# No. _____

**IN THE**

**SUPREME COURT OF THE UNITED STATES**

QIHUI HUANG

Petitioner,

v.

AJIT VARADARAJ PAI

Respondent

Chairman of the Federal Communication Commission (FCC).

**On Petition for Writ of Certiorari to United States Court of Appeals for the District of Columbia Circuit**

## PETITION FOR A WRIT OF CERTIORARI

Qihui Huang, M.S.
P.O. Box 34014
Bethesda, MD 20827
(240) 423-0406
qhh@hotmail.com
*Petitioner, Pro Se*

Dated: September 11, 2019

## QUESTIONS PRESENTED

Q1. Whether lower court could not comply rulings of Supreme Court on:

(a) "[Respondent's] silence implies consent, not the opposite—and courts generally behave accordingly, affirming without further discussion when they agree, not when they disagree," *Kernan v. Hinojosa, 2016, 136 S.Ct. 1603; Ylst v. Nunnemaker, 1991, 111 S.Ct. 2590;* and about 33 U.S. courts complied it. (App. I.7)?

(b) *McDonnell Douglas* burden-shifting framework; and *Price Waterhouse v. Hopkins* 109 S.Ct. 1775, (1989). And

(c) "retaliation...constitute crimes and are therefore especially risky", *Burlington Northern and Santa Fe Ry. Co. v. White,*2006,126 S.Ct. 2405.

Q2. Whether anyone or lower court could prevent, relieve, comfort, or assist in prevent Respondent's punishment, when he deprived Petitioner of life without due process of law, under Constitution 5th and 14th Amendments?

Q3. Whether anyone or lower court could alter, destroy, mutilate, or conceal both parties consented important core material facts or objects?

Q4. Whether the bodily or personal injured victim could seek compensations at civil court or justice, on

discriminations and retaliations, which caused by defendant "not acting under color of law, willfully caused many bodily injuries to Petitioner, because of the race or national origin"?

## LIST OF PARTIES

The Petitioner in this case is Qihui Huang, pro se. The Respondent in this case is Ajit Varadaraj Pai, the Chairman of Federal Communications Commission (FCC). And Pai is responsible for actions of his two managers of branch chief Martin Doczkat and division chief Walter Johnston.

## TABLE OF CONTENTS


| | Page |
|---|---|
| QUESTIONS PRESENTED | i |
| LIST OF PARTIES | i |
| TABLE OF CONTENTS | iii |
| TABLE OF AUTHORITIES | v |
| LIST OF APPENDICEVIS | vi |
| OPINIONS AND ORDERS BELOW | 1 |
| JURISDICTION | 1 |
| CONSTITUTIONS AND STATUTES INVOLVED | 2 |
| STATEMENT OF THE CASE | 2 |
| A. Specialty | 2 |
| B. Backgrounds | 2 |
| 1. Respondent willfully caused many bodily injuries and substantial risks of death to Petitioner. | 5 |
| 2. Respondent has duties to, but he did not, respond for Petitioner's sickness, which caused by his discriminations. | 6 |
| 3. Respondent discriminatorily concluded Petitioner's performance was unacceptable GS-15 and bad. | 7 |
| C. Court procedures | 10 |
| REASONS FOR GRANTING THE WRIT | 12 |
| Q1. Comply Supreme Court's rulings. | |
| (a) "behave accordingly, affirming without further discussion". | 12 |

(b) discriminations and retaliations. 16
(c) "retaliation ... constitute crimes". 17
Q2. Const. 5th and 14th Amend. protect victim's life. 18
Q3. Alter or conceal facts or objects. 19
Q4. Seek civil remedies on criminal actions. 19
5. Involve significant public concerns. 21
6. Comments – Request "EQUAL JUSTICE UNDER LAW" a phrase engraved on the front of this building. 22
CONCLUSION 23
APPENDICES 1a

