

IN THE SUPREME COURT OF THE UNITED STATES

Joe Martin Bravo, Petitioner

v.

Dallas Independent School District

Draft Petition for Writ of Certiorari

**QUESTIONS PRESENTED, OPINIONS BELOW, JURISDICTION, AND
STATUTORY PROVISIONS**

Questions Presented

Congress enacted Title VII to establish a single nationwide prohibition against employment discrimination. This petition presents a recurring procedural question: whether, after concluding that no legally sufficient comparator exists, a federal court may end its Rule 56 analysis without evaluating the remainder of the evidentiary record. The petition does not challenge the continuing relevance of comparator evidence or the McDonnell Douglas framework. It asks whether comparator availability may become a threshold barrier to the ultimate statutory inquiry Congress required courts to decide.

This petition presents a recurring methodological question with consequences extending well beyond the parties. The court of appeals concluded that petitioner failed to identify a legally sufficient comparator, and on that basis, expressly declined to evaluate the remainder of petitioner's circumstantial

evidence.¹ The petition therefore asks whether comparator availability may become the point at which judicial review ends, rather than remaining one evidentiary consideration within Rule 56's required evaluation of the record as a whole.

The petition does not challenge the continuing relevance of comparator evidence. It presents a single procedural question: whether the absence of a legally sufficient comparator may prevent a court from reaching Title VII's ultimate statutory inquiry after Rule 56 requires consideration of the record as a whole.

The questions presented are:

1. Whether Title VII and Federal Rule of Civil Procedure 56 require a court, after determining that no legally sufficient comparator exists, to evaluate the plaintiff's remaining circumstantial evidence before concluding that no reasonable jury could infer intentional discrimination.
2. Whether this Court's decisions in *McDonnell Douglas*, *Aikens*, *Reeves*, *Tolan*, and *Ames* permit a judicially created evidentiary framework to foreclose consideration of otherwise substantial circumstantial evidence bearing on Title VII's ultimate statutory inquiry.

Opinions Below

The opinion of the United States Court of Appeals for the Fifth Circuit is reproduced in Appendix A. The order denying panel rehearing and rehearing

¹ Because Bravo's Title VII claim fails this threshold inquiry, we do not reach his other arguments.

en banc is reproduced in Appendix B. The district court's order granting summary judgment is reproduced in Appendix C.

Jurisdiction

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

Statutory Provisions

The relevant provisions of Title VII of the Civil Rights Act of 1964, 28 U.S.C. § 1254(1), and Federal Rule of Civil Procedure 56 are reproduced in the Appendix.

The significance of this petition lies not in the outcome of one employment dispute, but in the methodology federal courts employ when comparator evidence is unavailable. The Summary of the Argument explains why that recurring question warrants this Court's review to promote the uniform administration of Title VII nationwide.

SUMMARY OF THE ARGUMENT

Congress enacted Title VII to establish one nationwide prohibition against employment discrimination. This petition does not ask the Court to reconsider that statute or to abandon *McDonnell Douglas*. It presents a narrower but recurring question of federal procedure: whether a judicially created framework may be applied so that comparator availability becomes the point

at which judicial review ends before Rule 56 requires consideration of the plaintiff's remaining circumstantial evidence.

The question warrants review because it concerns the administration of Title VII nationwide rather than the outcome of a single employment dispute. Modern employment decisions increasingly arise from individualized investigations, unique disciplinary actions, and confidential decision-making processes that naturally produce no meaningful comparator. If the absence of a comparator becomes the practical gateway to judicial review, the reach of Title VII will increasingly depend upon the structure of an employer's decision rather than the totality of the evidence presented to the court.

The issue is becoming increasingly significant. Modern employment decisions frequently arise from individualized workplace investigations, confidential misconduct inquiries, and fact-specific disciplinary actions that naturally produce no meaningful comparator. As those employment practices become more common, courts will increasingly confront the procedural question presented here: whether Rule 56 requires consideration of the entire circumstantial record after comparator evidence proves unavailable.

