NO. 18 - 5977

IN THE

Supreme Court of the United States

SYED K. RAFI, PhD.

Petitioner

V.

YALE UNIVERSITY SCHOOL OF MEDICINE

&

Dr. RICHARD P. LIFTON

Respondents

PETITION FOR REHEARING

Pro Se Petitioner

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44.1, Syed Rafi, respectfully petitions for rehearing, and moves this Court to grant this petition for rehearing and consider this case with merits briefing and oral argument. Pursuant to Supreme Court Rule 44.1, this petition for rehearing is filed within 25 days of this Court's decision in this case, dated November 5th, 2018.

Pro Se petitioner hereby certify that this petition for rehearing is being presented in good faith and not for delay.

REASONS FOR GRANTING THE PETITION

As grounds for rehearing, petitioner presents the following intervening circumstances of a substantial or controlling effect and other grounds which arose consequent to the "denial" of Certiorari in this case:

COLLUSION AND COERCION ARE ILLEGAL

"Collusion" refers to an agreement with others to achieve some improper end. In criminal law, it is referred to as "conspiracy" – a partnership in crime.

Petitioner has alleged that respondents Yale University School of Medicine, & Dr. Richard Lifton (Petition # 18-5977) initiated and perpetuated the alleged Collusion and Conspired with the respondents Brigham and Women's Hospital, Children's Hospital Boston,

Massachusetts General Hospital, & Harvard Medical School (Petition # 18-6166) in order to not only violate his Civil Rights, but also to violate his Constitutional Rights:

(1) Under the provision of the Fourteenth and Fifth Amendments for the alleged deprivation of his citizenship rights, and

(2) Under the provision of the Fifth Amendment, for the long-standing egregious alleged deprivation of life and liberty without due process of law, and to undermine his Civil Rights.

'Collusion' Is A Crime'- ***as has been ruled just a couple of weeks ago,*** **in Robert Mueller Russia Case on Nov. 15, 2018 by Judge Dabney Friedrich of the U.S. District Court for the District of Columbia** ***(Memorandum Opinion: 18-cr-32-2 (DLF).***

https://www.yahoo.com/news/trump-appointed-judge-hands-donald-041222326.html

In the above case, Judge Friedrich has ruled that if the intent of the collusion/agreement of the thirteen individuals and three Corporate entities is to defraud a U.S government agency, such collusion is a crime. *(emphasis added).*

In the same vein, petitioner Rafi's allegation of "Collusion and the ensuing Coercion" by the two sets of respondents (*in his "Cause and Effect"-twin Certiorari petitions # 18-5977 & # 18-6166*) that intently caused ceaseless and reckless violations of petitioner's Constitutional Rights and Civil Rights, as alleged-- *should also constitute criminal*

conspiracy, since violation of the U.S. Constitutional Provisions should also be on par with defrauding any U.S. Government Agency ?

Petitioner Rafi in his initial Application (*Application No. 18 – 17A1294, dated May 18, 2018*) at this Court seeking extension of time to file both petitions for Writ of Certiorari, intended to combine as a single Cert petition to address the rulings of the First Circuit (*Appeal No. 17-1373*) and the Second Circuit ((*Appeal No.17-2754*), since they are *consequentially entwined- as two sides of the same coin".*

But this Supreme Court responded instructing petitioner Rafi that although these two cases are linked, since their rulings have emanated from two separate Circuits (*First and Second Circuits),* they should be petitioned for Certiorari separately, and only those Circuit Court decisions arising from the same Circuit could be combined for Certiorari petitioning.

Accordingly, petitioner filed two separate petitions for Certiorari (# 18-5977 & 18-6166). Consequently, these individual Certiorari petitions warrant combined review in order to collectively comprehend the "*cause and effect*"- twin allegations, which are like *"two sides of the same coin"*, and therefore, "warrant reconsideration of the Denied Certiorari petition # 18-5977, where respondents Yale University School Of Medicine, & Dr. Richard Lifton are alleged to have initiated and perpetuated the alleged "Collusion and Coercion, and Conspired"- with

the respondents Brigham and Women's Hospital, Children's Hospital Boston, Massachusetts General Hospital, & Harvard Medical School in order to violate Rafi's Citizenship-Rights under the U.S. Constitution.

