

No. 26-1780

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MUZAFFER CECEN,
Plaintiff-Appellant,

v.

SOUTHWEST AIRLINES CO.,
Defendant-Appellee.

On Appeal from the United States District Court
for the District of Arizona

**BRIEF OF THE EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION AS AMICUS CURIAE IN SUPPORT OF
APPELLANT AND IN FAVOR OF REVERSAL**

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STATEMENT OF INTEREST

Congress charged the Equal Employment Opportunity Commission (“EEOC”) with administering and enforcing the prohibitions on discrimination and retaliation contained in Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.* (“Title VII”). This appeal raises important questions regarding what a plaintiff must show to establish protected opposition activity under Title VII’s anti-retaliation provision. Because EEOC has a strong interest in the proper application of the laws it enforces, EEOC offers its views. *See* Fed. R. App. P. 29(a)(2).

STATEMENT OF ISSUES¹

1. Did the district court err by concluding that a retaliation plaintiff cannot establish protected activity where he opposes harassment that is not yet severe or pervasive enough to be actionable?
2. Did the district court err by concluding that a retaliation plaintiff cannot establish protected activity where he opposes harassment that is not ultimately imputable to the employer?

¹ EEOC takes no position on any other issue in this appeal.

STATEMENT OF THE CASE

A. Statement of the Facts

Plaintiff Muzaffer Cecen—a United States citizen of Turkish nationality and a member of the Muslim faith—began working for Southwest Airlines as a ramp agent in September 2010. ER-55-56 (¶¶ 8-10, 15).² Over his thirteen years with Southwest, he maintained a perfect attendance record and earned numerous accolades. ER-56 (¶ 16).

On or about September 8, 2023, Cecen was in a Southwest break room at an airport in Tucson, Arizona, when a co-worker, Ricardo Montejano, called him a “dirty Indian” and a “terrorist” in front of other co-workers. ER-56-57 (¶¶ 17-19). The next day, Cecen made a verbal complaint to a supervisor about Montejano’s comments and shortly thereafter followed up with a written complaint. ER-57, ER-60 (¶¶ 21, 36). Southwest began an investigation into Montejano’s conduct and determined that he had violated the company’s anti-discrimination and

² Because this case was decided on a motion to dismiss, we recite the facts as stated in the Complaint. *See Rhodes v. Robinson*, 408 F.3d 559, 563 n.1 (9th Cir. 2005) (in appeal from district court’s grant of Rule 12(b)(6) motion, court must “treat each of [the plaintiff’s] factual allegations as true and construe them in a light most advantageous to him by drawing all reasonable inferences in his favor”).

harassment policy. ER-57 (¶ 22). Montejano resigned before Southwest had the opportunity to take any disciplinary action. ER-57 (¶ 23).

A few days after Cecen complained about Montejano's conduct, Southwest Human Resources personnel told Cecen they had opened an investigation into Cecen's alleged use of racial slurs against Montejano in violation of the same anti-discrimination and harassment policy. ER-57-58 (¶¶ 24-25). Southwest's "wide-ranging" investigation involved interviewing employees who had no relevant information in an "effort to obtain derogatory information about Cecen." ER-58 (¶¶ 26-27). On November 3, Southwest fired Cecen. ER-58 (¶ 28).

B. District Court's Decision

Cecen brought this action asserting, among other claims, that Southwest terminated him in retaliation for his complaints about Montejano's conduct in violation of Title VII. ER-54-65. Southwest filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), and the district court granted that motion. ER-7-15, ER-41-53.

The court concluded that Cecen failed to plausibly plead that he engaged in protected opposition activity when he complained to Southwest about Montejano's conduct. ER-12-14. The court acknowledged

that a Title VII retaliation plaintiff need not show that the conduct he opposed was actually unlawful under Title VII but instead need only show “a reasonable belief” that it was. ER-13 (internal quotation marks omitted). But the court nonetheless concluded that Cecen could not establish protected activity for two reasons. First, the court suggested that Cecen was required to show that the conduct he complained of “was sufficiently severe or pervasive to alter the conditions of [his] employment,” and determined that he did not make this showing because he opposed only the sort of “simple teasing, offhand comments, and isolated incidents” that do not “amount to discriminatory changes in the terms and conditions of employment.” ER-13 & n.6 (citation modified). Second, the court concluded that Cecen had to show that the conduct he opposed could be “imputed to the employer,” and that Montejano’s conduct could not be so imputed because Southwest did not approve of it and promptly investigated it and addressed it after Cecen’s complaints. ER-13.

