

Argument and Authorities

2. McPeters's motion for reconsideration should be denied for multiple reasons. First, McPeters's motion, which challenges only the Court's ruling on her 42 U.S.C. § 1983 claim, adds little, if anything, to arguments this Court has already considered and rejected; accordingly, Defendants will not revisit these issues here. *See Docket No. 100 at pp. 6–11; see also Docket Nos. 72–74 (McPeters's responses to Defendants' motions to dismiss); Docket No. 94-1 (McPeters's Hearing Brief No. 2: LeCroy Shows Court Access Is A Fundamental Right); Docket No. 94-2 (McPeters's Hearing Brief No. 3: Equal Protection, Due Process[,] and Open Courts); Docket No. 95 (McPeters's Post-Submission Letter Brief).*

3. Second, McPeters includes in her brief quotations of case law holding that access to courts is a fundamental right. *See Docket No. 101, pp. 2–3.* While McPeters's quotations are technically correct, they are from dissenting opinions¹ and/or are not persuasive authority for McPeters at all. *See id.* Specifically, in *Johnson v. Atkins*, the Fifth Circuit in dismissing a case alleging that filing fees violated constitutional rights stated:

Finally, even construing Johnson's complaint liberally it is difficult to imagine how the fee schedule under consideration could amount to a constitutional violation under either an equal protection or separation of powers theory. It is difficult to see how the fees paid by Johnson were "unequal," because they were determined by a schedule applicable to all litigants. Further, it is not this court's role to say that the fees were "unequal" because Johnson thinks they were "unfair."

999 F.2d 99, 100–101 (5th Cir. 1993).

4. Third, the Memorandum and Opinion correctly points out that the reason an individual is seeking access to the courts is a necessary question, and properly distinguishes

¹ *Woodford v. Ngo*, 548 U.S. 81, 122, 126 S. Ct. 2378, 2404, 165 L. Ed. 2d 368 (2006) (Stevens, J. dissenting).

McPeters's case from others in which it was found that a fundamental right of access was implicated. *Docket No. 100*, p. 8. Here, although MCPeters claims that the fundamental right she seeks to vindicate is that of a “workplace free from discrimination,” she once again cannot cite any persuasive authority in support of her position. *Docket No. 101*, pp. 3–4. Instead, she again quotes from dissenting opinions. *See, e.g., Barrentine v. Arkansas-Best Freight Sys., Inc.*, 450 U.S. 728, 749, 101 S. Ct. 1437, 1449, 67 L. Ed. 2d 641 (1981) (Burger, C.J., dissenting). The Court correctly evaluated and dismissed MCPeters's claims under the rational basis standard, and MCPeters has not shown herself to be entitled to any other result.

5. Finally, any amendment of MCPeters's complaint would be futile and therefore should not be allowed. *See Ackerson v. Beca Dredging LLC*, 589 F.3d 196, 208–09 (5th Cir. 2009); *Duzich v. Advantage Fin. Corp.*, 395 F.3d 527, 531 (5th Cir. 2004). To the extent that MCPeters requests leave to amend her complaint in the motion for reconsideration, Defendants respectfully request this Court to deny MCPeters such relief. *See id.*

Conclusion

6. Defendants request the Court to deny MCPeters's motion for reconsideration and all relief requested therein. Defendants request any other, further, or alternative relief to which they may be legally or equitably entitled.

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Certificate Of Service

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