

21-1465-cv  
Johnson v. Miller

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second Circuit,  
2 held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the  
3 City of New York, on the 18<sup>th</sup> day of November, two thousand twenty-two.

4  
5 PRESENT: REENA RAGGI,  
6 RICHARD C. WESLEY,  
7 RAYMOND J. LOHIER, JR.,  
8 *Circuit Judges.*

9 -----  
10 KEISHONE JOHNSON,  
11  
12 *Plaintiff-Appellant,*

13  
14 v.

No. 21-1465-cv

15  
16 DANIEL MILLER, SANFORD RICH, RAYMOND  
17 ORLANDO, BOARD OF EDUCATION  
18 RETIREMENT SYSTEM OF THE CITY OF NEW  
19 YORK,

20  
21 *Defendants-Appellees.*  
22 -----  
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1 FOR PLAINTIFF-APPELLANT:

ANTONIA KOUSOULAS,  
Kousoulas & Associates P.C.,  
New York, NY

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5 FOR DEFENDANTS-APPELLEES:

CHLOE K. MOON, Assistant  
Corporation Counsel  
(Claibourne Henry, Jane L.  
Gordon, *on the brief*), for  
Georgia M. Pestana,  
Corporation Counsel of the  
City of New York, New York,  
NY

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14 Appeal from a judgment of the United States District Court for the Eastern  
15 District of New York (Nicholas G. Garaufis, *Judge*).

16 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,  
17 AND DECREED that the judgment of the District Court is AFFIRMED.

18 Keishone Johnson appeals from a May 13, 2021 judgment of the United  
19 States District Court for the Eastern District of New York (Garaufis, L) granting  
20 with prejudice the Defendants-Appellees' motion for summary judgment. We  
21 assume the parties' familiarity with the underlying facts and the record of prior  
22 proceedings, to which we refer only as necessary to explain our decision to  
23 affirm.

24 Johnson served as the Manager of Infrastructure and Technical Services at  
25 the Board of Education Retirement System of the City of New York from April

1 2015 until his termination on February 18, 2016. In 2018 Johnson brought this  
2 action in New York state court, claiming that the Defendants-Appellees fired him  
3 in retaliation for engaging in constitutionally protected speech in violation of the  
4 First Amendment and New York's whistleblower protection statute, N.Y. Civ.  
5 Serv. Law § 75-b. Johnson also claimed that he was the victim of race  
6 discrimination in violation of the Equal Protection Clause of the Fourteenth  
7 Amendment, 42 U.S.C. § 1981, the New York State Human Rights Law, N.Y.  
8 Exec. Law §§ 290, et seq., and the New York City Human Rights Law, N.Y.C.  
9 Admin. Code §§ 8-101, et seq. The Defendants-Appellees removed this case to  
10 federal district court and, after discovery, filed a motion for summary judgment.  
11 The District Court granted the motion on all claims. Having reviewed the  
12 District Court's decision de novo, see Ya-Chen Chen v. City Univ. of N.Y., 805  
13 F.3d 59, 69 (2d Cir. 2015), and having considered the parties' arguments on  
14 appeal as well as the particular circumstances of this case, we affirm for reasons  
15 set forth in the District Court's Memorandum and Order entered May 12, 2021.

16 The judgment of the District Court is AFFIRMED.

17 FOR THE COURT:  
18 Catherine O'Hagan Wolfe, Clerk of Court

Catherine O'Hagan Wolfe  