Now the question arises whether the alleged continuing reckless "Collusion, Coercion, and Conspiracy "are to be construed as illegal acts or not. Therefore, the denied Certiorari petition # 18-5977 needs to be "reconsidered" along with the still pending Certiorari petition # 18-6166, in order to comprehensively evaluate the allegations in the light of Judge Friedrich's latest ruling pertaining to the Special Counsel Robert Muller's Russia case: 18-cr-32-2 (DLF).

PETITIONER RAFI'S TWO WRIT OF CERTIORARI PETITIONS ARE TO BE LOOKED AT SIMULTANEOUSLY TO GRASP *"THE CAUSE AND EFFECT"*- SIDES OF THE ALLEGED COLLUSION, COERCION, AND THE RESULTANT CONTINUOUS RETALIATORY VIOLATIONS

Secondly, in the light of two "ditto" questions having been raised in the still pending petition for Certiorari to First Circuit (# 18-6166) as well as in the Certiorari "denied" petition (#18-5977), these two petitions are to be looked at simultaneously to grasp "the cause and effect"- sides of the alleged egregious continuing conspiratorial violations as illustrated in them, and therefore, petitioner respectfully requests "reconsideration" of the denied Certiorari petition to the

Second Circuit (#18-5977), given the fact that the first two questions presented in both Certiorari petitions (#18-5977 & 18-6166) are same as follows:

1 If Government Requires or Induces A Private Party to Engage in Law Enforcement, All Relevant Constitutional Restraints Do Apply?

2. Does The Federal Government's Authority To Impose Conditions On Grant Funds, In Accordance With The Supreme Court's Decision In *South Dakota V. Dole* 483 U.S. 203, 205-08 (1987), Allow Petitioner To Sue The Federal Funds Receiving Respondents For The Alleged Egregious Violation Of Petitioner's Constitutional Rights Under The Fourteenth Amendment, Fifth Amendment, And Violation Of His Civil Rights- Under The Legislation Enacted Pursuant To The Spending Clause *(Article I, Section 8)* Of The U.S. Constitution?

THE FIRST QUESTION

If Government Requires or Induces A Private Party to Engage in Law Enforcement, All Relevant Constitutional Restraints Do Apply?

This is too important a question to be left unanswered, and it is guaranteed to recur in the absence of a definitive ruling from this Court. It should be noted that in addition to petitioner Rafi currently having brought before this Court this novel legal theory-based reading of "State Action" --doctrine twice in his twin consequential Cert petitions (# 18-5977 & # 18-6166), in the case of *John Doe v. Yale University, et al.,* Case

#3:16-cv-01380-AWT:

https://kcjohnson.files.wordpress.com/2013/08/yaleiii-complaint.pdf,

based on this same novel legal theory, plaintiff Doe also contends that while Yale is a private university, not a public institution, its biased treatment of him violated his 14th Amendment due process and equal protection rights.

Plaintiff Doe argues that through the "Dear Colleague" letter, the Education Department conscripted Yale to enforce criminal law—thereby transforming the private university into an agent of the government. That would subject the university to constitutional limitations. Thus, Doe alleges that Yale violated his 14th Amendment rights to due process and equal protection of the law.

This novel legal theory flows out of a reading of "State Action" – Doctrine developed by Professor Rubenfeld, who is *a leading scholar of constitutional law, privacy, the First Amendment, and criminal law at Yale University School of Law.*

Therefore, petitioner Rafi respectfully request that this Court "reconsider" this question that has been raised in his "denied" petition for Certiorari (#18-5977) as well as in the pending related Certiorari petition (#18-6166) in order to resolve this important and consequential question, as it raises a novel Constitutional question based on well researched and peer-reviewed publication by Professor Rubenfeld.

