

original

No. **18-9039** **ORIGINAL**

IN THE SUPREME COURT OF THE UNITED STATES

PHAN, KENT VU, Petitioner

v.

NATIONAL JEWISH HOSPITAL; ET AL, Respondent.

On Petition For a Writ of Certiorari to the
Tenth Circuit Court of the Colorado

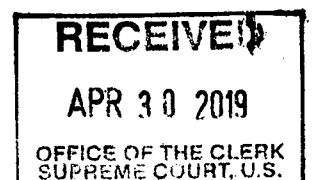
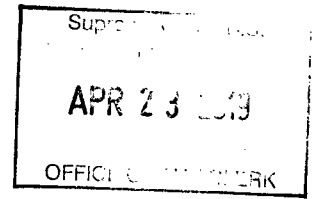
PETITION FOR WRIT OF CERTIORARI

Petitioner's name: **PHAN, KENT VU**

Address: 14896 E 2nd Avenues, Apt: H106

City, State, Zip Code: AURORA, COLORADO 80011

Phone number: (303) 875-5224



QUESTION(S) PRESENTED

1-Petitioner is disabled on both physical and mental. Suppressed on disabled petitioner instead of protected as the American with Disabilities has recommended was violated to the American with Disabilities Act?

2-Protected for American white who had unlawful actions and suppressed onto Asian victimization is racial discrimination?

3- Judges, attorneys, and doctors who are licensed by Colorado State and executed under Colorado Laws; they stood together and suppressed on Asian plaintiff/petitioner; and they have ability to make a predictable what will happened to plaintiff/petitioner by their connivance is violation of Civil Rights , 42 U.S.C. 1981, 1983, 1985, 1986?

4- By the experience and legal comprehension of judicial officer, by experience and scientific study of lawyer and medical doctor; what happened to the asthma patient must be living on this contamination, pollution environmental?

5- The analysis and evaluation by the doctors of National Jewish Hospital shown plaintiff/petitioner was involved to Chronic Obstructive Pulmonary Disease but doctors imputed to the cause by smoking related; was the violation to ethical professional and medical malpractice under federal statute such as ADA?

6- Exploited the impairment of disabled plaintiff/petitioner on the purposed protected for white Defendants are violated to the 42 U.S.C. 1981(c)?

7- By wrongful actions when executed power of judicial officer and acted under state actor is classified as acted under color of state law? And violated to the 42 U.S.C. 1981 (a)

8- In petitioner opinion, the U.S. Constitutional was constituted basic on philosophy morality; was the defendant in violation to the U.S. Constitutional rights when respondents/defendants were acted unethical.

9- Asthma and Chronic Obstructive Pulmonary Disease (COPD) is disability under the American with Disabilities Act? Why petitioner is asthma and COPD patient but must live in this unhealthy environmental since 06/2015 to present?

10- Petitioner was injured by this contamination and air-pollution; with significantly evidences. Why hearing and trial pursuant to the 7th and 14th Amendment had not been proceeding?

11- Evidence is proves for defendant/respondent's wrongful action, and basic on evidence judge can conclude that respondent/defendant is guilty or not guilty, liable or not liable. This claim has clearly, richly evidences. Why judges engulfed and not respected to the "rule of evidence"

12- Doctor did do the correction on pulmonary tests of Asian plaintiff/petitioner with purposed to protect for the White respondent; were doctor was in racial discriminated?

13- Petitioner had submitted the evident of contamination and air-pollution to doctors of the Metro Community Provider Network (MCPN); instead truly referred to National Jewish Hospital with corrected situation of contamination and air-pollution; doctor Michael Nguyen and Physician Assistant Meghann DeVito referred and addressed on “debris” at crawlspace; were doctors of MCPN violation to the ethical professional and racial discrimination when doctors created a path for defendant evade from liability? And purposed to protect for white Defendants?

14- Petitioner had been living under contamination and air-pollution since the day move in this condo on 03/20/2015 to present. Defendants with wrongful action but they’re under patronage of judges; were this a system discrimination?

15- After lawsuit filed, Red Sky Condominium HOA leaves a trashed around petitioner condo since the 2015 to present. Were this condition proved for retaliation, harassment and discrimination under category of ADA? and violated to the Civil Rights?

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page.

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Petitioner: Phan, Kent Vu

Address: 14896 E 2nd Avenues, Apt: H106
Aurora, Colorado 80011.