This Court's precedents establish a consistent methodological principle. McDonnell Douglas created a flexible evidentiary framework to organize circumstantial proof. *United States Postal Service Board of Governors v. Aikens* redirected courts to the ultimate statutory inquiry. *Reeves v. Sanderson Plumbing Products* required consideration of the evidentiary record

as a whole. *Tolan v. Cotton* reaffirmed Rule 56's summary-judgment methodology. *Ames v. Ohio Department of Youth Services* *Ames*, this Court's most recent Title VII decision, again emphasized that judicially created prima facie formulations are tools for evaluating evidence rather than rigid barriers to adjudicating statutory rights. Read together, those decisions articulate a single methodological principle. Judicially created evidentiary doctrines organize the proof bearing upon Congress's statutory inquiry; they do not replace, truncate, or prevent courts from reaching that inquiry once Rule 56 requires evaluation of the record as a whole.

The decision below presents that issue in an unusually clean procedural posture. After concluding that petitioner failed to identify a legally sufficient comparator, the court of appeals expressly declined to evaluate the balance of the evidentiary record. The court therefore never reached the question whether the balance of the record could permit a reasonable jury to infer intentional discrimination. This petition asks whether that methodology is consistent with Title VII and Rule 56.

The petition also presents an issue of institutional importance. If existing circuit precedent is understood to require ending the Rule 56 analysis whenever comparator evidence is unavailable, later panels may have limited ability to revisit that methodology without further guidance, leaving Title VII plaintiffs subject to materially different evidentiary standards depending on

the circuit in which they sue notwithstanding Congress's enactment of a single nationwide prohibition against employment discrimination.

Because panel decisions and en banc reviews remain binding within their respective circuits, later panels ordinarily lack authority to reconsider the governing methodology absent intervention by this Court. The resulting procedural divergence therefore is unlikely to resolve itself through ordinary appellate adjudication. Review by this Court would therefore provide nationwide clarification concerning the relationship among Title VII, Rule 56, and the McDonnell Douglas framework while preserving the responsibility of lower courts to decide the merits under the proper legal standard.

This case is an ideal vehicle for resolving that question. Because the court of appeals expressly declined to evaluate the remainder of the record, the Court can decide the legal methodology issue without resolving disputed facts, weighing credibility, or determining whether petitioner ultimately proved discrimination.

The decision below also makes the need for review unusually clear. The panel concluded that prior Fifth Circuit decisions requiring a similarly situated comparator "still bind us," while expressly identifying contrary Eleventh Circuit authority and multiple separate opinions questioning the Fifth Circuit's methodology. App. ___. The conflict therefore appears on the face of the decision below, and an ordinary Fifth Circuit panel cannot resolve it.

If the Court concludes that Rule 56 requires consideration of the record as a whole notwithstanding the absence of a legally sufficient comparator, the appropriate disposition is to grant the petition, vacate the judgment below, and remand for application of the proper analytical methodology.

STATEMENT OF THE CASE

Introduction

This petition does not seek correction of an asserted factual error. It asks whether, after determining that comparator evidence is unavailable, a court may terminate Rule 56 analysis without evaluating the remaining circumstantial evidence bearing upon Congress's ultimate statutory inquiry. Resolution of that procedural question will govern future Title VII litigation regardless of how petitioner's individual claim is ultimately resolved.

The Decision Below

The court of appeals affirmed summary judgment after concluding that petitioner failed to identify a legally sufficient comparator. Although acknowledging this Court's warning in *Ames* against rigid application of prima facie formulations, the panel concluded: "Hence, our previous decisions that require a similarly situated comparator still bind us."² App. A. It therefore held

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

that petitioner failed at the prima facie stage and, because his claim failed that "threshold inquiry," expressly declined to reach his remaining arguments. The methodology employed below thus presents the question whether comparator availability may become the endpoint of Rule 56 review rather than one evidentiary consideration within the required evaluation of the record as a whole.

Factual Context

Petitioner alleged that respondent subjected him to adverse employment actions because of his race and national origin in violation of Title VII. In opposing summary judgment, petitioner relied upon multiple categories of circumstantial evidence that, viewed collectively, he contended would permit a reasonable jury to infer discriminatory intent and pretext. Petitioner also maintained that the challenged employment decision arose from a unique factual setting that did not produce a meaningful similarly situated comparator.