LIST OF APPENDICES ("App.") page

A. Order denying petition for rehearing of D.C. Circuit, on April 16, 2019, (No. 17-5290, September Term, 2018). 1a

B. Order of D.C. Circuit, on January 30, 2019. (No. 17-5290, September Term, 2018). 2a

C. Order of D.C. District, on October 19, 2016, (case 1:16-CV-00398-JEB). 7a

D. Memo. of D.C. District, on October 19, 2016, (case 1:16-CV-00398-JEB). 8a

E. Order of D.C. District, on September 15, 2017, (case 1:16-CV-00398-JEB). 38a

F. Memo. D.C. District, on September 15, 2017, (case 1:16-CV-00398-JEB). 39a

G. Petitioner's Brief at D.C. Circuit, on June, 28, 2018. 59a

H. A list of organizations, who concern Petitioner's life and support her lawsuits. 97a

I. Constitutions and Statutes Involved 103a

## TABLE OF AUTHORITIES

**Cases** **page**

*Burlington Northern and Santa Fe Ry. Co. v. White,* 2006,126 S.Ct. 2405. 17

*Davis v. Passman,* 442 U.S. 228, 246 (1976) 22

*Erickson v. Pardus,* 551 U.S. 89, 93 (2007) 22

*Heffernan v. City of Paterson,* 136 S. Ct. 1412, 1419 (2016) 22

*Kernan v. Hinojosa,* 2016, 136 S.Ct. 1603. 3, 4, 8, 9, 11, 12, 13, 14,18,19

*Waters* v. *Churchill,* 511 U.S. 661, 674 (1994) 22

*Yick Wo v. Hopkins,* 118 U.S. 356, 374 (1886) 22

*Ylst v. Nunnemaker,* 1991, 111 S.Ct. 2590. 3, 4, 8, 9, 11, 12, 13, 14,18,19

*Ziglar v. Abbasi,* 137 S. Ct. 1843, 1874 (2017) 22

There are about 33 cases cited at page 62a to 68a.

**Statutes**

18 U. S. C § 249 Hate crime acts. 2, 4, 5, 19

18 U. S. C § 4 15, 21

28 U. S. C. §1254 (1) 1

42 U. S. C. § 2000e et seq. 1, 15

Maryland Criminal Law § 3-204 Reckless endangerment (a)(1). 4, 5, 13, 14, 19

NO FEAR ACT; 2

The Constitution Fifth Amendment 2, 3, 4,15

The Constitution First Amendment 2, 15, 18

The Constitution Seventh Amendment 15, 18

The Constitution Fourteen Amendment 2,3,4,15,18

Title VII of the Civil Rights Act of 1964, as amended 2

Petitioner, multiple mediums (one has about 195,000 subscribers), and her many supporters, (there are about 30 organizations, which estimate leading and representing more than 22,400 peoples, (see App. H) respectfully request to grant this petition.

## OPINIONS AND ORDERS BELOW

The final order of the U.S. Court of Appeals for the District of Columbia Circuit, is in App. A. (case No. 17-5290 September Term, 2018). The unpublished Order of the U.S. District Court for the District of Columba Circuit is in App. B. Petitioner's Brief is in App-G.

The first Order and Memorandum for honorable Judge James E. Boasberg (JEB) of District Court for the District of Columbia are in App. C, D. (case 1:16-CV-00398-JEB). The second Order and Memorandum of district court Judge are in App. E, F.

## JURISDICTION

The order of the U.S. Court of Appeals for the District of Columbia Circuit was entered on January 30, 2019, (No. 17-5290, September Term, 2018), See App-B. A timely petition for rehearing and rehearing en banc was denied by the U.S. Court of Appeals for the District of Columbia Circuit, which entered on April 16, 2019. See App. A.

On June 7, 2019, for application 18A1265, Case Analyst Clayton Higgins granted Petitioner extension of time to file this petition to and including September 13, 2019.

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

## CONSTITUTIONS AND STATUTES INVOLVED

The First, Fifth, Fourteenth Amendments of U.S. Constitution. 18 U.S.C § 249 Hate crime acts. All laws related to employment discriminations and retaliations, including but not limited to: Title VII of the Civil Rights Act of 1964, as amended; 42 U.S.C. § 2000e et. seq.; NO FEAR ACT; and etc. Some statutes reprinted in App. I.

## STATEMENT OF THE CASE

### A. Specialty

In general lawsuits, both parties have undisputed and contented material facts. Then, they are looking for judgments of laws on these facts. The similarity of this lawsuit is there exists some both parties undisputed and contented important core material facts. But, the difference of this lawsuit is these important core material facts and objects were been concealed or covered up in lower court's rulings. Petitioner specially seeks and requests for Judgments on these concealed or removed material facts or objects. Upon which, a reasonable jury with common senses could find or conclude Respondent violated laws. When person reads the Court's rulings, who will think the judgment is fair. When person reads these concealed, covered up or removed some important core material facts or objects, as a reasonable jury, could find Respondent violated laws and want to revere the ruling of dismissal this suit.

### Backgrounds

Basically, both parties, including Respondent's "consent and not opposite" material facts, laws, and conclusions in followings, which: (a) were being altered, destroyed, mutilated, or concealed in rulings; and (b) "courts [did not] behave accordingly", *Kernan v. Hinojosa,* 2016, 136 S.Ct. 1603; *Ylst v. Nunnemaker,* 1991, 111 S.Ct. 2590. See App. I.7.

Petitioner was a former federal government employee of the Federal Communications Commission (FCC) about 24 years. At the FCC, Petitioner was a top grade GS-15 level senior electronics engineer for about 12 years, until being constructively discharged by Respondent around January 2016. At the FCC, Petitioner received promotions, step increases, good or excellent performance evaluations, and many performance awards including cash awards. Petitioner is three times co-author of publications with Nobel Prize winners on Nobel Prize winning project. Petitioner saved many million dollars for U.S. government, (she never requested for money award), and significantly contributed the winning of 2006 Nobel Physics Prize. Petitioner is an Asian American foreign-born old disabled woman.