ARGUMENT

Title VII’s anti-retaliation provision makes it “an unlawful employment practice for an employer to discriminate against ... [an] employee[]” because, among other things, the employee “has opposed any

practice made an unlawful employment practice” by Title VII. 42 U.S.C. § 2000e-3(a). It is well-settled under this Court’s precedent that, to establish protected opposition activity, a plaintiff need not “prove that the employment practice [he opposed] was in fact unlawful under Title VII,” but instead need only show “[he] had a reasonable belief” that it was. *Trent v. Valley Elec. Ass’n Inc.*, 41 F.3d 524, 526 (9th Cir. 1994) (internal quotation marks omitted); see also *Maner v. Dignity Health*, 9 F.4th 1114, 1127 (9th Cir. 2021) (“[O]ur precedents have long recognized that [Title VII] protects an employee who opposes employer conduct in the mistaken but reasonable belief that the conduct is unlawful.”); cf. *Clark Cnty. Sch. Dist. v. Breeden*, 532 U.S. 268, 270 (2001) (finding “no occasion to rule on the propriety” of the reasonable-belief standard).

While the district court acknowledged this standard, ER-13, it nonetheless erred by analyzing the viability of Cecen’s retaliation claim with reference to whether he established that Montejano’s conduct amounted to an actionable hostile work environment, i.e., whether the opposed conduct “was in fact unlawful.” *Trent*, 41 F.3d at 526. Specifically, the court erroneously required the opposed conduct to be (1) sufficiently severe or pervasive to be actionable and (2) imputable to Southwest in

order for Cecen to establish protected activity. Both assertions run afoul of this Court's well-established precedent.

I. A retaliation plaintiff need not establish that the opposed conduct amounted to harassment so severe or pervasive as to be actionable.

The district court suggested that whether Cecen engaged in protected activity turned on “whether Southwest’s conduct ‘was sufficiently severe or pervasive to alter the conditions of [his] employment.’” ER-13 n.6 (alteration in original) (quoting *Westendorf v. W. Coast Contractors of Nev., Inc.*, 712 F.3d 417, 421 (9th Cir. 2013)); see also ER-14 (characterizing Montejano’s conduct as a mere “isolated incident” that could not give rise to an actionable hostile work environment).

A retaliation plaintiff, however, need not establish that the conduct he opposed amounted to an actionable hostile work environment. Instead, the opposed conduct need only “fairly fall within the protection of Title VII to sustain a claim of unlawful retaliation.” *Learned v. City of Bellevue*, 860 F.2d 928, 932 (9th Cir. 1988). This is not a demanding standard. It looks to whether the opposed conduct falls within the scope of Title VII, i.e., whether it relates to a characteristic protected by Title VII. See *id.* (opposed conduct did not “fairly fall within” Title VII because it concerned

“discrimination based upon physical and mental limitations” rather than “discrimination based upon race, color, religion, sex, or national origin”); *Qin v. Vertex, Inc.*, 100 F.4th 458, 476 (3d Cir. 2024) (explaining that “complaints about discrimination prohibited by Title VII – discrimination based on race, color, religion, sex, or national origin – constitute protected activity” but “[g]eneral complaints of unfair treatment [do] not”).

When an employee complains of a hostile work environment, that opposition conduct “fairly fall[s] within the protection of Title VII,” *Learned*, 860 F.2d at 932, even if the harassment is not yet severe or pervasive. For example, in *Westendorf*, this Court reversed the grant of summary judgment on the plaintiff’s retaliation claim, explaining that although the offensive sexual remarks the plaintiff opposed did not amount to actionable sexual harassment, those remarks could still “support a reasonable belief that she was subjected to actionable sexual harassment.” 712 F.3d at 421-22 (emphasis added).³ And in *Trent*, the Ninth Circuit

³ The district court erroneously cited *Westendorf* for the proposition that the viability of Cecen’s retaliation claim turned on whether the harassment he opposed was severe or pervasive enough to alter the conditions of his employment. ER-13 n.6. The *Westendorf* passage that the district court relied

concluded that the plaintiff “had a reasonable belief that it was unlawful under Title VII for her to be subjected to a series of sexually offensive remarks” at a workplace training, without considering whether those remarks amounted to severe or pervasive conduct. 41 F.3d at 527.

