19-7135

No. _____

ORIGINAL

In the Supreme Court of the United States

HYE-YOUNG PARK, a/k/a LISA PARK—PETITIONER

vs.

CHARLES SECOLSKY, *ET AL.*—RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT (CASE NOS. 18-3017 & 18-3225)

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I, Hye-Young Park, *pro se*, refer to myself as "Park" hereinafter.

As former Judge Richard Posner problematizes the United States Court of Appeals for the Seventh Circuit's treatment of pro se litigants, claiming "[t]he underlying problem [of the Seventh Circuit] is the downright indifference of most judges to the needs of pro se's [,]"[1] Park's petition draws national attention to the Seventh Circuit's unjust responses to her appeal as a pro se, concerning sexual violence and retaliation on campus.

Park poses five questions regarding whether the decisions of the Seventh Circuit in her appeals were correct as a matter of facts and law.[2] Through them, Park's petition questions whether being a pro se litigant played a part in the Seventh Circuit's wrongful decisions, and represents other pro se litigants who have received, and will continue to receive unjust outcomes but for the help of the Supreme Court.

This case concerns almost 9 years of Park's agony and suffering.

Question 1: Whether the Seventh Circuit's three orders (rejecting, denying, and not responding to Park's petition and motions) relevant to "Petition for Rehearing" are correct in the following circumstances:

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[1] See Richard A. Posner, Reforming the Federal Judiciary: My Former Court Needs to Overhaul Its Staff Attorney Program and Begin Televising Its Oral Arguments (2017). At 31. In this book, Posner compares the procedures and performance of all thirteen circuits. Posner published the book right after he suddenly resigned after thirty-six years on the Seventh Circuit mainly due to his disagreement over other judges' treatment of pro se litigants.

[2] The Seventh Circuit ruled on important federal questions based on erroneous factual findings.

After noticing that Order #74, 18-3017 is founded on many erroneous factual findings, Park filed her "Petition for Panel Rehearing," which met the 3,900 word limit (Petition #76, 18-3225). The Seventh Circuit, however, rejected her petition due to an issue with the word count (Order #84, 18-3017).

Park then filed her "Motion to Vacate the Order: This Court has overlooked or misapprehended the situation in which Park certified 3,900 words" (Motion #79, 18-3225). The Seventh Circuit swiftly denied the motion without any explanation (Order #86, 18-3017).

Park subsequently filed her "Motion for Clarification of where Park has been wrong and Reconsideration for Order #86, 18-3017" (Motion #83, 18-3225). The Seventh Circuit returned the motion to Park without court action. (Order #84-1, 18-3225).

Question 2: Whether the Seventh Circuit denying Park's appeal of her Count X-Assault claim is correct in the following circumstances:

Robert Stake admitted that he had assaulted Park by attempting to kiss her before he forcefully kissed her in 2013; his assaults in 2011 and 2012 led to Count X-Assault claim. However, Count X was suddenly dismissed during the trial when the District Court applied Illinois' two-year statute of limitations.

Park appealed the dismissal, addressed how Stake's assaults tie into his forceful kiss in her opening brief; and argued in her reply brief that the two-year limitation does not apply. The Seventh Circuit did not allow Park to address her Count X claim in her reply brief by considering it as a new issue/argument. Park filed her motion to allow her Count X claim in her appeal; but it was denied.

Question 3: Whether the Seventh Circuit's dismissal of critical issues is correct in the following circumstances:

Order #74, 18-3017 does not address any of the issues that Park raised in her appeal including all the issues against Charles Secolsky, against Stake where the District Court's rulings in favor of Stake were founded on his lies; and against whether the District Court's denial of Park's post-trial motions (of correcting misstatements and supplementing omitted evidence) is correct under FRAP Rule 10(e). Instead, Order #74 only states that Park's remaining arguments have no merit.

Question 4: Whether the Seventh Circuit taking no action to Park's motion for amendment of Order #74, 18-3017 and issuing a mandate of its final judgment is correct in the following circumstances:

Park timely filed her "Motion for Amendment of the Misstatements or the Statements that are Misleading in Order #74, 18-3017 [,]" requesting that the Seventh Circuit and Defendants provide counterevidence against Park's arguments (Motion #82, 18-3225). The Seventh Circuit ordered that "the clerk's office shall return these documents to Hye-Young Park without court action. All proceedings in this appeal are concluded" (see Order #84-1, 18-3225), and issued a mandate of its final judgment.

Question 5: Whether the Seventh Circuit's denial of Park's appeal regarding "District Court's Dismissal Order" of Park's § 1981 and § 1983 claims against University Defendants is correct; whether the order conflicts with the decisions of another appellate court.

LIST OF PARTIES

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

The petitioner is Hye-Young Park, a/k/a Lisa Park.

Respondents are Charles Secolsky, Robert Stake, Michal T. Hudson, Heidi Johnson, and the Board of Trustees of the University of Illinois.

RELATED CASES

Park v. Secolsky and Hudson, et.al., No. 15-cv-2136, U. S. District Court for the Central District of Illinois Urbana Division. *Amended Judgment* entered October 29, 2018.

Park v. Secolsky and Hudson, et.al., Nos. 18-3017 & 18-3225, U. S. Court of Appeals for the Seventh Circuit. Judgment entered September 19, 2019.

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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

Cases from federal courts: The final order of the United States Court of Appeals appear at Appendix A to the petition and is unpublished. The orders of the United States District Court appear at Appendix B and is unpublished.

JURISDICTION

Cases from federal courts: The date on which the United States Court of Appeals decided Park's case was September 19, 2019. A timely petition for rehearing was rejected by the United States Court of Appeals on the following date: October 8, 2019, and a copy of the orders rejecting rehearing appears at Appendix D. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Q1- The Fifth and Fourteenth Amendments to the US Constitution; The Seventh Circuit Handbook

Q2- 735 ILCS 5/13-202 including 735 ILCS 5/13-202.3

Q3-Black's Law Dictionary 970 (10th ed. 2014);
Circuit Rule 10(b), FRAP Rule 10(e),& FRAP10(a)(1)

Q4- FRCP 52(b).