Respondent is current FCC Chairman. Petitioner claimed multiple counts in her original Complaint and complained his intentional discriminations and retaliations, and violating Constitution Fifth and Fourteen Amendments to deprive petitioner of life, and etc. Now, Petitioner would focus on one core issue of: at work place, Respondent violated Constitution Fifth and Fourteen Amendments to deprive, or attempted to deprive her of life without

due process of law. Respondent knew this happening of his managers acted to deprive Petitioner of life. When he formerly was an FCC Commissioner, Petitioner e-mailed him, FCC Chairman and other commissioners, and requested to protect her life. But, there was no high lever managers cared of Petitioner's life and helped her.

Respondent's "consent and not opposite" (*Kernan v. Hinojosa,* 2016, 136 S.Ct. 1603; and *Ylst v. Nunnemaker,* 1991, 111 S.Ct. 2590, App. I.7), and had no fact nor law to oppose genuine material facts and laws of his actions: -- (a) "not acting under color of law, willfully caused [many] bodily injur[ies] to [Petitioner] because of the race or national origin", 18 U.S.C. §249,(a)(1), see App. I.4; and (b) "not recklessly: engage[d] in conduct that create[d] [many] substantial risk[s] of death or serious physical injury to [Petitioner]" at work place, Maryland Criminal Law § 3-204 Reckless endangerment (a)(1), App. I.5.

Petitioner did not and cannot sue Respondent's criminal violations. Because Respondent's actions could be more precisely or properly described or summarized by words in criminal laws, wherefore, she borrowed, used, or cited these words in her complaints. Respondent insists his unlawful actions. Until now, he had no any apology and no compensation to Petitioner. Until now, Respondent did not receive any punishment on his unlawful actions.

Petitioner is an Asian American foreign-born old disabled weak woman. For unknown reasons, lower court protected law violator Respondent. Aforementioned important core material facts and

objects of Respondent violated Constitution fifth and fourteenth Amendments and more were been altered, destroyed, mutilated, or concealed in lower courts' judgments (see App. A,B,C,D,E,F,G), even both parties consented these important core material facts or objects.

**1. Respondent willfully caused many bodily injuries and substantial risks of death to Petitioner.**

Respondent (and his two managers Doczkat and Johnston) attempted to deprive Petitioner's life. Respondent "not acting under color of law,_willfully caused [many] bodily injur[ies] to Petitioner because of her race or national origin", 18 U.S.C. §249, (a)(1) App. I.4. Defendant knowingly and not "recklessly created many substantially risks of death or serious physical injuries to [Petitioner]" (Maryland Criminal Law, §3-204,(a)(1), App. I.5).

Before Respondent (with his two managers) discriminately concluded her bad performance and disqualified for GS-15 position, Petitioner was health and her blood pressure was normal even without medicine. After Respondent (and Doczkat, Johnston) discriminatorily attacked and concluded her performances were disqualified for GS-15 and bad, when they communicated with her, they always or frequently caused Respondent's blood pressures uncontrollably and promptly raised to life-threatening high level, (about 180 mmHg, the highest was 223 mmHg). Peoples, including Respondent, with common senses would know that with such high blood pressures had caused Petitioner suffered many substantial risks of death or serious physical injures to her, such as stroke, cerebral and brain

hemorrhage, cerebral rupture, brain death, heart attack, angina pectoris and many other life-threaten diseases.

During that time, her blood pressures were normal and did not rise when other persons and other supervisors communicated with her.

Petitioner, FCC on-site nurse, FCC union chairwoman, and doctors multiple times requested to move her from direct contact with appointed acting branch chief Doczkat and instead assign her to other supervisors. Respondent refused all these requests, and enjoyed very much that he created many substantial risks of death and serious bodily injures to Petitioner. Petitioner and her many supporters (App. H) hopes Constitution could respect and protect her life – the most important treasure of all she has. Petitioner could NOT take many substantial risks of death or serious physical injures to work. Petitioner believes, that no any person, including Respondent himself, would take any unnecessary high risk of death to work.

Then, Respondent (and Doczkat) concluded "fail" in Petitioner's performance evaluation, denied her within grade step increase, and other actions against Petitioner. No matter how well she performed, Respondent or they purposed and predetermined that her performance were bad, (see following facts). Based on what she suffered and experienced from Respondent, to avoid dying at workplace as Respondent wanted, and being fired as Respondent planed, Petitioner constructively discharged and left FCC around January 2016. Petitioner was substantially been forced to leave the position, which

she loved, contributed, and worked for more than 24 years of her best times in her life.