Other circuits have similarly concluded that, to establish protected opposition activity, a retaliation plaintiff need not show the opposed conduct was so severe or pervasive as to be actionable. *See Magyar v. Saint Joseph Reg'l Med. Ctr.*, 544 F.3d 766, 771 (7th Cir. 2008) (“The objective reasonableness of the belief is not assessed by examining whether the conduct was persistent or severe enough to be unlawful, but merely whether it falls into the category of conduct prohibited by the statute.”); *Kengerski v. Harper*, 6 F.4th 531, 537 (3d Cir. 2021) (opposed conduct need not be severe or pervasive enough to be actionable but must be “the type of conduct that is generally protected by [Title VII], such as discrimination on the basis of race”); *Boyer-Liberto v. Fontainebleau Corp.*, 786 F.3d 264, 282-84 (4th Cir. 2015) (en banc) (opposed conduct need not already amount to an

upon discusses liability for the plaintiff’s *hostile-work-environment* claim, not her *retaliation* claim. 712 F.3d at 421.

actionable hostile work environment for plaintiff to establish protected opposition activity).

To afford protection from retaliation instead only to those plaintiffs who can pinpoint precisely when the opposed conduct crosses the line from non-actionable to actionable harassment would contravene this Court's admonition that the reasonable-belief standard should "make[] due allowance ... for the limited knowledge possessed by most Title VII plaintiffs about the factual and legal bases of their claims." *Moyo v. Gomez*, 40 F.3d 982, 985 (9th Cir. 1994). Requiring a plaintiff to parse the intricacies of severity and pervasiveness under governing case law would unfairly "saddle the reasonable employee with all of the doctrinal twists and turns that a civil rights lawyer would need to navigate." *Kengerski*, 6 F.4th at 540; see also *Pratt v. Wis. Aluminum Foundry*, -- F.4th --, 2026 WL 2123935, at *10 (7th Cir. July 23, 2026) ("Title VII does not just protect employees who can accurately divine whether a claim has merit before reporting it to a supervisor."). "'An employee is not an expert in hostile work environment law,' so such expertise should not be necessary for one to benefit from Title VII protection against retaliation." *Reznik v. inContact, Inc.*, 18 F.4th 1257,

1262-63 (10th Cir. 2021) (quoting *Boyer-Liberto*, 786 F.3d at 290 (Wilkinson, J., concurring in part and dissenting in part)).

A contrary rule – that the opposed conduct must already be actionable to give rise to protected activity – would also undercut “Title VII’s purpose to ‘encourage employees to report harassing conduct before it becomes severe or pervasive.’” *Kengerski*, 6 F.4th at 537 (quoting *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 764 (1998)); see *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 66-67 (2006) (explaining that Title VII must be interpreted “to provide broader protection for victims of retaliation than for ... [even] victims of race-based, ethnic-based, religion-based, or gender-based discrimination” because “effective enforcement could ... only be expected if employees felt free to approach officials with their grievances” (citation omitted)); *Boyer-Liberto*, 786 F.3d at 282-83 (more restrictive standard “is at odds with the hope and expectation that employees will report harassment early, before it rises to the level of a hostile environment” because it “deters harassment victims from speaking up by depriving them of their statutory entitlement to protection from retaliation”). The goal of eliminating discriminatory behavior before it becomes actionable undergirds EEOC’s longstanding position that Title VII

protects complaints about conduct that “violates the EEO laws, *or could do so if repeated*.” EEOC Enforcement Guidance on Retaliation and Related Issues, No. 915.004, 2016 WL 4688886, at *9 (Aug. 25, 2016) (“EEOC Retaliation Guidance”) (emphasis added); *see also Boyer-Liberto*, 786 F.3d at 284 n.6 (affording protection from retaliation to a plaintiff who “complains about an isolated incident of harassment that would create a hostile work environment if repeated often enough” “might well be appropriate” in certain circumstances).