Q5-- § 42 U.S.C. § 2000d-7(a)(1), 42 U.S.C. § 1981; & 42 U.S.C. § 1983; The Eleventh Amendment Immunity

See the body of the petition and Appendix E herein for the text of the provisions.

STATEMENT OF THE CASE

Hye-Young Park's case concerns intuitional responses to sexual violence and retaliation at (1) the University of Illinois at Urbana-Champaign; (2) the United States District Court, Central District of Illinois, Urbana Division; & (3) the United States Court of Appeals for the Seventh Circuit.

Background. Relevant to Case 15-2136, Park was a researcher at the University of Illinois at Urbana-Champaign ("the University" or "UIUC"). She came to the US in 2000 with her five-year old son to pursue her dreams of being an international scholar. She built her life working persistently with the hope of achieving her academic career goals. After conducting her five-year long dissertation project, she finally earned her Ph.D. in August 2013. Post-graduation, she decided to extend her research at UIUC through a Post-Completion OPT,[3] which would allow her one year to work on her publications.

However, she became the victim of sexual harassment and subsequent retaliation from two senior scholars, Robert Stake, and his research and teaching assistant, Charles Secolsky, at UIUC. Due to the ensuing trauma, she began to see a doctor in March 2014, followed by a psychiatrist. She sought for help from the Office of Diversity, Equity, and Access ("ODEA") at the University, only to be rejected. Further, the ODEA retaliated against her by claiming she had no status/affiliation with the University.

The combined stress of these events led to serious health complications; in August 2014, Park had difficulty breathing from PTSD-induced panic attacks; she rushed to a

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[3] The U.S. Citizenship and Immigration Services (USCIS) defines that during her Post Completion OPT (Oct. 2013– Nov. 2014 including two-month grace period), Park was a researcher at the University of Illinois at Urbana-Champaign with student visa (F1). Visit https://www.uscis.gov/opt for Post-completion OPT.

hospital and was sent to the emergency room. During that time, the University continued to operate as if nothing happened with Secolsky continuing to teach Stake's class as an instructor and engage in activities at the University. This led Park to file a lawsuit.

This case concerns Stake and Secolsky's misconduct towards Park by exploiting their authority from 2011 to 2014 and getting away with it.

Secolsky's sexual harassment started in January 2014, soon after he and Park met through Stake. Despite Park's repeated rejections, he continued to make sexual advances. This grew over time to the point where she desperately needed help. In June 2014, after months of enduring his sexual harassment to avoid conflict and retaliation, Park found the courage to notify Stake and the ODEA, only to be ignored.

Secolsky's sexual harassment continued after Park's notice and providing the ODEA with evidence numerous times.[4] Among others, Secolsky admitted to standing outside Park's apartment window and calling her name, repeatedly calling her, including numerous calls on July 9; 14 calls on July 25, leaving 10 voice massages coercing Park to come over to his place; and 9 calls on August 2. Secolsky states:

> "I went to her apartment[.] I did phone Park from my car and when she did not answer and I noticed her car parked in front of her apartment building, I decided to ring her buzzer, called her name (Lisa) from the street, and knocked on the front door of her building." (#302, p.6, 15-2136).

Secolsky further admitted that he told Park "he wants children, and asked Park if she can still have children" (#132, p.20, 15-2136). This happened multiple times. He also asked

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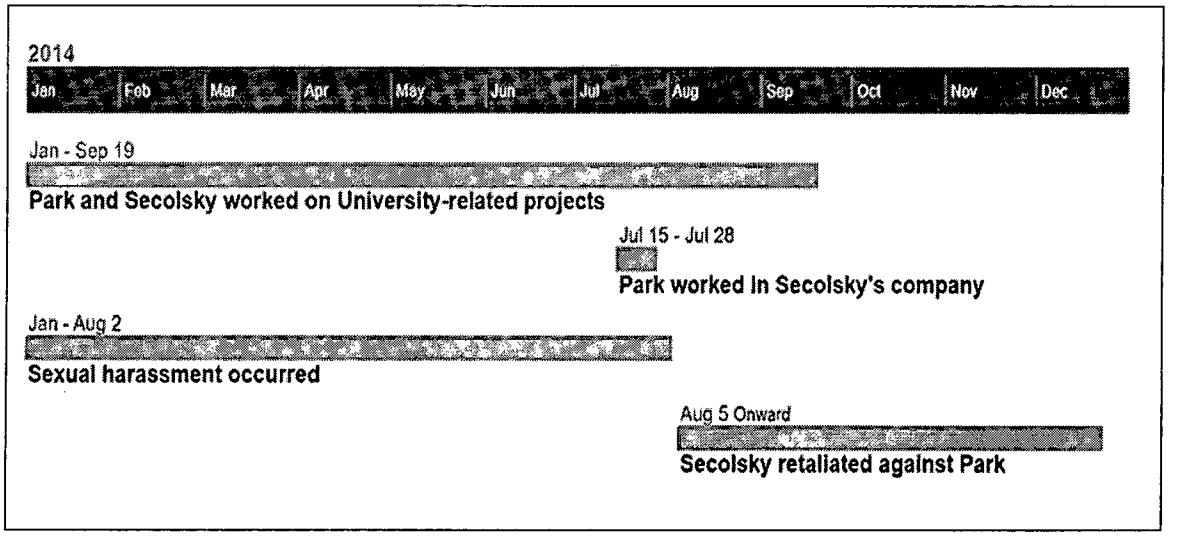
[4] See #293, pp.3-18 & #308-1, pp.8-17, 15-2136 for evidence of Secolsky's continuous sexual harassment after Park notified Stake and the ODEA. See also Secolsky's deposition, #128, p. 128, 15-2136 for evidence of unwanted calls on July 25 & August 2, 2014 and *id.*, pp. 105-106 for further evidence of unwanted calls and messages on July 9 & July 20, 2014.