**2. Respondent must respond for Petitioner's sickness, which caused by his discriminations.**

Respondent' discriminatory conclusions of her performance were disqualified for GS-15 and bad, caused Petitioner became very sick. After that, when two managers (Doczkat and Johnston) communicated with her, it always or frequently caused Petitioner's blood pressures un-controllably and promptly raised to life-threaten high (about 180 mmHg).

Before Respondent (and Doczkat)'s bad conclusions on her, Petitioner was very healthy. Petitioner's blood pressures were normal even without medicine. Respondent's bad or malicious conclusions on her, caused her became sick. After they concluded and attacked her without fact and law, (see following oaragraph) that she disqualified for GS-15 and bad performance, when they communicated with her, Petitioner's blood pressures un-controllably and promptly raised to very high, life-threatening levels (about 180 mmHg, highest 223 mmHg).

**3. Without supporting fact and law, Respondent and newly appointed acting branch chief Doczkat discriminatorily concluded Petitioner's performance were unacceptable GS-15 level and bad.**

Petitioner was tasked to study and report wireless microphones at U.S. markets by former

branch chief Mr. Robert Weller (Weller) around April, 2014. Mr. Weller left FCC around end of July, 2014. Then, Respondent non-competitively appointed Martin Doczkat as acting branch chief. Few days after that, Respondent and Doczkat concluded and attacked that Petitioner's performances were unacceptable GS-15 and bad, on this study report. Any one, more or all following facts and laws obviously evidenced Respondent's intentional discriminations against Petitioner for his conclusions.

(a) Doczkat is an U.S. born young White man, and is about 25-30 years younger than Petitioner. Around August 2014, Doczkat was only at GS-15 position (non-competitively appointed) few months (about 4 months). Petitioner performed at GS-15 position about ten and half years. Peoples with common senses could reasonably see that Doczkat obviously had less GS-15 working experience comparing with Petitioner and all other GS-15 level employees in the same branch.

(b). Doczkat wrote to Petitioner on 9/11/2014: "As a GS-15 electronics engineer specialized in radio communications system ..., you are expected to originate novel approaches ...". "Further in your role as a GS-15, you are expected to conduct original studies on spectrum utilization involving simultaneous transmission ...". He thought Petitioner did not do what he expected. Petitioner questioned him, did he mean that he concluded that she disqualified for GS-15 and bad performance. He consented (*Kernan v. Hinojosa,* 2016, 136 S.Ct. 1603; *Ylst v. Nunnemaker,* 1991, 111 S.Ct. 2590; App. I.7)

and did not correct her if that was Petitioner's misunderstanding, while he has duty to correct her.

(c) The pretexts of Respondent (and Doczkat) used for conclusion of Petitioner's unacceptable GS-15 were NOT in the written work assignment. And former branch chief Mr. Weller did not and never tell her to do it.

(d) Pursuant to the Agreement between the FCC and the Union, and multiple regulations of U.S. government, her former supervisor Mr. Weller must fully respond the result of the report, based on Petitioner fully followed his instructions. Respondent had no any evidence of Petitioner did not. Wherefore, Respondent (and Doczkat) must first conclude Mr. Weller disqualified for GS-15 and bad performance, but he did not conclude such.

(e) Respondent (and Doczkat) must conclude all Petitioner's former more than 10 year's supervisors disqualified for their positions at GS-15 or senior executive service (SES), based on they consistently did not find Petitioner disqualified for GS-15 for more than 10 years, but Doczkat concluded it few days when he became acting branch chief, and few months being GS-15.

(f) Petitioner responded each and all Doczkat's 83 comments on the report, and asked his further response. Respondent (and Doczkat) did not provide further written response, but "consent and not the opposite" (*Kernan v. Hinojosa,* 2016, 136 S.Ct. 1603; and *Ylst v. Nunnemaker,*1991,111 S.Ct. 2590, App. I.7) all of her responses and evidenced his conclusions were totally wrong.

(g) Respondent (and Doczkat) did not attack Petitioner on technical issues in the report. Except

one sentence, he did not criticize her English in the report. Even there were technical errors, Respondent must first conclude Mr. Weller disqualified for GS-15, not Petitioner. Respondent predetermined and purposed to conclude Petitioner's bad performance, then, Respondent always could fabricate many pretexts for their predetermined purposes.

(h) Former supervisor Mr. Weller asked Petitioner to submit the final version on 7/10/2014, for he to review it before he left FCC, based on her memory. Petitioner submit the final version to him before that day. Mr. Weller had no any negative comment on the report, before he left FCC about 20 days later.

(i) Facts showed and would reasonably question this task on Petitioner was their purpose to fabricate pretexts attacking her. Based on: (1) Petitioner usually worked on projects which from the front office of Office of Technology and Engineering (OET), FCC Chairman's office, or higher; but this task was not; (2) Managers refused her requests to add more employees to work on it, because he did not want to attack other employees; (3) no any other person (except two branch chiefs) read it; and (4) When Petitioner was sick for about half year, no any other employee continually worked on it. All these facts evidenced that this task is Respondent wasted taxpayers' money, and for him fabricated pretexts attacking Petitioner.