Moreover, affording protection from retaliation only to employees who wait to complain until the conduct has crystallized into an actionable hostile work environment would “create a real dilemma for any knowledgeable employee.” *Boyer-Liberto*, 786 F.3d at 283 (quoting *Crawford v. Metro. Gov’t of Nashville & Davidson Cnty.*, 555 U.S. 271, 279 (2009)).

Employees who delay reporting harassment until they are certain that the harassment is actionable may find that their delay precludes employer liability, either because they cannot establish that their employers knew of the harassment and were negligent in responding to it (for a co-worker harassment claim) or because they may be deemed to have failed to avail themselves of preventive or corrective opportunities (for a supervisor

harassment claim). *See Boyer-Liberto*, 786 F.3d at 282-83. This puts the employee “in a catch-22”: she must “either complain to the employer about offensive conduct ... before it becomes severe or pervasive (taking the risk that the employer would be permitted to fire her for complaining), or wait to complain until the harassment is so severe or pervasive that she is certain she will be protected from retaliation (taking the risk of further harm, and that her failure to complain sooner will relieve the employer of liability even if a court later finds there was a hostile work environment).” EEOC Retaliation Guidance, 2016 WL 4688886, at *10; *see also Crawford*, 555 U.S. at 279 (describing similar “catch-22”).

Thus, even if the conduct Cecen opposed was not severe or pervasive enough to be actionable at the time of his complaint, this should not defeat a reasonable-belief finding. Cecen’s complaints about Montejano calling him a “terrorist” and “dirty Indian” “fairly fall within” Title VII’s protection, *Learned*, 860 F.2d at 932, because they relate to characteristics the statute protects: Cecen’s national origin and religion. Indeed, Cecen alleges that such terms “are widely recognized as slurs targeting those who are perceived as Middle Eastern and those perceived to be of the Muslim faith.” ER-57 (¶ 20). Cecen “certainly would be justified in believing that

Title VII would protect [him] from the offensive remarks [he] endured” about his national origin and religion while at his workplace. *Trent*, 41 F.3d at 527 (plaintiff subject to sexually offensive remarks while at workplace training could have reasonable belief that conduct was unlawful); see *EEOC v. Go Daddy Software, Inc.*, 581 F.3d 951, 964 (9th Cir. 2009) (plaintiff could reasonably believe that derogatory comments regarding his Muslim faith were unlawful). These comments were “serious enough that a reasonable employee in [Cecen’s] shoes could have believed his work environment was hostile.” *Kengerski*, 6 F.4th at 541.

The district court reached a contrary conclusion by misreading the Supreme Court’s decision in *Clark County School District v. Breeden*, 532 U.S. 268 (2001). The district court seemed to read *Breeden* as standing for the proposition that a “single incident” of harassment can never give rise to a reasonable belief that a Title VII violation has occurred. ER-14 (quoting *Breeden*, 532 U.S. at 271). But *Breeden* did not establish such a categorical rule. Although *Breeden* did concern a single incident of harassment – a supervisor read aloud a sexually explicit comment from a job applicant’s file and chuckled, an incident the plaintiff “conceded ... did not bother or upset her,” *Breeden*, 532 U.S. at 269, 271 (citation omitted) – the relative

triviality of the incident at issue, rather than the fact that it occurred only once, was determinative to the Court's decision. *Id.* at 270 ("[N]o one could reasonably believe that the incident recounted above violated Title VII."); *Kengerski*, 6 F.4th at 537 (explaining that *Breeden's* results derived from the fact that the relevant "workplace behavior [was] so minor and isolated that it could not 'remotely be considered extremely serious'" and was "not within some striking distance of an actual hostile work environment" (quoting *Breeden*, 532 U.S. at 271)). And even after *Breeden*, courts have been clear that a complaint about a sufficiently severe single incident of harassment can still support a Title VII retaliation claim. *See Go Daddy Software*, 581 F.3d at 963 (explaining that an opposition-clause claim arising from a single incident is still viable if "a reasonable person would believe that the isolated incident violated Title VII"); *EEOC v. Rite Way Serv., Inc.*, 819 F.3d 235, 243 (5th Cir. 2016) ("[O]pposition clause claims grounded in isolated comments are not always doomed"); *Boyer-Liberto*, 786 F.3d at 284 ("[W]hen assessing the reasonableness of an employee's belief that a hostile environment is occurring based on an isolated incident, the focus should be on the severity of the harassment.").