Park to marry him several times; and, upon questioning, he confessed he had been upset because Park rejected him. Nevertheless, the District Court ruled, "No more sexual harassment occurred (...) after June 21, 2014" (# 162, p.50, 15-2136).

The District Court also ruled,

> "in any case, Plaintiff has presented **no evidence** that this alleged harassment was done in the context of Secolsky's and Plaintiff's respective relationships with the University, as opposed to Plaintiff's private employment with Secolsky's company" (# 162, p.48, 15-2136) & "Plaintiff has offered **no proof** that any harassing behavior from Secolsky took place in the context of the University after June 21, 2014" (*id.*, p.50, 15-2136, emphasis added).

However, Park provided evidence numerous times verifying that sexual harassment and retaliation occurred concurrent to Park's university-related work with him from January 2014-September 2014. See #309-1, pp. 1-8, 15-2136.[5] She also showed that, during the two weeks she worked for Secolsky's company from July 15 – July 28, 2014, they continued to work on university-related projects.[6]



[5] See also #82 in Appendix A herein pp.4-5, 18-3225; #293, pp.23-24 & #308-1, pp.20-23, 15-2136.

[6] Park acquiesced in Secolsky's repeated requests to work for him (see #11, pp.18-19, 18-3017) on the condition that she would work from her residence not his office, (see #63, p.3, 18-3225) to extend her time in the US.

Park filed her motions to correct the misstatements. Nevertheless, the District Court denied her motions and considered them as "collateral attacks on the verdict" (#306, p. 2, 15-2136). The Seventh Circuit affirmed that "any harassing behavior from Secolsky took place in the context of the University after June 21, 2014." Further, it added, "[f]ive months after she began working for him, Secolsky decided to end her job." (Order #74, p.3, 18-3017). Park requested that the Seventh Circuit "provide her with the source" of this misstatement as she did not work for five months (Motion #82, p.4, 18-3225), but no response was provided (Order 84-1, 18-3225).

Robert Stake was a former professor and advisor of Park who she looked up to. However, their relationship took a turn when he attempted to kiss her on multiple occasions, which he admitted to. Park let it go to avoid confrontation before he forcefully kissed her in 2013. Park contends that the kiss was upon her lips, and that Stake subsequently forced his tongue into her mouth. Stake, on the other hand, changes his testimony multiple times from (1) vehemently denying any physical contact with Park, to (2) admitting to kissing Park, but never denying that it was on the lips after she warned she would bring CCTV evidence; to (3) stating there was a kiss, but this time, denying that it was on the lips after he learned that no CCTV evidence was retrieved; to (4) claiming that his kiss was definitely on the forehead. See #63, Stake Section 18-3225 for details.

Strangely, it wasn't until October 24, 2017—four years later, when Stake contended that the kiss on October 13, 2013 was on her forehead for the first time. He cunningly and strategically refrained from admitting specific details until after Park truthfully told Stake's attorney everything she knew regarding the case.

However, what he didn't know was that Park underwent forehead surgery on September 11, 2013 with her final follow-up dressing treatment on September 25, 2013. His kiss could not have been on her forehead as it was bandaged during that time. Yet, such disputed statements were not addressed in Court Order #74, 18-3017.

Stake got away with Count XV-Denial of Due Process, 42 U.S.C. § 1983, which alleges that Stake was deliberately indifferent to Secolsky's unconstitutional conduct towards Park, which violated the Equal Protection Clause of the Fourteenth Amendment. Although Stake clearly stated that he "took no action against Secolsky" when Park reported Secolsky's misconduct to him (#21, p.2, 15-2136) and admitted that he "had no further involvement with Park's complains about Secolsky" (#41, p.23, 18-3017), the District Court ruled that Defendants including Stake were "not deliberately indifferent to any violation of Plaintiff's constitutional rights" as to Secolsky's misconduct (#162, p.52, 15-2136). These mind-boggling rulings continued to accumulate.

This case is also about University Defendants' (Michal T. Hudson and Heidi Johnson from the ODEA) deliberate indifference to Park's complaints and their subsequent retaliation against her.[7] After reporting sexual harassment to the ODEA, they stated that they wouldn't be of help other than asking the Department in which Secolsky worked with, to cut ties with him, which Park did not want in fear of revenge from Stake and Secolsky. Park then requested to retract her complaint, but Hudson stated that she had an "obligation" over Park's

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[7] During the investigation, Park found that Kaamilyah Abdullah-Span (Senior Associate Director, Hudson's supervisor) and Menah Pratt-Clarke (Associate Chancellors for Strategic Affairs and the Associate Provost for Diversity) had been deeply involved from the beginning, along with Hudson and Johnson. This led to Park's case (18-2090) filed in 2018, which was appealed (18-2101).

complaints through her email to Park on July 16, 2014. However, Secolsky's sexual harassment did not stop, so Park contacted Hudson again but received no response.

Park then contacted the University police and was directed back to the University. She sought help from Human Resources at the University on Stake and Secolsky's sexual misconducts, as well as University Defendants' deliberate indifference. HR contacted Hudson, who subsequently met Stake and Secolsky once without notifying, responding to, or consulting with Park, which was against their own policy and procedures. Upon learning about Park's complaint, Stake refused to communicate with her, and Secolsky began to retaliate in various ways.

After Park notified the ODEA of Secolsky's retaliation, the ODEA subsequently began to make a defamatory false statement that Park had no status at the University (neither a student nor employee) at the time of the investigation, thus they had no jurisdiction over her complaints, excluding Park from their service. However, the ODEA was provided ample evidence of Park's employment provided by Park and other University officials before, during, and after Park's first meeting with Michael T. Hudson, a senior specialist in the ODEA. Although she contacted the ODEA more than 60 times in 2014 and repeatedly provided evidence, University Defendants continue to argue that Park had no status.[8]

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[8] See Appendix C (f) herein #82, pp. 52-54 (Appendix 5), 18-3225 for the University Defendants' continuous denial of Park's status.