Respondent: National Jewish Hospital

Address: 1400 Jackson Street Denver, Colorado 80206

Respondent: Metro Community Providers Network

Dr. Michael Nguyen, MD

PA. Meghann Devito

Address: 700 Potomac Street, Suite: A
Aurora, Colorado 80011

Respondent: State Farm Insurance Company

Address: P.O. Box 52282
Phoenix, Arizona 85072-2282

Respondent: Christopher M. Robbins

Address: Law Office of Douglas McQuiston
4582 South Ulster Street Suite:206
Denver, CO 80237

Respondent: Tracy L. Zuckette

Address: White & Steele , P.C.
Dominium Tower, North Tower
600 – 17th Street, Suite: 600N
Denver, CO 80202

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APPENDIX B: Order of Dismissal by the United States District Court for the District
of Colorado

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information for make a decision.

TABLE OF AUTHORITIES CITED

CASES None

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STATUTES AND RULES

- American with Disabilities Act
- 42 U.S.C. 1981, 1983, 1985, and 1986.
- 7th Amendment, 14th Amendment.
- Civil Rights; Racial Discrimination

OTHER None

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment
below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the United States court of appeals appears at
Appendix...A...to the petition and is
report at.....; or *unknown*,
has been designated for publication but is not yet reported; or,
is unpublished.

The opinion of the United States district court appears at AppendixB..to
The petition and is
report at.....; or *unknown*,
has been designated for publication but is not yet reported; or,
is unpublished.

JURISDICTION

For the cases from **federal courts: No hearing or Trial have been made at the United States District Court for the District of Colorado.**

The date on which the United States Court of Appeals decided my case was: **01/30/2019**

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date:....*none*...., and copy of the order denying rehearing appears at Appendix....

An extension of time to file the petition for a writ of certiorari was granted to and

including.....*none*.....(date) on.....(date) in Appendix No.....

The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 7th Amendment, 14th Amendment.
- Civil Rights
- American with Disabilities Act
- 42 U.S.C. 1981, 1983, 1985, and 1986.

STATEMENT OF THE CASE

1- This was a pre-existing contamination and air-pollution at petitioner's condo apartment located at:

14896 E 2nd Avenues, Apt: H106 Aurora, Colorado 80011.

This contamination and air-pollution had been concealed by defendants when petitioner buy this condo. This condo is located within of the Red Sky Condominium Complex. Red Sky Condominium Home Owner Association (HOA), Property Owner (seller), Realtors, and Inspector in connivance to concealed this contamination and air-pollution from Selling Property Disclosure, and Inspection report and conducted to petitioner's injured and damaged.

The crawlspace access had been sealed (Exhibit: 1 crawlspace sealed), and some trenches had been dug before petitioner moved in on 03/20/2015; this condition indicated that Red Sky Condominium HOA and property owner intentionally concealed contamination. This contamination and air-pollution had been detected by petitioner on 06/10/2015; three months after petitioner signed contract and buy this condo on 03/10/2015; petitioner found the black water was stagnated underneath petitioner bedroom (Exhibit: 2 black water photos) and this contamination and air-pollution was coincided to the report by Mr. David Valykeo from American Leak Detection (Exhibit: 3 leaking report)

Condo's petitioner had insured by State Farm Insurance Company;

claim number for this damage was: 06-671T-679, but State Farm Insurance denied for this damaged and injured.

Red Sky Condominium HOA's Director and Building Manager was witness of this contamination and air-pollution, and petitioner had requested to them be remove contamination and eliminate air-pollution because petitioner is an asthma patient, but Red Sky Condominium HOA Board of Director ignored and conducted to petitioner injured and damaged (Exhibit: 4 damaged structure, Exhibit: 5 rashes, itching, eczema, asthma, Chronic Obstructive Pulmonary Disease COPD)

These are information have connected to this petition for Writ of Certiorari. Petitioner emphasized onto this Petition for Writ of Certiorari is doctors of the National Jewish Hospital corrected the pulmonary tests on the purposed to help defendants evade from their liabilities. Judges of the United States District Court of the Colorado District and the Tenth Circuit Court of Appeal dismissed complaint with other reasons without addressing on to the pulmonary tests correction by doctor with purposely protect for defendants. This was a racial discrimination because doctor corrected the tests on the purposed to protect for the white defendants rather than protect for Asian victimization by this contamination and air pollution. Doctors twist the facts and corrected the pulmonary tests weren't ruled by judges.

On the 02/09/2016 Dr. Michael Nguyen and Physician Assistant referred petitioner to the National Jewish Hospital by reason the “debris” (Exhibit: 6 Debris my MCPN) on petitioner’s crawlspace instead of “black water”; the truly condition. And this reference was facilitated to the doctors of National Jewish Hospital did do correction on petitioner’s pulmonary tests; all 6 tests were failed, but doctors corrected to normal resulting, and basic on corrected tests, defendants contemptuous on petitioner’s lawsuit.

Before moving in this condo (03/20/2015) petitioner only had mild-persistent asthma (Exhibit: 7 Kaiser test), without of Chronic Obstructive Pulmonary Disease (COPD). Petitioner had requested contamination removal and waiting for 2months before petitioner files a lawsuit on 07/30/2015.

