

No. 18-

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In the  
Supreme Court of the United States

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TU YING CHEN,

*Petitioner,*

—v—

SUFFOLK COUNTY COMMUNITY COLLEGE,

*Respondent.*

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On Petition for Writ of Certiorari to the  
United States Court of Appeals for the Second Circuit

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**PETITION FOR WRIT OF CERTIORARI**

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## **QUESTIONS PRESENTED**

1. Was there misconduct by and false evidence submitted by the Defendants?
2. Why were the facts provided by the Plaintiff not used in the court judgment?

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## **PETITION FOR WRIT OF CERTIORARI**

Tu Ying Chen petitions for a writ of certiorari to review the judgment below.



## **OPINIONS BELOW**

The opinion of the United States Court of Appeals for the Second Circuit dated May 24, 2018 is reproduced in the appendix to this petition at App.1a. The opinion of the United States District Court for the Eastern District of New York dated March 31, 2017 is reproduced in the appendix to this petition at App.7a.



## **STATEMENT OF JURISDICTION**

A copy of the judgment of the United States District Court for the Eastern District of New York dated March 31, 2017 is attached as Appendix 7a. A copy of the opinion of the United States Court of Appeals for the Second Circuit dated May 24, 2018 is attached at App.1a.

This court has jurisdiction under 28 U.S.C. § 1254(1).



## STATUTORY PROVISIONS INVOLVED

- The Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-e17 ("Title VII")—prohibit employment discrimination or retaliation against employee.
- Age Discrimination and Employment Act of 1967, 29 U.S.C. § 621-634 ("ADEA")
- 29 U.S.C. § 623(a)
  - (a) EMPLOYER PRACTICES. It shall be unlawful for an employer—
    - (1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;
    - (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or
    - (3) to reduce the wage rate of any employee in order to comply with this chapter.

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## STATEMENT OF THE CASE

### A. Events of Spring Semester 2012

1. The case was the wrongful suspension in the spring semester 2012
  - (1) The Assistant department head Jing Yi Chin assigns our teaching schedule. I was given a 6-hour teaching schedule as full time, published on the College Master class schedule spring 2012 before 1/25/2012. I requested for 13 hours as required by the Faculty Association (union) contract for spring 2012.
  - (2) Both the assistant department head Jing Yi Chin and the department head Thomas Breeden refused to allow me to use the FA bumping policy to have 13 or 12 teaching hours as I requested. They violated the FA contractual rules.
  - (3) On Monday 1/23/2012 the first day of the semester, Ellen Schuler Mauk then the president of the FA got involved, before she refused. On Monday 1/30/2012, the College master schedule had added two courses, one lab on Wednesday 8:00am and another lab on Thursday 8:00am to give me a total of 12 teaching hours for spring 2012. On 1/25/2012 after 12:00 noon, in the email of the assistant department head Jing Yi Chen she assigned to me those two additional courses.

- (4) The department head Thomas Breeden accused me of missing the Wednesday 1/25/2012 8:00am lab and Thursday 1/26/2017 8:00am lab and other false charges.
- (5) I did not miss Wednesday 1/25/2012 8:00am lab; the lab was assigned to me after 8am that day. I did not purposely miss Thursday 1/26/2017 8:00am lab. I checked my email before I left the office after my last class on Wednesday 1/25/2012 that week, which was in the morning. The College master schedule had the two added courses in my teaching schedule on 1/30/2012.
- (6) The department head Thomas Breeden insisted that I put 'sick' days for Wednesday 1/25/2012 8:00am lab which was not assigned to me then and Thursday 1/26/2017 8:00am. These were wrong. I was not sick.
- (7) I was working with the Executive Dean James Sherwood's office about the wrong in (6) above.
- (8) On Monday 3/5/2012, I went to my 8:00am class. A substitute professor told me the department head Thomas Breeden telephoned him home the Saturday night to cover my classes. A policeman from the Suffolk County and the director of the College Public Safety Baycan Fideli were at my classroom door. Mr. Baycan informed me that I was suspended, and I was not allowed to be on the College campus. They escorted me to my car.

- (9) The director of Human Resources Jeffry Tempera yelled at me for insubordination and violated the Stipulation. I did not.

#### **B. Wrongful Termination and Stipulation**

- (1) I did not receive my teaching schedule for fall 2010 in the spring 2010. I called the FA (union). The FA president then Ellen Schuler Mauk told me that I would not return for the fall 2010; the department head Thomas Breeden was adamant. I contacted immediately Mr. Steward Moore an attorney to talk to the College President Shaun McKay. He tried but the president refused to talk to him. He said he was able to speak with the College Counsel Ilene Kreitzer. I received my teaching schedule of fall 2010.
- (2) On August 18, I went to see the Executive Dean James Sherwood. I gave him two memos. One was to conduct the investigation of the probation for insubordination. A letter of my termination dated 9/7/2010 was issued by the President Shaun McKay, mailed to the wrong address. I did not neglect any duties charged. I did not fail to appear for the schedule hearings, my attorney Steward Moore represented me. *See* (1) above.
- (3) The FA made the investigation and determined all the charges in the termination were false. 'refusal to enter leave reports on line and within deadlines' used in the Summary Order 5/24/20 was the department head Thomas Breeden's fault. According to the

Human Resources director then Doriane Gloria, the department head Thomas Breeden did not sign the leave reports I submitted therefore the HR could not process my leave reports. She provided the material fact, the computer printout. The FA reversed the termination. I was coerced to sign the Stipulation. If I did not I would be terminated, according to the FA present then Ellen Schuler Mauk. In Mr. Steward Moore's letter 1/27/2011 to me, he wrote, "... The Stipulation agreement that you entered into with Suffolk County Community College ... it is very likely that the College will raise it as a bar to your pursuing future litigation ....".

### C. Wrongful Probation for Insubordination

In the spring semester of 2000, I introduced PC-controlled experiments, Logger Pro with the department head Thomas Breeden's approval. I was put on probation when the two PAs (lab assistants) Sean Tvelia and Carl Sponheimer sabotaged the Chemistry with Computers Lab. Today Logger Pro is used in three campuses at SCCC.



### REASONS FOR GRANTING THE WRIT

1. In my 50 years at Suffolk County Community College, FS and I are the two faculty members in the Chemistry department who introduced innovative projects (FS left many years ago.) I was the most qualified in the science department yet the only one denied for promotion to full professor. I was wrongfully put on probation for insubordination when I introduced an innovative project Logger Pro. I was terminated when I requested an investigation of my probation of insubordination. I was further wrongfully suspended because I rejected continuous discrimination and oppression. My department head Thomas Breeden physically assaulted me to prevent me from entering my lecture room. Both the Faculty Association and the College knew this work place violence.

2. All men are created equal. Every individual should be afforded an equal opportunity to enjoy a full and productive life.



## CONCLUSION

For all the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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