Note University Defendants' motion for summary judgment (#125) also states they acknowledged that Park was on OPT which is "employment" with F1 student visa at the University of Illinois (p. 5), but professed that "Hudson and Johnson were under no obligation to take any corrective action on the basis of Plaintiff's complaints to them" (p. 56) by continuously denying Park's affiliation with the University.

Such scandalous behavior from the ODEA led to continuous sexual harassment and retaliation from Secolsky, as Stake went quiet and shunned Park. Nevertheless, the District Court ruled that "Defendants' response was not 'clearly unreasonable'" and that "nothing Defendants did or did not do after June 21, 2014, caused Plaintiff to undergo harassment or made her liable or vulnerable to it" (#162, p.51, 15-2136).

Facts material to the consideration of Question 1 presented.[9] The Seventh Circuit's Order #74, 18-3017 has multiple erroneous factual findings and statements (hereinafter "misstatements") that are misleading, which conflict with not only the evidence already provided through Park's briefs and other filings, but conflict with statements made by the Seventh Circuit itself. Such misstatements[10] led her to the conclusion that the Panel did not review her filings properly. Therefore, in her petition for rehearing, Park included the evidence she already provided as picture files in the body of the petition instead of the appendix for the Panel's convenience.[11] She checked the "Word Count" panel to make sure it met the 3,900 word limit, and certified it accordingly (Petition #76, 18-3225). However, the

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[9] Relevant filings as to the word length issue in Park's Petition for Rehearing:
#74, 18-3017: Order with multiple erroneous factual findings and statements that are misleading.
#76, 18-3225: Park's petition for rehearing.
#84, 18-3017: Order rejecting Park's petition due to the issue of word limit.
#79, 18-3225: Park's motion to vacate Order #84 stating why and how she certified 3,900 words.
#86, 18-3017: Order denying #79, 18-3225 without any explanation of the denial.
#83, 18-3225: Park's motion for clarification of where Park has been wrong.
#84-1, 18-3225: Order returning Park's motion #83, 18-3225 to Park without any explanation.

[10] See Appendix C herein #82, 18-3225 for the misstatements.

[11] In an effort to save the Panel's time, Park included them in the body of her petition after she checked with the Clerk of the Seventh Circuit regarding the word limit count and was informed that: (a) Park's brief can include evidence (e.g., email) as picture files and (b) the picture files are not counted towards the word limit. Proof of confirmation from the Clerk can be provided upon request. #79 & #83, 18-3225 for details.

Panel rejected Park's petition the next day, solely addressing the word length issue (Order #84, 18-3017).

Park filed her "Motion to Vacate the Order (#84, 18-3017): This Court has overlooked or misapprehended the situation in which Park certified 3,900 words" (Motion #79, 18-3225). However, the Seventh Circuit denied Park's motion without any explanation of the denial (Order #86, 18-3017).

Park then filed her "Motion for Clarification of Where Park has been wrong and Reconsideration of Order #86, 18-3017" (Motion #83, 18-3225). However, the Seventh Circuit ordered that "the clerk's office shall return these documents to Hye-Young Park without court action. All proceedings in this appeal are concluded" (Order #84-1, 18-3225).

Facts material to the consideration of Question 2 presented.[12] Stake's assaults in

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[12] Relevant documents as to Park's appeal against the District Court's dismissal of Count X-Assault claim:

August 23, 2018: During the trial, Count X claim was suddenly dismissed. "Judgment as a matter of law is entered as to Count 10 as to Defendant Stake."
https://www.pacermonitor.com/case/8550563/Park_v_Hudson_et_al

October 18, 2018: Park appealed the dismissal through #276, p.3, Case 15-2136.

April 10, 2019: In her combined opening and responsive brief, Park included Count X- (Stake's assaults) to include context.

June 15, 2019: In her reply brief (#51, 18-3225), Park argued that the two-year limitation does not apply to Count X claim.

June 18, 2019: Order #59, 18-3017 issued by Chief Judge Diane P. Wood states "Park is reminded that she may not raise new arguments in this filing" (p.2).

June 19, 2019: Park speculated that Chief Judge Wood's statement referred to her appeal as to Count X. Thus, she filed her motion to include her appeal as to Count X (Motion #62, 18-3017) and her supplement to the motion (Supplement #65, 18-3017).

2011 and 2012 led to Park's Count X-Assault claim. Stake admitted that he assaulted Park by attempting to kiss her on multiple occasions before he successfully kissed her in 2013.[13] However, Count X was suddenly dismissed during the trial, as the Defendants introduced Illinois' two-year statute of limitations for civil and personal injury litigation under 735 ILCS 5/13-202.

Park appealed the decision (see #276, p. 3, 15-2136), showed how Stake's assaults tied into his forced kiss in her opening brief (see #36, 18-3017), and argued in her reply brief (see #51, pp.27-30, 18-3225) that the two-year statue does not apply to Count X according to 735 ILCS 5/13-202.3;[14] the limitation period did not run during the time period where Park was subject to "threats, intimidation, manipulation, or fraud" perpetrated by Stake since 2013.

However, the Seventh Circuit did not allow Park to appeal regarding Count X in her reply brief while considering her appeal as a new issue/argument. Park filed her motion; it was denied.[15]

Facts material to the consideration of Question 3 presented. In Order #74, 18-3017, the Seventh Circuit does not address critical issues including disputed statements that

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June 20, 2019: Park's motion was denied by Chief Judge Wood. Order #66, 18-3017 states "Park is again reminded that she cannot raise new issues in her reply brief" and "Park is warned that if she continues to file repetitive motions her electronic filing privileges will be revoked." (p.2)

[13] See #288, p3 & #293, pp.52-53, 15-2136 for Stake's admittance.