At Court, judge and defense attorney asked petitioner that: do you have a lawyer? doctor? expert? Petitioner replied: I am disabled and currently receiving the Social Security Supplemental Income (SSI); therefore, I am unaffordable for attorney, expert, or doctor. After this time, petitioner request be removal contamination had ignored up to present (Exhibit: 8 currently crawlspace condition). HOA’s building manager had set two fans for running since 06/12/2015 to present, and these two fans blown up the odor into condo (Exhibit: 9 two fans)

Because petitioner unaffordable for lawyer; therefore, HOA continuing

violation and suppressed on complaint. Doctors in connivance to HOA; therefore, all blood tests in good result even though petitioner has rashes all body.

If contamination and air-pollution has been removed, petitioner's medical condition may better.

Because petitioner must living under contamination; therefore, many diseases had been happened; included mental anguish, and petitioner must medicate: Symbicort 160/45mg, Pro-Air 90mcg, Hydroxyzine 25mg, Certirizine 25mg, Triamcicolone Acetonide Cream 0.1%, Clobetasol Propionate Ointment USP 0.05%, Seroquel 100mg, Risperidone 3mg, Mirtazapine 30mg, Doxepine 50mg, Prazosin 3mg (Exhibit: 10 Medicines).

On the evaluation of 02/23/2016, 03/22/2016, and 04/05/2016 (Exhibit: 11 National Jewish Hospital evaluations) doctors imputed the symptom of Chronic Obstructive Pulmonary Disease was derived from smoking of petitioner and Volatile Organic Compound. The scientific study indicated that quit smoking is benefit for lung, not generate any negative impact for lung. Petitioner quit smoking on 01/2001; 16 years before living on this contamination and inhale the air pollution from crawlspace; impossibly smoking was trigger-off the chronic obstructive pulmonary disease; perpetrator must be contamination and air-pollution from black water, not at smoking; that why doctor corrected the pulmonary tests. At the U.S. District Court and Tenth Circuit Court judges ruled

that doctors had misdiagnosis; No, doctors not misdiagnosis ; doctor correctly found that petitioner involved the COPD, Strongyloids, and exacerbated asthma. Doctor corrected diagnosis; but doctor intentionally corrected the pulmonary tests with purposely protect defendants out of liabilities.

Petitioner alleged that defendants in violation to Civil Rights and racial discrimination with significantly factors: petitioner is Asian and disabled on both physical and mental is under protected class and immune from discrimination. Judges, defense attorney, doctors were in concerted and suppressed on Asian petitioner and protect for defendants who have unlawful actions that meant racial discrimination. Asthma and COPD is disability under ADA. From State Court to federal Court, case dismissed without hearing and trial; judges in violation to the 7th and 14th Amendment; this is basic of civil rights. Petitioner was satisfaction to those requirement; therefore, petitioner alleged defendants in violation to Civil Rights, ADA, 42 U.S.C. 1981, 1983, 1985, 1986 are not wrong at all. Petitioner strong believed that Judges, Defense Attorneys, Doctors, and Defendants have known that petitioner's civil rights had been deprived by them; with significantly evidences, but hearing and trial had never proceed. The conspiracy had been established, defendants can predictable if asthma and COPD patient must live in the contamination and air-pollution environmental; they're known, but no any defendant had an action to prevent the bad situation will occurring to petitioner.

Defendants have knowledge and enough abilities to do prevention. Therefore, petitioner alleged for violation to 42 U.S.C. 1981, 1983, 1985, 1986 was corrected and not wrong at all.

After lawsuit filed, Red Sky Condominium HOA retaliates, harasses, and discriminates by leave trashes around petitioner's condo since 2015 to present (Exhibit: 12)

Petitioner respectfully submitted some photos of trashes in typically proved for Red Sky Condominium HOA in violation to ADA and Civil Rights. Petitioner have about 600 photos of trashes, because the file load; therefore, petitioner respectfully submitted few typical photos only.

In petitioner opinion, the racial discrimination can be express under direct or indirect. The directly discrimination is rarely occur, but the indirectly can be occur by the way express through of power of his or her duty.

Petitioner's medical history: (Exhibit: 13 Disabilities verifying of Dr. Shane Spears and Exhibit: 14 Disabilities verifying of Dr. Misbah Zmily)

Petitioner was the prisoner of the war (Vietnam War) and bearing the Post Traumatic Stress Disorder (PTSD), Major Depressive Disorder, Recurrent, Moderate, Bipolar Disorder. Medication: Risperidone 3mg, Mirtazapine 30mg, Seroquel 100mg and Prazosin 3mg. In addition, petitioner under injured by car accident and being treat with Morphine Sulfer 15mg, Ibuprofen 800mg, Doxepin

50mg, Cyclobenzaprine 10mg; these medicines petitioner had been taking since 2013 to present, that was the cause of impairment on which conducted to petitioner lacking defensibility before the law.