Here, Cecen could reasonably have believed that Montejano's comments, even if isolated, violated Title VII. Unlike the incident in *Breeden*, Montejano's comments here were derogatory invective targeted specifically at Cecen. *See Rite Way Serv., Inc.*, 819 F.3d at 243 (reversing summary judgment on retaliation claim where plaintiff complained of supervisor telling another co-worker he was admiring co-worker's rear end and distinguishing *Breeden* on grounds that conduct in *Breeden* was not "directed at a specific ... employee"). And, unlike in *Breeden*, there is no suggestion that Cecen was unbothered by the conduct. *See Breeden*, 532 U.S. at 271. Moreover, "others at [Southwest]" also "viewed [Montejano's] conduct as ... warranting an investigation and discipline." *Archuleta v. Corr. Corp. of Am.*, 735 F. App'x 238, 240 (9th Cir. 2018) (concluding that isolated incident could "reasonably be perceived as violating Title VII" where employer investigated the incident and disciplined the perpetrator, and plaintiff "clearly conveyed her discomfort with" the harassing conduct). Because "a reasonable person would believe that the isolated incident [here] violated Title VII," *Go Daddy Software*, 581 F.3d at 963, the district court erred in concluding that Cecen did not engage in protected activity as a matter of law.

II. The opposed conduct need not ultimately be imputable to the employer to give rise to protected activity.

The district court also erred by rejecting Cecen's retaliation claim on the grounds that the conduct he opposed could not be imputed to Southwest. In so reasoning, the court again confused the reasonable-belief standard with the standard for an actionable hostile-work-environment claim.

The district court relied on this Court's decisions in *Silver v. KCA, Inc.*, 586 F.2d 138 (9th Cir. 1978), and *Folkerson v. Circus Circus Enterprises, Inc.*, 107 F.3d 754 (9th Cir. 1997), for the proposition that the opposed conduct must ultimately be imputable to the employer to establish protected activity. ER-13.⁴ But these decisions are inapposite because they did not apply the reasonable-belief standard in reaching their holdings. *Silver* — issued just five days after this Court first articulated the “reasonable belief” standard in *Sias v. City Demonstration Agency*, 588 F.2d

⁴ The district court also cited *EEOC v. Crown Zellerbach Corp.*, 720 F.2d 1008 (9th Cir. 1983), *see* ER-13, but that decision did not require that opposed conduct be imputable to the employer to support a reasonable belief in the conduct's unlawfulness. It instead simply noted that the conduct at issue was distinguishable from that in *Silver* because it was committed by a manager who was an agent of the employer. 720 F.2d at 1013-14.

692 (9th Cir. 1978) — nowhere acknowledged the reasonable-belief standard and instead analyzed whether the opposed conduct (derogatory comments by a co-worker) *actually amounted* to an unlawful employment practice. *See Silver*, 586 F.2d at 141-43. Similarly, in *Folkerson*, this Court relied on *Silver* in analyzing whether the employer could actually “be held liable for sexual harassment on the part of a private individual,” rather than analyzing whether the plaintiff could have reasonably believed that the opposed conduct was unlawful. 107 F.3d at 755-56.

In contrast, decisions from this Court applying the appropriate reasonable-belief standard have not required that the opposed conduct ultimately be imputable to the employer to give rise to protected activity. For example, in *Trent*, the district court relied on *Silver* to conclude that the plaintiff failed to establish protected activity because she “complained about the practice of an outside consultant, not her employer.” 41 F.3d at 526. This Court rejected that conclusion, stating that it “need not delve into the subject” of imputability because “a plaintiff does not need to prove that the employment practice at issue was in fact unlawful under Title VII” — just “that she had a ‘reasonable belief’” that it was. *Id.* (citation omitted). Similarly, in *Christian v. Umpqua Bank*, 832 F. App’x 520 (9th Cir. 2020), this