[14] "§ 13-202.3. For an action arising out of an injury caused by 'sexual conduct' or 'sexual penetration' as defined in Section 11-0.1 of the Criminal Code of 1961, the limitation period in Section 13-202 does not run during a time period when the person injured is subject to threats, intimidation, manipulation, or fraud perpetrated by the perpetrator [.]"

[15] See #59 & #66, 18-3017 for the orders. See #62 & 65, 18-3017 for Park's motion and supplement.

strongly affect Park's appeal in general; it only states that Park's remaining arguments have no merit with no further explanation.

First, the Seventh Circuit does not address any of the issues that Park raised in her appeal against Secolsky: Count III (Hate Crime), Count IV (Gender-Related Violence), Count VII (Retaliatory Discharge), and Count IX (Denial of Substantive Due Process as to Racial Claim).

It does not address any of the issues against Stake regarding the District Court's rulings which were founded on Stake's lies. Evidence of his lies critical to the Jury's verdict was not admitted to the jury for multiple reasons. For example, Park's email to Stake on June 27, 2014 was admitted, but the District Court did not allow access of the email attachments to the Jury, leading to critical questions unable to be asked to Stake.

Stake stated he did not take any action to Park's complaints of Secolsky's misconduct because Secolsky was not affiliated with the University when the attachments verify that Stake delegated his University authority to Secolsky. Therefore, the issue for the Seventh Circuit was whether the District Court denying the attachment to the Jury is correct as a matter of law; yet, this issue was not addressed.

Another example concerns Park's email to Stake on December 31, 2014 where he is notified of potential CCTV footage of his kiss. During the trial, Stake stated that he did not recognize the email, therefore, it could not be authenticated or admitted, and critical questions were not answered. However, evidence shows that Stake discussed Park's email with

Secolsky on January 27, 2015.[16] Therefore, the issue for the Seventh Circuit was whether the District Court's ruling was founded on Stake's lie, yet again, this issue was not addressed.

Still another example concerns proof of Park's forehead surgery in September 2013, negating Stake's assertion that his kiss was on Park's forehead. Park submitted the Korean surgery judgment with the date translated in English, but the District Court refused to take judicial notice of the Korean judgment because "The Korean court judgment itself and its content of scar removal was not an "indisputable fact [.]" (#273, p.8, 15-2136).[17] Therefore, Park asked the District Court to supplement the record with a certificate and medical record from the doctor who performed the surgery (see #15, 18-3225 for other missing evidence with explanation). However, the District Court denied her request. Therefore, the issue for the Seventh Circuit was whether the District Court's denial to supplement the records proving Park's forehead surgery is correct, yet, this issue was not addressed.

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[16] See #36, p.63 (Issue question 3), 18-3017 & #293, pp.109-114, 15-2136.

[17] The Seventh Circuit also states "Park herself translated the Korean judgment; she did not attempt to have it translated or verified by an independent third party. The district court stated that it could not be certain of the accuracy of the translation, so we agree with its decision not to take judicial notice of that judgment." (#74, p.7, 18-3017). However, the District Court cannot reasonably raise uncertainty over accuracy of its translation for several reasons.

Among others, the only purpose of introducing the Korean judgment is to verify the date of Park's forehead surgery to prove that Stake's sudden assertion that his kiss was on the forehead was false.

Further, Stake asserts that Park was distressed because he urged her to change her dissertation plan and his kiss was to relieve her from the distress. However, Park had already completed her dissertation and received her Ph.D. months prior to his kiss.

Since we are only looking at the date of the surgery and numbering system is universal, a high level of translation is not required. In the Korean judgment, the surgical date is listed 2013. 9. 11. (Year. Month. Day), which is translated to 9/11/2013 (Month. Day. Year). See #76, pp.62-65, 18-3225 for details.

In fact, the District Court denied all of Park's post-trial motions as a pro se,[18] therefore, the issue for the Seventh Circuit is whether the District Court's denial of Park's motions to modify/supplement is correct under FRAP Rule 10(e) as she discussed in the "District Court" section in her brief (#36, 18-3017), yet these issues were not addressed.[19]

Furthermore, despite (1) Stake sexual violence and retaliation to Park over the years; (2) his amplifying lies; and (3) the District Court finding that Stake was liable for Count XI (Battery), Stake became "the prevailing party" (#282, p.9, 15-2136).

Facts material to the consideration of Question 4 presented. Order #74, 18-3017 has multiple misstatements, which conflict with the evidence in the record. Therefore, Park filed, "Plaintiff's Motion for Amendment of the Misstatements or the Statements that are Misleading in Order #74, 18-3017" (see Park's Motion #82, 18-3225).

However, the Seventh Circuit ordered that "the clerk's office shall return these documents [#82 & 83, 18-3225][20] to Hye-Young Park without court action. All proceedings in this appeal are concluded" (Order #84-1, 18-3225), and issued a mandate of its final judgment (Final Judgment #75 & Mandate #91, 18-3017).

Facts material to the consideration of Question 5 presented. Hudson and Johnson's misconduct in Count XV (Denial of Substantive Due Process, 42 U.S.C. § 1983) and Count XVIII (Retaliation, 42 U.S.C. § 1981) leads to Park's Count XVI-§ 1983 and

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[18] Park's post-trial motions as to correcting misstatements and supplementing omitted evidence were directed by the Seventh Circuit's Order #24, 18-3017.

[19] See Park's briefs (#36, 18-3017 & #63, 18-3225) and motion for amendment (#82, 18-3225) for details and other examples.

[20] #s 82 & 83 18-3225 are also marked as #s 84-2 and 84-3, 18-3225.

Count XIX-§ 1981 claims against the Board of Trustees of the University of Illinois (hereinafter "the Board"). The District Court dismissed Count XVI and XIX through the Eleventh Amendment immunity. Park appealed the decision; the Seventh Circuit dismissed her appeal by stating that the Board is not a "person" to be sued, and thus, the University officials cannot be sued in their official capacities.