(j) Any one, more, or all of aforementioned facts, laws, and arguments could clearly evidence Respondent erred in his discriminatory conclusions of Petitioner's bad performance and disqualified for GS-15. Until now, Respondent insists his errors, without any apologize and compensation to

Petitioner. This fact evidenced that Respondent's errors were his intentions.

### B. Court Procedures

On October 16, 2016, honorable Judge James, E. Boasberg (JEB) of U.S. District Court for District of Columbia erroneously dismissed most counts except one count. This remaining count claimed that Respondent denied Petitioner's within grade step increase (grade GS-15, from step 7 to step 8) around February 2015. Respondent argued that Petitioner failed to exhaust administrative remedies on this count. Both parties, including Respondent's "consent, not the opposite" evidenced material facts. The true material facts were: Respondent did not and never started his administrative remedies, when Petitioner contacted the Office of Workplace Diverse (OWD) and asked for an EEO counselor. But the district "court [DID NOT] behave accordingly, affirming without further discussion when they agree, not when they disagree," *Kernan v. Hinojosa,* 2016, 136 S.Ct.1603;*Ylst v. Nunnemaker,* 1991, 111 S.Ct. 2590, App. I.7. District Court Judge failed to explain how Petitioner exhausting the never existed administrative remedies. On September 15, 2017, District Court Judge unfairly dismissed this lawsuit, while no one opposed Petitioner's multiple motions. See App. E, F.

On January 30, 2019, the U.S. Court of Appeals for District of Columbia Circuit erroneously not-publish ruled and affirmed the lower court's decision, (see App. B) On April, 16, 2019, the U.S. Court of Appeals for District of Columbia Circuit erroneously or unfairly denied petitioner's petition

for rehearing en banc, (see App. A). Where, similarly, Respondent's "consent and not-opposite" *Id.* many material facts, laws, arguments, and conclusions in her multiple motions, did not get "courts behave accordingly, affirming without further discussion when they agree, not when they disagree," *Id.*

The important things are lower court altered, destroyed, mutilated, or concealed both parties "consent and not opposite" *Id.* (App. I.7) important core material facts and objects. For example, Respondent willfully caused many bodily injuries to Petitioner (see App. I.4), and knowingly caused her suffered many "substantial risks of death or physical injuries to her", Maryland Criminal Law, (see App. I.5). Based on these being concealed material facts and objects, a reasonable jury would find and conclude that Respondent violated laws and is guilty.

Also, lower court disparately and adversely treated and ruled against Petitioner, based on she is an Asian American foreign-born old (more than 67 years now) disabled woman, and is a member of statutes protected class. Petitioner and many of her supporters do not understand why federal statutes did not and could not comply on her lawsuits. All peoples hope that there could be a fair and just place, for an Asian American foreign-born old disabled woman does not suffer a real "miserable world" treatments in her life.

## REASONS FOR GRANTING THE PETITION

**Question 1(a) – Whether lower court could not comply Supreme Court's two rulings of "... silence implies consent, not the opposite—and courts generally behave accordingly, affirming**

**without further discussion when they agree, not when they disagree", *Kernan v. Hinojosa,* 2016, 136 S.Ct. 1603; *Ylst v. Nunnemaker,* 1991, 111 S.Ct. 2590; and about 33 U.S. courts complied it. App. I.7.**

There are about or more than 33 U.S. Courts cited and complied aforementioned rulings of Supreme Court, see page 62a to 68a. But Petitioner – a member of statutes protected class, was been excluded by the lower courts' rulings of her lawsuits. Respondent implied his "consent and not-opposite", *Id.* many of Petitioner's motions included its consents of material facts, laws, and conclusions. But lower court did not and never comply Supreme Court's rulings of "courts generally behave accordingly, affirming without further discussion when they agree, not when they disagree," *Id.* App. I.7. And lower court dismissed her lawsuits. See following examples of Petitioner filed motions at District of Columbia Circuit.

See Petitioner filed first group motions around end of May 2018. For all of these motions, Respondent implied his "consent and not-opposite", *Id.,* included its contents of material facts, laws, and conclusions. But lower court did not and never comply Supreme Court's rulings of "courts generally behave accordingly, affirming without further discussion when they agree, not when they disagree," *Id.* App. I.7. Lower court dismissed this lawsuit for not publish it, on April, 2019, (see App. A, B). See Petitioner filed:

"Motion for clarification of District Court's factual findings, which concealed or removed physical

evidences (MD Criminal Law, § 9-307) on Appellees discriminatory conclusions of Appellant disqualifying for GS-15 position"; around 5/22/2018.