Why the Facts Matter

Those factual circumstances do not themselves present the question for review. They explain why the question recurs. Increasingly, employment decisions arise from individualized investigations, unique disciplinary proceedings, and confidential decision-making processes in which meaningful comparators may

(5th Cir. Mar. 26, 2026) (Oldham, J., concurring in the judgment).

not exist. This petition asks what analytical obligation remains once a court concludes that comparator evidence is unavailable.

Proceedings Below

The district court entered summary judgment for respondent. The court of appeals affirmed on comparator grounds and expressly declined to evaluate the remainder of the evidentiary record. Petitioner sought panel rehearing and rehearing en banc, arguing that the decision presents a recurring methodological question concerning the relationship among Title VII, Rule 56, and the McDonnell Douglas framework. Rehearing was denied.

Why This Case Is an Appropriate Vehicle

This case presents an unusually suitable vehicle because the legal question is isolated from factual disputes. The court of appeals did not alternatively hold that the balance of the record failed as a matter of law; instead, it stopped its analysis after resolving the comparator issue. Accordingly, this Court can determine whether Rule 56 permits that methodology without weighing evidence, assessing credibility, or deciding the ultimate merits. If the Court concludes that the Rule 56 inquiry should have continued, the appropriate disposition is to vacate the judgment and remand so that the lower courts may evaluate the record as a whole under the proper analytical framework.

REASONS FOR GRANTING THE PETITION

I. The Question Presented Warrants Review Because It Concerns the Uniform Administration of Title VII

Congress enacted Title VII to establish a single nationwide prohibition against employment discrimination. The question presented concerns the methodology federal courts employ when evaluating that statute, not the outcome of one employment dispute. If comparator availability may terminate judicial review before the remainder of the circumstantial record is considered, the practical operation of Title VII will increasingly depend upon the structure of an employer's decision rather than the evidentiary record before the court.

That question recurs with increasing frequency. Modern employment decisions often arise from individualized investigations, confidential disciplinary proceedings, and unique factual circumstances that naturally produce no meaningful comparator. The petition therefore presents a recurring issue concerning the administration of federal law rather than a fact-bound disagreement over the application of settled principles.

II. The Decision Below Presents an Acknowledged Intercircuit Conflict Warranting Review

The court of appeals did not merely conclude that petitioner's proposed comparator was legally insufficient. It treated the absence of a legally sufficient comparator as sufficient to end further Rule 56 analysis. After stating that its prior decisions requiring a similarly situated comparator "still bind us," the panel held that petitioner failed at that "threshold inquiry" and expressly declined to reach his remaining arguments. App. ___. The question

presented therefore concerns the sequencing and scope of summary-judgment review rather than the weight of any particular item of evidence.

The decision below also expressly acknowledged contrary authority. In a footnote accompanying its holding, the panel cited *Tynes v. Florida Department of Juvenile Justice*, 88 F.4th 939, 944–45 (11th Cir. 2023), which permits a Title VII plaintiff to survive summary judgment without comparator evidence because the *McDonnell Douglas* prima facie case is an "evidentiary tool," not "a substantive standard of liability." App. ___. That disagreement is outcome-determinative. Under *Tynes*, the absence of a comparator does not itself terminate summary-judgment review. Under the decision below, it does. The panel further identified substantial concern within the Fifth Circuit itself. See *Awe v. Harris Health System*, 163 F.4th 969, 975–76 (5th Cir. 2026) (Elrod, C.J., concurring); *Nall v. BNSF Railway Co.*, 917 F.3d 335, 349–50 (5th Cir. 2019) (Costa, J., specially concurring); *Green v. HCTec Partners, L.L.C.*, No. 24-20554, 2026 WL 839112, at *6–8 (5th Cir. Mar. 26, 2026) (Oldham, J., concurring in the judgment). Chief Judge Elrod joined a “resounding chorus” to specifically conclude that the circuit's reading of *McDonnell Douglas* is "foreign to both Title VII and Rule 56" and "puts on blinders to the various ways" a plaintiff may prove discrimination.