REASONS FOR GRANTING THE PETITION

The number of self-representing litigants has risen significantly in the last decade.[21] The need for the assistance of counsel hold true either in civil or criminal cases. However, unlike in the criminal context, there's no federal constitutional right to counsel in civil litigation; most civil litigants who cannot afford legal representation appear *pro se*.[22] This situation creates challenges for both pro se litigants and the legal systems in civil litigation.[23]

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[21] According to Judicial Business 2016, U.S. CTS., "[a]ppeals involving pro se litigants . . . rose 18 percent" in 2016; http://www.uscourts.gov/statistics-reports/judicial-business-2016 (last visited Nov. 23, 2019). According to Judicial Business 2018, U.S. CTS., "[a]ppeals by pro se litigants constituted 50 percent of filings in the U.S Courts of Appeals." https://www.uscourts.gov/statistics-reports/us-courts-appeals-judicial-business-2018 (last visited Nov. 23, 2019).

[22] See http://theconversation.com/every-year-millions-try-to-navigate-us-courts-without-a-lawyer-84159 and Gustafson, Dan; Glueck, Karla; and Bourne, Joe (2012) "Pro Se Litigation and the Costs of Access to Justice," William Mitchell Law Review: Vol. 39: Iss. 1, Article 4. Available at: http://open.mitchellhamline.edu/wmlr/vol39/iss1/4

[23] Levy (2018) Empirical Patterns of Pro Se Litigation in Federal District Courts "The University of Chicago Law Review, Vol. 85, No. 7 (November 2018).

See also for examples for the challenges Donna Stienstra et al., Fed. Judicial Ctr., Assistance to Pro Se Litigants in the U.S. District Courts: A Report on Surveys of Clerks of Court and Chief Judges 23 (2011), available at https://www.fjc.gov/sites/default/files/2012/ProSeUSDC.pdf

Courts have made efforts to meet the challenge that pro se litigants face, yet, federal court processes are complicated and pro se litigants have a limited understanding of judicial practices and procedures.[24] Further, pro se litigants are often mistreated in civil litigation; they are denied a full and equal opportunity.[25] Although this phenomenon is not new, it is especially true in the Seventh Circuit.

Former Judge Richard Posner problematizes the Seventh Circuit's treatment of pro se litigants.[26] He completely resigned from the Seventh Circuit because he had been "very concerned about how the court treats pro se litigants," the Seventh Circuit is not "treating the pro se appellants fairly, and none of the other judges agrees with me[,]" in general, "they don't like the pro se's and don't want to do anything with them[.]"[27]

Park's petition draws light to the Seventh Circuit's downright indifference to the needs of pro se litigants.

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[24] Federal Judicial Center 2016, "Pro Se Case Management for Nonprisoner Civil Litigation" written by Jefri Wood Available at: https://www.fjc.gov/sites/default/files/2017/Pro_Se_Case_Management_for_Nonprisoner_Civil_Litigation.pdf

[25] Levy (2018) Empirical Patterns of Pro Se Litigation in Federal District Courts "The University of Chicago Law Review, Vol. 85, No. 7 (November 2018). Levy (2018) Empirical Patterns of Pro Se Litigation in Federal District Courts "The University of Chicago Law Review, Vol. 85, No. 7 (November 2018), p. 1820. Internal citation omitted.

[26] Posner suddenly resigned after early thirty-six years on the Seventh Circuit mainly because of his disagreement over other judge's treatment of pro se litigants. See Richard A. Posner, Reforming the Federal Judiciary: My Former Court Needs to Overhaul Its Staff Attorney Program and Begin Televising Its Oral Arguments (2017). At 270.

[27] See David Lat, The Back story behind Judge Richard Posner's Retirement (Above the Law, Sept 7, 2017), archived at https://abovethelaw.com/2017/09/the-backstory-behind-judge-richard-posners-retirement/?rf=t.

Reinforcing Posner's concern, the Seventh Circuit's responses to Park's filings are baffling to say the least. Specifically, Park does not understand: (1) how there's an issue regarding the word length in her "Petition for Rehearing;" (2) why the Seventh Circuit did not allow her to appeal her "Count X –Assault" claim; (3) why the Seventh Circuit did not address critical issues with disputed statements that Park pointed out; why it claimed that Park's remaining arguments have no merit; (4) why the Seventh Circuit refused to amend its multiple misstatements; & (5) why the Seventh Circuit did not mention the Eleventh Amendment while ruling on Park's § 1983 and § 1981 claims.

Park's petition magnifies into the Seventh Circuit's fundamental problems with pro se litigants, examining how and why the Seventh Circuit deprived Park of a full and fair hearing opportunity. By examining Park's case, this petition strives to encourage judicial efforts to protect pro se litigants in the federal court system related to injustice; it would be an instrumental tool to serve the public good in the general interests of pro se litigants while advancing the goal of equal protection to all court-users.

The Seventh Circuit's responses to Park's appeal center around categories of the Seventh Circuit's impatience, inconsistency, insufficient knowledge, and indifference through Question 1 - 5. Park examines each category while addressing how distorted facts were manufactured.

The Seventh Circuit shows impatience.

Regarding Question 1. The Fifth and Fourteenth Amendments of the United States Constitution promise that all persons in the US shall enjoy the "equal protection of the laws" by providing fair procedures. The "Due Process Clause" of the Fifth Amendment secures

procedural due process; it assures that all legal proceedings will be fair and reasonable by providing a full and meaningful hearing for appellants.