Court rejected the district court's dismissal of the plaintiff's retaliation claims, which had rested in part on the conclusion that the opposed conduct (committed by a customer) could not be imputed to the employer. *Id.* at 521. This Court suggested that requiring actual imputability would be akin to requiring that the opposed conduct actually be unlawful, which "is not the standard for evaluating retaliation claims." *Id.* (stating that actual unlawfulness of opposed conduct is not required, "regardless of whether the underlying harassment is perpetrated by an employee or a third party, such as a customer"); *see also Westendorf*, 712 F.3d at 422 (concluding that plaintiff could reasonably have believed that opposed conduct was unlawful without analyzing whether that conduct, committed in large part by a co-worker, was imputable to the employer); *McZeal v. City of Seattle*, No. C05-1965P, 2006 WL 3254504, at *6-7 (W.D. Wash. Nov. 9, 2006) (rejecting employer's argument that *Silver* dictated dismissal of retaliation claim grounded in co-worker's comments and explaining that "since *Silver* was decided in 1978, the Ninth Circuit has clarified that a plaintiff 'must only show that she had a reasonable belief that the employment practice she protested was prohibited under Title VII'" (quoting *Trent*, 41 F.3d at 526)).

Adopting the district court's conclusion – that opposed conduct must be imputable to the employer to give rise to protected activity – would create absurd results. Harassing conduct may not be imputed to an employer that takes reasonable care to prevent and correct it promptly. *See, e.g., Nichols v. Azteca Rest. Enters., Inc.*, 256 F.3d 864, 875-77 (9th Cir. 2001). But an employee who has not yet complained generally has no “reasonable belief” one way or the other about whether the employer's hypothetical future response to that complaint will be adequate. As a result, an employee would generally be forced to risk retribution for a first complaint about any harassing conduct (before the employer has learned of the harassment and is therefore usually not liable for failing to prevent it), no matter how severe. Fearing such retribution, a rational employee might well keep such harassing behavior secret. *Crawford*, 555 U.S. at 279 (“[F]ear of retaliation is the leading reason why people stay silent instead of voicing their concerns about bias and discrimination.” (citation omitted)). If adopted more broadly, the district court's holding would thus create a profound disincentive for employees to make the first report of harassing conduct and thus undermine “the hope and expectation that employees will report harassment early.” *Boyer-Liberto*, 786 F.3d at 282.

Nor would it unfairly penalize employers to hold that a plaintiff can establish protected activity even where the employer subsequently responds promptly and effectively to the plaintiff's complaint of harassment. Such employers will typically and properly be "insulate[d] ... from liability" for the underlying *hostile-work-environment claim*. See *Fried v. Wynn Las Vegas, LLC*, 18 F.4th 643, 650 (9th Cir. 2021). But an employer that promptly responds to a harassment complaint and then fires the plaintiff for having complained in the first place – as Cecen alleges Southwest did here – should not be insulated from liability for a *retaliation claim*. If the plaintiff establishes that the employer took adverse action against him because of protected opposition activity, then the employer should correctly be held liable for retaliation. See *Davis v. Team Elec. Co.*, 520 F.3d 1080, 1093-94 (9th Cir. 2008). This is true regardless of whether the employer's separate response to the underlying harassment was adequate. See *Hemphill v. City of Wilmington*, 813 F. Supp. 2d 581, 589-92 (D. Del. 2011) (granting summary judgment as to hostile-work-environment claim because of employer's prompt and adequate response to plaintiff's complaints of harassment but denying summary judgment as to alleged retaliation following plaintiff's complaints); cf. *Sutherland v. Peterson's Oil*

Serv., Inc., 126 F.4th 728, 741-42 (1st Cir. 2025) (holding, in the ADA context, that a jury could find that the employer granted the employee's disability accommodation request but then terminated him in retaliation for using the accommodation). The district court's contrary approach has the effect of improperly insulating employers from liability for retaliation in such situations and should be rejected.

CONCLUSION

For the foregoing reasons, this Court should vacate the dismissal of Cecen's retaliation claim and remand for further proceedings.

Respectfully submitted,

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9th Cir. Case Number(s)

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I certify that this brief (*select only one*):

- ☐ complies with the word limit of Cir. R. 32-1.
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- ☐ complies with the longer length limit permitted by Cir. R. 32-2(b) because (*select only one*):
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CERTIFICATE OF SERVICE

I certify that on August 10, 2026, I electronically filed the foregoing brief in PDF format with the Clerk of Court via the Appellate Case Management System (ACMS). I certify that all counsel of record are registered ACMS users, and service will be accomplished via ACMS.

s/Chelsea C. Sharon
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