The conflict therefore is neither hypothetical nor dependent upon petitioner's characterization of circuit law. The decision below identified the competing methodology, acknowledged criticism from multiple members of its own court,

and nevertheless concluded that binding circuit precedent required termination of the analysis at the comparator stage. Because later Fifth Circuit panels remain bound by that precedent, clarification requires intervention by this Court.

III. This Court's Precedents Favor a Unified Methodological Approach

Read together, McDonnell Douglas, Aikens, Reeves, Tolan, and Ames articulate a common principle. Judicially created evidentiary frameworks exist to assist courts in resolving the statutory inquiry Congress enacted; they do not replace that inquiry. McDonnell Douglas provides structure. Aikens redirects attention to the ultimate question. Reeves requires consideration of the record as a whole. Tolan reinforces Rule 56's summary-judgment methodology. Ames cautions against rigid application of prima facie formulations.

The decision below presents the question whether those principles permit judicial review to end once no legally sufficient comparator exists. Clarification would provide guidance extending well beyond this case.

IV. Comparator Availability Presents a Distinct Question of Federal Procedure

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

analytical obligation remains after a court concludes that no legally sufficient comparator exists. Those questions are materially different.

As individualized employment decisions become increasingly common, comparator availability will often depend less upon the existence of discrimination than upon the structure of the employer's decision-making process. If comparator availability becomes the practical gateway to judicial review, the methodology governing Title VII cases will increasingly turn on whether an employer's actions happened to produce a meaningful comparator rather than on whether the record as a whole permits a reasonable inference of intentional discrimination.

Resolving that distinction would provide nationally applicable guidance for Title VII litigation.

V. This Case Is an Ideal Vehicle

This case presents the methodological issue in an unusually clean procedural posture. Because the court of appeals expressly declined to evaluate the remainder of the record, this Court can resolve the legal question without weighing competing evidence, assessing credibility, or determining whether petitioner ultimately proved intentional discrimination.

If the Court concludes that the comparator determination does not permit termination of the Rule 56 inquiry, the proper disposition is to grant the petition, vacate the judgment below, and remand for application of the correct analytical methodology.

Conclusion of the Reasons for Granting

The reasons for granting review converge on one institutional proposition: judicially created evidentiary frameworks should facilitate judicial review, not foreclose it. The petition asks this Court to clarify the relationship among Title VII, Rule 56, and the McDonnell Douglas framework so that the methodology governing federal employment-discrimination cases remains uniform nationwide.

CONCLUSION

Congress enacted Title VII to establish a uniform nationwide prohibition against employment discrimination. This petition presents a recurring question concerning the methodology federal courts apply under Rule 56 when no legally sufficient comparator exists.

That question extends beyond this litigation. As employment decisions increasingly arise from individualized investigations, unique disciplinary proceedings, and other factual settings in which meaningful comparators may not exist, the methodology governing Rule 56 review will determine whether federal courts evaluate the full circumstantial record or terminate their analysis once meaningful comparator evidence is unavailable. Clarification from this Court would promote the uniform administration of Title VII while preserving the responsibility of lower courts to resolve the merits of individual disputes.

This case provides an unusually suitable vehicle. The court of appeals expressly declined to evaluate the remainder of the evidentiary record after concluding that no legally sufficient comparator existed. Accordingly, the Court can resolve the legal methodology question without deciding whether petitioner ultimately proved intentional discrimination or resolving disputed factual issues. If Rule 56 requires consideration of the record as a whole notwithstanding the absence of comparator evidence, the appropriate disposition is to grant the petition, vacate the judgment below, and remand for application of the proper analytical methodology.

This petition does not ask the Court to diminish the importance of comparator evidence or to reconsider the McDonnell Douglas framework. It asks only whether judicially created evidentiary doctrines may prevent federal courts from reaching the statutory inquiry Congress required once Rule 56 calls for evaluation of the record as a whole. Because Congress enacted a single nationwide prohibition against employment discrimination, the practical availability of Title VII's protections should not materially depend upon the federal circuit in which a plaintiff files suit.

For the foregoing reasons, the petition for a writ of certiorari should be granted.