraud-based discovery doctrine to their claims.

II. This Case is an appropriate vehicle for resolving the question presented.

This Court has previously "declined to address whether Title VII suits are amenable to a discovery rule." *Ledbetter v. Goodyear Tire & Rubber Co.,* 550 U.S. 618, 642 n.10 (2007), overturned due to legislative action (Jan. 29, 2009) (citing *Morgan*). *Morgan* noted, *in dicta,* "[t]here may be circumstances where it will be difficult to determine when the time period [for filing a Title VII charge] should begin to run. One issue that may arise in such circumstances is whether the time begins to run when the injury occurs as opposed to when the injury reasonably should have been discovered." *Id.* at 115 n.7. "Although [Supreme Court precedents] seem to establish a relatively simple 'notice' rule as to when discrimination 'occurs' (so as to start the running of the charge-filing period), courts continue to disagree on what the notice must be *of."* *Id.* at 123 (Justice O'Connor concurring in part and dissenting in part) (citing 2 B. Lindemann & P. Grossman, Employment Discrimination Law 1349 (3d ed. 1996) (emphasis in original)).

The question of how the general discovery rule fits in with the narrower *Ricks'* "notice rule" for determining the accrual date of Title VII claims has not been addressed by this Court. The lower courts can, and do, routinely dismiss credible claims of discrimination on limitations grounds because they parsimoniously apply the equity doctrines and confuse them with statutory presumptions, like the doctrines of general "discovery rule" and "fraud discovery rule."

Employers should not be allowed to run out the clock on credible Tile VII claims through their own misconduct. The facts of this case are emblematic of how this legal issue frequently arises and present a good occasion for this Court to provide clarity and uniformity on the limits of discovery rule, general or fraud-based, and its applicability to the *Ricks'* "notice rule" in the context of Title VII.

III. The court of appeals decision is incorrect and conflicts with this Court's decisions.

The decision below was incorrect by narrowly construing the *Ricks*' "notice rule" and rejecting application of the fraud-based discovery rule when the misrepresentation element was plausibly pled. In the procedural context of this case, at the Rule 12(b)(6) stage, the court should have accepted the factual allegations as true, not applied the *post hoc* "adequate basis" test to the two differing alleged reasons for the plaintiff's discharge, and modified the accrual date of the claims—either under an equitable tolling or discovery rule doctrine—consistent with this Court's decisions in *Bailey*, *Holmberg,* and their subsequent progeny.

The District Court acknowledged that if the October 2022 false statement triggered the limitations period, the EEOC Charge would be timely. App. 30a n1. However, the Court of Appeals rejected characterizing the discrimination allegations, premised in discovery of the discriminatory application of disciplinary criteria, as independently actionable under Title VII. App. 5a n1; *Cf.* 42 U.S.C. § 2000e–2(a)(2) ("classifying employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee for discriminatory reasons" violates Title VII); *McDonald v. Santa Fe Trail Transp. Co.,* 427 U.S. 273, 284 (1976) (The basis for discharge "does not diminish the illogic in retaining guilty employees of one color while discharging those of another color."). Further, in denying the timely retaliation claim because it failed to allege a materially adverse action, the decision below overlooked this Court's directive that a retaliatory harm need not exceed any heightened bar. *Muldrow v. City of St. Louis,* 601 U.S. 346 (2024).

Even accepting that *Ricks* requires the claim accrual to run from the from the time when the discrete act of discrimination occurred, the "critical question" in assessing the timeliness of the Title VII charge is "whether any present violation exists." *United Air Lines, Inc. v. Evans,* 431 U.S. 553, 558 (1977). Where ongoing retaliatory harassment is alleged, the "notice rule" has no applicability because such a claim "includes every act composing that claim, whether those acts are independently actionable or not." *Green v. Brennan,* 578 U.S. 547, 557 (2016). Where an employee does not, and could not, perceive discrimination until a series of post-termination acts occur, *e.g.* an employer's continued harassment in retaliation of a protected activity (here the DOL complaint), the overly rigid and inflexible application of limitations period is unjust.

CONCLUSION

For the reasons set forth above, a Writ of Certiorari should be granted.

Respectfully submitted,

/s/Vinay Saini

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