

## High Court Will Not Evaluate Whether Summary Judgment Orders Violate Plaintiffs' Seventh Amendment Rights

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Yesterday, the U.S. Supreme Court denied an Illinois police officer's petition for review of whether the Seventh Amendment's right to jury trial is violated when a federal court grants an employer's motion for summary judgment ( [Kidwell v. Eisenhauer, U.S., No. 12-226, cert. denied Oct. 15, 2012](#)).

Kenneth Kidwell, the petitioner and an Illinois police officer, alleged he was terminated as a result of his criticisms of the police department's management. Kidwell argued this was in violation of his First Amendment rights. Ultimately, the Seventh Circuit disagreed with Kidwell's arguments and affirmed summary judgment for the defendants.

In his petition, Kidwell attacked the lower courts' use of summary judgment to dispose of employment and civil rights cases, claiming that many employment cases involve questions of causation. According to Kidwell, causation is a question of fact which should be decided by a jury – not the court through the summary judgment practice. Kidwell argued that this resulted in a violation of his Seventh Amendment right to jury trial.

The Supreme Court's refusal to consider Kidwell's petition follows the position of most lower courts in that there is no infringement upon an individual's

Seventh Amendment rights when granting summary judgment. Nearly all of the lower courts have not been receptive to Seventh Amendment claims. And, for now, the practice of awarding summary judgment appears to be safe from the argument for the right to a jury trial in the employment context.