However, the Seventh Circuit rejected Park's Petition for Rehearing by stating "[a]lthough the petition has 119 pages, she certified that it contains 3900 words." (Order #84, 18-3017). First, the number of pages does not apply as "[t]he page limit applies only if the petition is handwritten or typewritten. If the petition is produced using a computer, the word limit applies." (The Seventh Circuit Handbook, p.164). Second, if the Seventh Circuit Panel (the Panel) did not agree on Park's word count, should there not be a clear and valid explanation provided? Instead, the Seventh Circuit simply declares that "[t]his case is now closed and no further filings will be accepted from the parties."

This was extremely shocking because (1) Park followed the advice of the Clerks of the Seventh Circuit regarding the word limit; Microsoft "Word Count" panel showed "3, 900" words; (2) less stringent standards and leniency on procedural matters must be afforded to pro se parties;[28] and (3) the case involves four years of sexual harassment (2011-2014); indifference & retaliation (2014); and more than four years of lawsuits, yet, the Seventh Circuit rejected Park's petition by unreasonably addressing the issue of the word limit.

Thus, in her motion (#79, 18-3225), Park provided evidence that the "Word Count" panel showed "3, 900" words; that she followed the instructions given by the Clerks of the Seventh Circuit, and why *Vermillion v. Corizon Health, Inc.*, 906 F.3d 696 (7th Cir. 2018) cited in the Order (#74) does not apply to Park' case.

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[28] *Lovelace v. Dall,* 820 F.2d 223, 228 (7th Cir. 1987)

However, the Seventh Circuit swiftly denied the motion with no explanation (see #86, 18-3017 for the Order). Park subsequently filed her "Motion for Clarification of where Park has been wrong and Reconsideration of Order #86, 18-3017" (see #83, 18-3225 for the motion). This time, the Seventh Circuit took no action to the motion and issued a mandate of its final judgment (see #84-1, 18-3225 and #91, 18-3017).

Another example of their impatience appears when Park filed two motions: One for extending her word limit (Park needed more space than Defendants because she dealt with multiple parties with 20 counts whereas Defendants only dealt with her) and the other to include her Count X claim in her reply brief. Such motions are legally permissible. For example, Circuit Rule 28 (d) Brief in Multiple Appeals states: "(2) The court will entertain motions for (...) enlargement of the number of pages when the norm established by this rule proves inappropriate." However, Chief Judge, Diane P. Wood denied the motions without any explanation, and further stated, "Park is warned that if she continues to file repetitive motions her electronic filing privileges will be revoked" (see #66, 18-3017 for the order). However, no repetitive motions were filed at that time. Nevertheless, Park acquiesced to the order to avoid having her electronic filing status revoked while she was abroad, and she worried that challenging the Chief Judge would disfavor her in the Seventh Circuit's ruling.[29]

Regarding Question 2. Chief Judge Diane P. Wood did not allow Park to appeal her Count X-Assault claim in her reply brief as she considered it a new issue/argument.

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[29] See #61 & 64, 18-3017 for Park's motion and supplement regarding the word limit extension.

In her motion and supplement,[30] Park emphasized that (1) Stake *admitted* his assaults regarding his attempted kisses before his forced kiss;[31] (2) During the trial on August 23, 2018, the District Court *suddenly* dismissed her Count X claim, applying Illinois' two-year statute of limitations laws for civil and personal injury litigation; (3) On October 18, 2018, Park filed a notice of appeal regarding the dismissal and included Stake's assaults to provide context in her opening brief;[32] & (4) While preparing her reply brief, she discovered the tolling of Illinois' two-year statute of limitations pursuant to 735 ILCS 5/13-202.3 and included it in her reply brief.[33]

As a pro se, she was not familiar with the tolling law; additionally, she had limited time and space (word limit) to research all the counts and reflect her findings in her combined opening and reply brief as she dealt with 20 counts involving multiple parties. The Supreme Court has alerted that "A document filed pro se is 'to be liberally construed'" *Erickson v. Pardus,* 551 U.S. 89, 94, 127 S.Ct. 2197, 167 L.Ed.2d 1081 (2007) (internal quotation omitted); "the leniency given to pro se litigants on procedural matters" has been well recognized. *Lovelace v. Dall,* 820 F.2d 223, 228 (7th Cir. 1987).

Park did not know that appellants could not bring their new argument in their reply briefs. As *Collins*' court states "[W]e treat pro se filings liberally, even excusing technical mistakes when necessary to afford an uncounseled litigant a full and fair hearing [.]" *Collins*

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[30] While Park was unsure of what the Seventh Circuit referred to as "new arguments," she filed the motion, assuming that they referred to her arguments as to her Count X-Assault claim against Stake. See #62 & 65, 18-3017 for the motion & supplement and #59 & #66, 18-3017 for the orders.

[31] See #288, p3 & #293, pp.52-53, 15-2136 for Stake's confession.

[32] See #276, p.3, Case 15-2136.

[33] See #51, pp. 27-30, 18-3225.

v. Lochard, 792 F.3d 828, 831 (7th Cir. 2015). Therefore, the Seventh Circuit would be just by providing Park with an opportunity to appeal as to Count X and providing Defendants an opportunity to surreply to her Count X appeal.

More importantly, in her supplement to her motion (#65, 18-3017), Park requested that the Seventh Circuit allow her to appeal the dismissal of her Count X claim while citing the National Law Journal;[34] she argues that (1) Count X involves a significant pure legal question that can be decided on the factual record; (2) Failing to address her argument would result in manifest injustice; & (3) When one's arguments are waived, the courts generally consider them under the exceptional circumstances such as if (a) "manifest injustice" might otherwise result; (b) "pure issue of law" is raised; or (c) resolution is "beyond any doubt." "Appellate courts don't like to reach an obviously wrong result, so you stand a better chance of advancing a new argument on appeal if it's clearly right as a matter of law."