"Motion for reversal and vacatur District Court's ruling on Appellees' discriminatory conclusions of appellant disqualifying for GS-15 position." around 5/23/2018.

"Motion for clarification of District Court's factual findings and rulings, where "concealed or removed physical evidences" (MD Criminal Law §9-307) of Appellees knowingly "created many substantial risks of death ... to appellant" at work place (MD Criminal Law §3-204). Appellees caused appellant could not work because to avoid her death, and deprived her constitutional rights", filed around 5/25/2018. And,

"Motion for reverse and vacate District Court's ruling on Appellees' discriminations and retaliations of (1) "willfully caused bodily injury to Appellant" (18 U.S.C.A §249); (2) "not recklessly created many substantial risks of death to Appellant" (MD Criminal Law §3-204); and (3) deprived her constitutional rights of life", filed around 5/29/2018.

On June 28, 2018, Petitioner filed her Brief, see App. G. On August 31, 2018, Respondent filed "Response in Opposition". Based on Petitioner's knowledge or understanding, Respondent did not opposed but consented (App. I.7) many material fact, laws, and conclusion in her brief. Wherefore, Petition wanted to request honorable court to comply laws, and she filed another group, about nine, motions on October 31, 2018. Respondent did not oppose, had no

fact nor law to oppose, and implied his consent, (App. I.7) all of following motions: [1].

"Motion (I) for the Court to affirm without further discussion the material facts, laws, and conclusions that U.S. District Court Judge erred in five "issues presented for review" at her Brief (laws in ¶II)."

"Motion (II) for the court to affirm without further discussion the material facts, laws, and findings that appellees discriminatorily 'concluded appellant disqualified for a GS-15 Position'. Oppose Appellees where they lied, misconstrued, altered, or concealed the objects or facts, 18U.S.C.A §1512 (C)(1), etc."

"Motion (III) for the Court to affirm without further discussion the material facts, laws, and findings that Appellees discriminatorily and retaliatorily attempted to 'deprive of Appellant's life without due process of law', and violated U.S. Const. Amend. 1, 5, 14, etc., (laws in ¶II). Where Appellant evidenced then Appellees consented."

"Motion (IV) for the Court to affirm without further discussion the material facts, laws, and findings that Appellees discriminatorily and retaliatorily 'whether or not acting under color of law, willfully caused bodily injury to Appellant' (18U.S.C.A,§249). Where facts and laws evidenced then Appellees consented."

---

[1] Court clerk changed some Petitioner's "Motion" to "Reply". Petitioner disagrees it. Petitioner's motions were what she respectfully requested court to do. Also, Based on her understanding, (see Local Rule 27), there is no constrain to file motions. Also, "Reply" must be filed within certain days. She guesses that deadline of fling "Reply" might be passed already.

"Motion (V) for the Court to affirm without further discussion the material facts, laws, and findings that Appellees discriminatorily and retaliatorily "denied Appellant's within grade step increase", and violated 42U.S.C.§2000e-16(c) and U.S. Const. Amend. 1. Which Appellant evidenced then Appellees consented. Oppose Appellees where they lied, misconstrued, altered, or concealed the objects or facts, 18U.S.C.A §1512(c)(1),etc."

"Motion (VI) for judges to contact an authority who can initiate criminal cases (18U.S.C.A.§4,§3, §2).";

"Motion (VII) for a trial by jury."

"Motion (IV) for Appellant to also seek damage remedies under *Bivens Actions*, based on her Constitutional Rights (Const. Amend. 1, 5, 7, 14) have been deprived and violated.". And

"Motion (IX) to stay processing on other less important claims and issues, until after Court ruled on those presented issues in Appellant's Motions."

Respondent did not oppose any or all of above motions. Respondent's "consent, and not-opposite" of material facts and laws, had no facts nor laws to support him, resulted lower "court [DID NOT] behave accordingly, affirming without further discussion when they agree, not when they disagree", *Id.* and about 33 U.S. courts complied it, (see page 69a to 74a). Lower court did not grant Petitioner's motions, but dismissed her lawsuit.

**Question 1(b) – Whether lower court could not comply Supreme Court established *McDonnell Douglas* burden-shifting framework; and**

**rulings of *Price Waterhouse v. Hopkins* 109 S.Ct. 1775, (1989).**

Respondent did not oppose but consented, *Id.* material facts and laws of: (1) Petitioner is a member of statutes protected class; (2) Respondent disparately and adversely treated her as stated in her Complaints and all counts; and (3) Respondent failed to provide a legitimate, non-discriminatory or non-retaliatory reason for his actions in paragraph (2); wherefore, (4) Petitioner has established the *prima facie* of Respondent's intentional discriminations and retaliations under Supreme Court established *McDonnell Douglas* burden-shifting framework. Then, these facts and laws were altered, destroyed, mutilated, or concealed in rulings. And, lower court unfairly dismissed this suit.