This crucial claim of imposing an obligation to comply with constitutional guarantees of due process and equal protection, based on government requiring or inducing private Universities (including Yale and Harvard Universities) to engage in law enforcement has NOT been answered by the lower Courts in petitioner Rafi's twin- *"cause and effect"*- litigations, and therefore, plaintiff urges this Supreme Court to consider this legally sound and extensively researched claim as it confers "State Actors" status to these two "so called" private Universities *(each receiving nearly a billion dollars in Federal and State Government funds annually!)* along with their affiliated academic medical centers (*respondents in Rafi's twin petitions for Certiorari*) for effectuating Rafi's Section 1983 claims against them.

Additionally, it is important to note that both the District Courts (of Connecticut and of Massachusetts) as well as the Second and First Circuit Courts have NOT passed ANY judgment concerning this novel claim of "State Actors"- status claim by petitioner Rafi based on this novel legal theory.

To reiterate, this Supreme Court ought to rule on petitioner Rafi's assertions that the respondents / appellees are to be considered as "State Actors" for the purpose of effectuating his Section 1983 claims in the light of this novel legal theory that is based on Professor Rubenfeld's

peer-reviewed publication which has so far accrued a total of 1,736 abstract views, and 514 downloads:

> ***"Privatization, State Action, and Title IX: Do Campus Sexual Assault Hearings Violate Due Process?"***
>
> *Available at SSRN:* https://ssrn.com/abstract=2857153 & http://dx.doi.org/10.2139/ssrn.2857153 ,

wherein the author extensively argues that *"If Government Requires or Induces A Private Party to Engage in Law Enforcement, All Relevant Constitutional Restraints Apply".*

This is exactly what the Obama administration's Department of Education did in 2011 when it instructed universities, on pain of losing federal funding, to investigate, adjudicate, and punish all allegations of sexual assault. That is, although the government also demanded that universities shrink due process protections for the accused, by deputizing them to engage in law enforcement in addressing allegations of sexual misconduct, the administration in effect imposed on them an obligation to comply with constitutional guarantees of due process and equal protection. (*emphasis added*).

"On April 4, 2011, the United States Department of Education's Office for Civil Rights (OCR) sent a nineteen-page letter to American colleges and universities. Opening with the government-standard but peculiar salutation, "Dear Colleague"—as if the sender were a fellow

academic, or, since that was not so, as if academics were fellow federal administrative agents—" (*Id.* at page 20, paragraph 3; *emphasis added*).

"What Government Can Not Itself Do Without Violating Constitutional Rights, It Cannot Induce Private Individuals to Do. Whenever the Federal Government Privatizes Its Law Enforcement Powers, Constitutional Restraints Apply in Full. They Apply, That Is, Not Only to Specifically Mandated Acts, But to The Private Parties' Discharge of These Powers in Their Entirety". (*Id. @ Page 69, Paragraph 1).*

Petitioner Rafi has alleged under 42 U.S.C. § 1983 (in both Certiorari petitions: # 18-5977 & #18-6166) violation of his Constitutional Rights under the Fourteenth and Fifth Amendments, since to *prevail in a claim under section 1983, petitioner must prove the alleged conduct* occurred either under a federal law, or under color of state law, and this conduct deprived petitioner of rights, privileges, or immunities guaranteed under federal law or the U.S. Constitution.

To reiterate, appellant in his motions at the lower courts emphasizing therein the egregious continuous violations of his Civil Rights and Constitutional Rights under the Fourteenth and Fifth Amendments, has pleaded as follows:

1. It Should Be Noted That Fourteenth Amendment to The Constitution Guaranteed Civil Rights and Freedom to Move Even to The Slaves.

2. "As A Modern-Day White-Collar Slave", Dr. Rafi *(petitioner / appellant)* Was Professionally Captured and Held Indefinitely by Dr. Morton at Brigham and Women's Hospital, HMS, Boston on behalf of Yale School of Medicine, and Dr. Lifton.

3. The Fourteenth Amendment to the Constitution indeed provided for federal government oversight to protect the Fourteenth Amendment rights of all citizens (NOT excluding naturalized citizens, such as petitioner / appellant in this case!), meaning that anyone could appeal to the Federal government to protect the Fourteenth Amendment rights.

