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Justices Asked To Take Up AutoZone Race Bias Case

By **Travis Bland**

Law360 (March 22, 2023, 11:31 PM EDT) -- A Michigan man wants the U.S. Supreme Court to rejuvenate his failed racial discrimination lawsuit against an AutoZone employee who called himself a "white power oppressor" and refused to provide the man with a new battery, arguing that the case was tossed despite lingering questions.

Nayonn Gray, a Black man who went to the car parts store for a new battery, asked the nation's highest court to consider that the Sixth Circuit was wrong to affirm the summary judgment by the U.S. District Court for the Eastern District of Michigan for AutoZone and its employee Nicholas Isles.

"The 6th Circuit impermissibly raised the bar to establish a race discrimination under 42 [U.S. Code Section] 1981. The Court also invaded the province of the jury in determining whether the statement 'White Power Oppressor' was discriminatory," attorney Shereef Akeel of Akeel & Valentine PLC, representing Gray, told Law360 in an email Thursday.

Gray argued in a petition that the district court's decision was premature because the employee's comments, which the Sixth Circuit said "suggest troubling stereotypes," present genuinely disputed facts.

Gray claimed that the employee's comments were linked to refusing service.

The case presents a fundamental question connecting "latent racial animus" and motivation for denying services, Gray said.

Gray's petition relies heavily on the AutoZone employee's use of the term "white supremacist oppressor," arguing that it is clear evidence of discrimination. The Sixth Circuit was wrong to write off the term as being said in sarcasm.

The Sixth Circuit's opinion "upheld the unjustified refusal to provide a service to a Black customer," Gray said.

"This frightening notion makes it legally and socially acceptable to declare oneself a 'white power oppressor' as the reason for denying a contractual service without fear of discipline, a remark intimately linked to America's dark history and white supremacy," he said.

The Sixth Circuit's opinion can't stand as precedent, Gray said, adding that the opinion was "un-American" and "contrary to the core values of the American legal and judicial system and of society as a whole."

The Supreme Court petition is the latest chapter in a legal saga that began in Lincoln Park, Michigan, in 2020.

Gray went to an AutoZone wanting to exchange his car battery for the fourth time in three months, according to court filings.

AutoZone employee Isles tested the battery, determining it could hold a charge. Isles refused to replace the battery and explained to Gray that if the battery was draining so quickly his car must have a problem or the battery was being misused, which the warranty didn't cover, testimony in the case showed.

Isles charged Gray's battery, but the two argued for hours, with Gray calling Isles racist. Gray brandished his phone to record the conversation, and Isles is purported to have pointed to his nametag and said, "Put me on Facebook, the white power oppressor, man."

He was being "deeply sarcastic," Isles later said, according to court filings.

Gray sued in the district court not long after the incident, and after summary judgment for AutoZone, he unsuccessfully appealed to the Sixth Circuit.

Both courts found that Isles gave a legitimate reason for not handing over another battery, reasoning that four batteries in three months isn't normal and that car problems or misuse weren't covered by the warranty.

AutoZone testified that it had never given anyone of any race four batteries in three months.

Despite the wins in court, Isles was fired by AutoZone for speaking with the press about the conflict, according to the petition.

Counsel for AutoZone and Isles did not immediately respond to requests for comment Wednesday.

Gray is represented by Shereef H. Akeel and Hasan Kaakarli of Akeel & Valentine PLC.

AutoZone is represented by Laurie M. Riley and Tracy E. Kern of Jones Walker LLP.

Isles is represented by Michael T. Berger and Melanie M. Hesano of Rosati Schultz Joppich & Amtsbuechler PC.

The case is *Nayonn Gray v. Autozoners LLC et al.*, case number 22-917, in the Supreme Court of the United States.

--Editing by Karin Roberts and Jay Jackson Jr.

Update: This article has been updated to include a comment from Gray's attorney.