Respondent needs or must, but he failed to provide his statements, that he would have made the same decisions and actions absent the race, sex, national origin, age, disabled discriminations or retaliations. Wherefore, facts established the *prima facie* of Defendant' intentional discriminations and retaliations, under U.S. Supreme Court ruled in *Price Waterhouse v. Hopkins* 109 S.Ct. 1775, (1989). Then, these facts and laws were altered, destroyed, mutilated, or concealed in rulings. And, lower court unfairly dismissed this suit.

**Question 1(c)- Whether lower court could not comply Supreme Court's rulings of "retaliation ... constitute crimes and are therefore**

**especially risky", *Burlington Northern and Santa Fe Ry. Co. v. White,* 2006,126 S.Ct. 2405.**

"First, an employer who wishes to retaliate against an employee for engaging in protected conduct is much more likely to do so on the job. There are far more opportunities for retaliation in that setting, and many forms of retaliation off the job constitute crimes and are therefore especially risky.",_*Burlington Northern and Santa Fe Ry. Co. v. White,* 2006,126 S.Ct. 2405.

"It was a landmark case for retaliation claims. It set a precedent for claims which could be considered *retaliatory* under Title VII of the Civil Rights Act of 1964. In this case the standard for retaliation against a sexual harassment complainant was revised to include any adverse employment decision or treatment that would be likely to dissuade a 'reasonable worker' from making or supporting a charge of discrimination.", https://en.wikipedia.org.

Supreme Court stated are what happened on Petitioner, that "an employer [Respondent] who wishes to retaliate against an employee [Petitioner] ... is much more likely to do so on the job. There are far more opportunities for retaliation, and many forms of retaliation constitute crimes and are therefore especially risky." Supreme Court ruled "many forms retaliation ... constitute crimes", as Respondent acted. But, lower court dismissed Petitioner's lawsuit.

**Question 2 – Whether any one or court could prevent, relieve, comfort, or assisted in prevent Respondent's punishment, when he**

**violated Constitution 5th and 14th Amendments to deprive Petitioner of life without due process of law.**

Constitution Fifth and Fourteen Amendments' equal protection respect, care, and protect Petitioner's life. No one could unlawfully to deprive Petitioner of life without due process of law. But, Respondent did such actions. Petitioner's "consent and not-opposite", *Id.* on material facts and laws of he acted to deprive Petitioner of life, without due process of law, at work place. Respondent "consented and not-opposed" App. I.7 Petitioner's "Motion (III) for the Court to affirm without further discussion the material facts, laws, and findings that Appellees discriminatorily and retaliatorily attempted to 'deprive of Appellant's life without due process of law', and violated U.S. Const. Amend. 1, 5, 14, etc., (laws in ¶II). Where Appellant evidenced then Appellees consented." This motion submitted to D.C. Circuit on 10/31/2018.

Respondent applied his "consent, and not-opposite" *Id.* for all of Petitioner aforementioned about 13 motions, which submitted in D.C. Circuit. Lower court persistently did not comply Supreme Court's rulings (App. I.7), but dismissed this lawsuit, (App. A, B).

**Question 3 – Whether any one or court could alter, destroy, mutilate, or conceal both parties consented important core material facts or objects in court proceedings?**

Aforementioned facts and laws showed lower courts altered, destroyed, mutilated, or concealed both parties consented important core material facts and objects. For example, Respondent implied his

"consent and not-opposite" (*Kernan v. Hinojosa,* 2016, 136 S.Ct. 1603; and *Ylst v. Nunnemaker,* 1991, 111 S.Ct. 2590, App. I.7) genuine material facts and laws of, at work place, he: (a) violated 5th and 14th Amendments of Constitution; (b) "not acting under color of law, willfully caused [many] bodily injur[ies] to [Petitioner] because of the race or national origin", (18 U.S.C. § 249(a)(1), App. I.4); and (c) "not recklessly: engage[d] in conduct that create[d] [many] substantial risk[s] of death or serious physical injury to [Petitioner]" (Maryland Criminal Law §3-204, App. I.5). Defendant has no fact, no evidence, and no law to oppose it. Lower court judge admitted these both parties consented important core material facts or objects; but these facts and laws were been altered, destroyed, mutilated, or concealed in rulings. See App. A, B, C, D, E, F. Then, lower court dismissed this lawsuit.

**Question 4 – Whether the bodily or personal injured victim could seek compensations at civil court or justice, on discriminations and retaliations, which caused by defendant "not acting under color of law, willfully caused many bodily injuries to Petitioner, because of the race or national origin"?**

For the general practices, a victim suffered bodily or personal injury could legally seek civil justice of defendant's criminal actions. See: (a) "Civil Justice for Victims of Crime", where, stated "any crime victim may be able to file a civil lawsuit against a perpetrator or other responsible party", https://victimsofcrime.org; (b) "An assault can give rise to both criminal charges and a personal injury civil

lawsuit.", www.alllaw.com; (c) "Civil Justice for Victims of Crime", http://co.marion.or.us.