4. Petitioner's naturalized citizenship unambiguously guarantees life, liberty to choose, and freedom to move under the Fourteenth Amendment to the Constitution, since "*all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside*";

5. "The right to self-determination is an integral element of basic human rights and fundamental freedoms". Therefore, appellant has claimed a cause of action against the appellants Under 42 U.S.C. § 1983- for the alleged egregious violation of his Constitutional Rights (as well as his Civil Rights).

WHEREFORE, Supreme Court ought to consider this pivotal game-changing assertion in this peer-reviewed legal research article by this eminent Constitutional Law expert so that petitioner Rafi could

additionally validate his claim under 42 U.S.C.§ 1983 affirming that respondents, either under a federal law, or under color of state law, deprived his rights, privileges, or immunities guaranteed under federal law and under the U.S. Constitution.

THE SECOND QUESTION

Petitioner Rafi in both of his "cause and effect"- Certiorari petitions (# 18-5977 & 18-6166) has additionally raised the following "ditto"- augmenting question:

> **Does The Federal Government's Authority To Impose Conditions On Grant Funds, In Accordance With The Supreme Court's Decision In *South Dakota V. Dole* 483 U.S. 203, 205-08 (1987), Allow Petitioner To Sue The Federal Funds Receiving Respondents For The Alleged Egregious Violation Of Petitioner's Constitutional Rights Under The Fourteenth Amendment, Fifth Amendment, And Violation Of His Civil Rights- Under The Legislation Enacted Pursuant To The Spending Clause (*Article I, Section 8*) Of The U.S. Constitution?**

Petitioner Rafi has further augmented his assertion that Yale University School of Medicine should be considered as "State Actor"- based on this Supreme Court's following decisions:

A. In ***Evans v. Newton,*** 382 U.S. 296 (1966) a Fourth Amendment equal protection case, this Court noted that: "[c]onduct that formally 'private' may become so entwined with governmental policies or so impregnated with a governmental character as to

become subject to the constitutional limitations placed upon state action." 382 U.S. at 299). (*Emphasis added*).

B. More recently, the Supreme Court found that a defendant was acting under the color of the law when there was "*entwinement*" of the state and the defendant **(*Brentwood Acad. V. Tennessee Secondary Sch. Athletic Ass'n,* 531 U.S. 288 (2001).**

Thus, this Supreme Court has clearly emphasized that merely because the defendant's actions do not qualify under one criterion does not mean that the action was not taken under Color of Law (***Brentwood Acad. V. Tennessee Secondary Sch. Athletic Ass'n,*** 531 U.S. 288 (2001):

> *"[T]he facts justify a conclusion of state action under the criteria of entwinement, a conclusion in no sense unsettled merely because other criteria of state action may not be satisfied by the same facts:* **"If One Criterion Is Satisfied, The Requirement Can Be Met".** *(Emphasis added).*

The Second Circuit's ruling (appeal # 17-2754; Certiorari "Denied"-petition # 18-5977) in this case certainly contradicts the definitive rulings and guidelines of this Supreme Court in ***Evans v. Newton,*** 382 U.S. 296 (1966) as well as in *Brentwood Acad. V. Tennessee Secondary Sch. Athletic Ass'n,* 531 U.S. 288 (2001).

Therefore, only this Court can rectify the Second Circuit's ruling to resolve the pressing constitutional limitations- question in this case.

CONCLUSION

These are precisely the type of factual issues that need to be resolved in full briefing and argument, and for this reason, rehearing is appropriate. See ***Schweiker v. Hansen,*** 450 U.S. 785, 791 (1981): *summary disposition only appropriate in cases where "law is settled and stable, the facts are not in dispute, and .....".*

WHEREFORE, *Pro Se* petitioner respectfully requests that this Court grant this petition *"for rehearing and order full briefing and argument on the merits of this case".*

Respectfully submitted.

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Petitioner
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November 29, 2018

"Where justice is denied, where poverty is enforced, where ignorance prevails, and where any one class is made to feel that society is an organized conspiracy to oppress, rob and degrade them, neither persons nor property will be safe".

Frederick Douglass