For this petition for Writ of Certiorari; petitioner only focus onto the wrongful actions of:

1- Doctor Michael Nguyen and Physician Assistant Meghann DeVito at the Metro Community Providers Network (MCPN) had twisted the fact of “black water” to “debris”, and after their reference, doctor of National Jewish Hospital do correction on pulmonary tests; petitioner was difficulty breathing cause by chronic obstructive pulmonary disease, but doctor imputed for petitioner was poor effort during testing. Petitioner had requested to Dr. Michael Nguyen and PA Meghann Devito provide an accommodation to the Red Sky Condominium HOA be remove contamination and eliminate the air-pollution because this unhealthy environmental being affect to petitioner ‘s health condition, but doctors ignored.

2- Doctor of the National Jewish Hospital alleged that petitioner’s chronic obstructive pulmonary disease (COPD) was caused by smoking even though petitioner had quit smoking since 01/2001, 16 year before event. Also doctor of National Jewish hospital alleged that cause of itching and COPD was caused by Volatile Organic Compound (the substance from building material such as lead in paint, this happen on the building material on 1978 and before). Petitioner was

graduated in degree of Master of Architecture at the University of Colorado at Denver on 2013; therefore, petitioner have little knowledge about this issue, and analysis of doctors at National Jewish Hospital was incorreced.

3- Attorney Tracy Zuckette Attorney Christopher Robbins.

At the Arapahoe District Court, Judge John L. Wheeler and Defense Attorney Attorney Tracy Zuckette and Attorney Christopher Robbins asked to petitioner that: do you have doctor? expert? attorney? Petitioner replied: No. After this time, contamination and air-pollution still intact and remaining to present. This was a causation on which contributed to petitioner's rashes, itching, eczema, asthma, chronic obstructive pulmonary disease, evoked the PTSD. Moreover, asthma and chronic obstructive pulmonary disease is disabled under ADA, petitioner shall be protected and immune from racial discrimination.

4- State Farm Insurance Company.

After petitioner detected this contamination and air-pollution, petitioner contacted to State Farm Insurance Company and filed a claim number: 06-671T-679. State Farm Insurance's adjustors have come to the site and witnessed this contamination, but State Farm Insurance adjustor only secretly talking to Red Sky Condominium HOA's Building manager, and then denied this claim; this was a racial discrimination. Petitioner said to State Farm Insurance adjustor Tim (or Tom) Thompson that moisture was register under laminates and warp-up, Mr.

Thompson stare looking on petitioner and said: You must prove by yourself.

Petitioner obtained insurance for what? What was his duty on petitioner injured and damages are cover under policy insured by State Farm? This was racial discrimination. Petitioner respectfully submitted these photos (Exhibit: structure damaged) on which prove for damages but State Farm Insurance denied for compensation.

CONCLUSSION

In conclusion, racial discrimination and violation to the petitioner's civil rights were the core of this complaint. For the purposely protect for defendants; therefore, this case had never proceed for hearing and trial by the apparently evidences. State Judges, Federal Judges, Defense Attorneys, Doctors and defendant were violation to 7th and 14 Amendment.

REASONS FOR GRANTING THE PETITION

From beginning of this complaint; the hearing and trial haven't made; Federal Judges had violated to 7th Amendment, 14th Amendment, and deprived petitioner's civil rights. Petitioner pray at the United States Supreme Court for the petition for a Writ of Certiorari should be granted.

Dated: 04/22/2019

Respectfully submitted;

Signature: Phan Vu

original

No.

IN THE SUPREME COURT OF THE UNITED STATES

PHAN, KENT VU, Petitioner

v.

NATIONAL JEWISH HOSPITAL; ET AL, Respondent.

PROOF OF SERVICE

I, Phan, Kent Vu , do swear or declare that on this date, 04/22/2019, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to the a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Respondent: National Jewish Hospital

1400 Jackson Street Denver, Colorado 80206

Respondent: Metro Community Providers Network

Dr. Michael Nguyen, MD

PA. Meghann Devito

Address: 700 Potomac Street, Suite: A

Aurora, Colorado 80011

Respondent: State Farm Insurance Company

Address: P.O. Box 52282

Phoenix, Arizona 85072-2282

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Address: Law Office of Douglas McQuiston

4582 South Ulster Street Suite:206

Denver, CO 80237

Respondent: Tracy L. Zuckette

Address: White & Steele, P.C.

Dominium Tower, North Tower

600 – 17th Street, Suite: 600N

Denver, CO 80202

I declare under penalty of perjury that the foregoing is true and correct

Executed on 04/22/2019



Signature