See the famous O.J. Simpson case: "In 1994, Simpson was arrested and charged with the murders of his ex-wife, and her boyfriend. He was acquitted by a jury. In 1997 a civil court awarded $33.5 million judgment against him for the victims' wrongful deaths.", https://en.wikipedia.org. Underlying the identical material facts, Simpson could be sued by civil court (where he lost); and criminal court (were he did not lose). This fact evidenced that for Respondent's actions, the victim Petitioner could file civil complaints at civil court, while using the words or terminologies in criminal laws.

Petitioner called and contacted multiple law firms, and was clearly and 100% firmly told that a bodily or personal injury victim could file civil lawsuits for defendant's criminal actions. But they failed to provide a statute of it. Wherefore, to accept this petition is very important, which will resolve the conflict issues in laws and procedures.

Petitioner continually stated in court that she did not sue Respondent's criminal actions, but used those words in criminal laws, demonstrated his intentional discriminations and retaliations.

Lower courts ruled that Respondent's criminal actions must be sued in criminal court.

Additional question: when peoples "having knowledge of the actual commission of a felony [of Respondent] cognizable by a court of the United States, ..... make known the same to some judge", (see 18 U.S.C. §4). Does the judge has the duty not to

conceal these criminal actions, but further process it?

**5. Multiple mediums, and thousands and thousands peoples, concern petitioner's life and support her lawsuits.**

Petitioner shouts loudly not only for herself, but also for other similarly suffered minorities. Petitioner has many many supporters. There are multiple mediums, about 30 organizations, (which estimate leading and representing more than 22,400 peoples), all concern and support her lawsuits against Respondent. See App. H. Multiple mediums published her stories for the public to know what happening. The "Alliance Cultural Media, Inc., (ACM)" published it at YouTube, where for ACM only, it has about 195,000 subscribers. DCTV, Fairfax Public Access TV station, Greenbelt Access Television and/or more TV stations published it. These and more TV stations, newspapers, websites, WeChat (Chinese Americans spread news) and more, would publish more stories for it. Because it has important issues, which are concerned by the peoples. All of them support and concern Petitioner, and sincerely hope Honorable Judges to accept the petition, resolve questions and disputes, and order fair judgments on it.

**6. Comments, "EQUAL JUSTICE UNDER LAW" – a phrase engraved on the front of this building.**

This instant case, indeed, is exceptional importance. It is illogical, irrational and inconsistent to have dismissed the discrimination, retaliation, and equal protection claims against Respondent, while important material facts, laws, or objects were

being altered or concealed. Dismissing this suit is obviously contrary to "EQUAL JUSTICE UNDER LAW" -- a phrase engraved on the front of this building. "[T]he denial of equal justice is still within the prohibition of the constitution." *Yick Wo v. Hopkins*, 118 U.S. 356, 374 (1886).

Lower court dismissed this lawsuit contradicts that "....when ruling on a defendant's motion to dismiss, a judge must accept as true all of the factual allegatio Lower court dismissed this lawsuit contradicts that ns contained in the complaint." *Erickson v. Pardus,* 551 U.S. 89, 93 (2007) (citations omitted).

Lower court dismissed this lawsuit contradicts that "where there is a legal right, there is also a legal remedy..." *Ziglar v. Abbasi,* 137 S. Ct. 1843, 1874 (2017) (citation omitted) (Breyer, J., dissenting). Dismissing this suit was also contrary to: "'No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it." *Davis v. Passman,* 442 U.S. 228, 246 (1976) (citations omitted). It seems that the Supreme Court has not settled an employment case related to Petitioner suffered from Respondent, see above Questions and statements.

The Supreme Court, furthermore, repeatedly reminded that government employees' speech is often most valuable when it concerns a subject they know best: their jobs. See, *Waters* v. *Churchill*, 511 U.S. 661, 674 (1994) (plurality opinion)

("Government employees are often in the best position to know what ails the agencies for which they work;..."). "The discharge of one tells the others that they engage in protected activity at their peril." *Heffernan v. City of Paterson*, 136 S. Ct. 1412, 1419 (2016) (citation omitted).

If permitted the outcome to stand uncorrected, it would likely introduce confusion into the body of the law in nationwide. The principles involved, also, are important to others and likely to arise frequently.

Petitioner plans to have a lawyer representing her, when her petition is granted.

## CONCLUSION

### The Petition for a Writ of Certiorari Should Be Granted

Respectfully submitted
Qihui Huang, M.S. _____
P.O. Box 34014
Bethesda, Maryland 20827
(240) 423-0406
qhh@hotmail.com.com
*Dated on: September 11, 2019* *Petitioner, Pro Se*