Similarly, in *National Association of Social Workers v. Harwood*, 69 F.3d 622, 625-29 (1st Cir. 1995), the 1st Circuit established six factors that courts have considered in its decision of accepting first raised arguments on appeal including

> "1) whether the new argument raises a pure issue of law that could be decided without further fact-finding; 2) whether the argument raises an issue of constitutional magnitude; & 3) whether the argument is 'highly persuasive' and the failure to consider it would threaten a miscarriage of justice; 4) whether considering the argument would work any special prejudice or inequity to the other party; 5) whether the party's failure to raise the argument below seems inadvertent or done deliberately

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[34] See # 65, pp. 2-3, 18-3017.See *Batiansila v. Advanced Cardiovascular Sys.*, 952 F.2d 893, 896 (5th Cir. 1992); *Readco Inc. v. Marine Midland Bank*, 81 F.3d 295, 302 (2d Cir. 1996); *Universal Title*, 942 F.2d at 1314- 15 cited in the National Law Journal, Waiver of Argument by by Aaron S. Bayer published on Oct. 18, 2004:Visit https://www.wiggin.com/publication/waiver-of-arguments/ for details

to yield a tactical advantage; and 6) whether the argument implicates matters of 'great public moment,' such as federalism, comity and respect for the independent democratic institutions."[35]

Applying these factors to Park's Count X claim, (1) Count X can be decided without further fact-finding because Stake admitted his assaults; (2) According to U.S. Equal Employment Opportunity Commission, "Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964."[36] Park's arguments of tolling the two-year limitation period raises issues of constitutional magnitude because Stake's sexual assault is under the category of sexual harassment; (3) Failing to consider Park's Count X appeal would threaten a miscarriage of justice; (4) Considering the argument would not work any prejudice to Stake; & (5) Park's failure to raise the argument for the tolling in her opening brief was not done deliberately to yield a tactical advantage.

For all the forgoing reasons, the Seventh Circuit would be just by considering Park's appeal regarding Count X. By refusing a full and fair hearing for Park discussed in Question 1 and 2, the Seventh Circuit violated Park's Equal Protection Clause of the Fourteenth Amendment.

The Seventh Circuit shows inconsistency.

Regarding Question 3. In law, judgments generally provide the courts' justification for why they chose to make an order regarding the rights and liabilities of the parties in a legal action or proceeding. Black's Law Dictionary 970 (10th ed. 2014). However, as

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[35] https://www.wiggin.com/publication/waiver-of-arguments/ "Courts do not necessarily require all six factors."

[36] https://www.eeoc.gov/eeoc/publications/fs-sex.cfm

presented earlier,[37] the Panel did not address the critical issues that Park raised other than merely stating that they "have considered Park's remaining arguments, and none has merit." (Order #74, p.9, 3017). Note that these critical issues strongly affect Park's overall appeal.

Among others, in Order #74, 3017, the Panel did not address any issues against the District Court's denial of her post-trial motions to correct multiple misstatements and supplement omitted evidence in Park's brief[38] under Circuit Rule 10(b) and FRAP Rule 10(e). Worse, the Panel considered her post-trial motions as outside the record on appeal and as "other documents" (*id.)* when Park's post-trial motions were filed at the direction of the Seventh Circuit Order #24, 18-3017.

Another example of the Seventh Circuit Panel's inconsistency is shown as the Panel's "no merit" decisions conflicts with the Seventh Circuit Order #47, 18-3017.

Secolsky filed a motion (#43, 18-3017) to strike portions of Park's brief (#36, 18-3017), which originated from her post-trial motions (to correct the misstatements favoring University Defendants and to supplement the omitted evidence against Stake e.g., #293 & 308-1, 15-2136);[39] he insisted that the post-trial motions were denied, therefore, they are outside the record on appeal.

Stake and University Defendants also argued as to Park's post-trial motions: "Park's brief [#36, 18-3017] refers to those facts and evidence that are outside the record, those

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[37] See "Facts material to the consideration of question 3 presented" herein.

[38] See "District Court" section in her brief (#36, 18-3017).

[39] Park's first post-trial motion as a pro se is #293 which her other post-trial motions were founded on.

portions should not be considered by this Court." (#41, p. 8, 18-3017) and "Plaintiff Improperly Relied on Materials Outside the Record on Appeal." (#44, p.13, 18-3225).

In her response (#45, 18-3017), Park emphasized the fact that both University Defendants and the District Court continue to make yet another contradictory statement to the one in the previous paragraph, as they concurrently state that "The vast majority of information [in #293] that Plaintiff seeks to have "added" to the record is, indeed, already in the record[,][40] (#299, p.4, 15-2136) and "the vast majority of evidence cited by Plaintiff [in #293] is already in the record" (#306, p.9, 15-2136) respectively.[41]

Additionally, she alerted the Seventh Circuit to the facts that:

(1) Park's post-trial motions were motivated by the direction of the Seventh Circuit's Order #24, 18-3017, "Under Circuit Rule10(b), a request to modify or supplement the record must first be filed in the district court."

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[40] Park did not seek to have the vast majority of information "added," but to have the misstatements (in the District orders that conflicts with the vast majority of information) "corrected" in the record.

[41] "The vast of majority of evidence" in #293 was in the record. The rest of the evidence cited by Park in #293 consists of several omitted pieces of evidence against Stake that was not available at the trial for multiple reasons (see #15, Case 18-3225 & #45, pp.4-8, 18-3017 for the omitted evidence with reasons). Thus, she had to file the omitted evidence to prove that Stake amplified his lies over time including his lie of kissing Park on her forehead. Omitted documents that prove Park's surgery on her forehead disputes his assertion and supports Park's assertion that Stake kissed Park on her lips.

Park's situation did not allow her to search for all the evidence in the previous filings because she did not take over all the filings with the District Court from her prior attorney until October 2018. With limited time (11days) as a pro se, she then organized the evidence chronologically and thematically in #293 and utilized the evidence against University Defendants to prove that the statements in Order #162, 15-2136 are non-factual misstatements.

(2) While the District Court denied Park's post-trial motions to correct their misstatements and supplement the omitted evidence,[42] such motions should be on record, which should then be considered by the Seventh Circuit because they belong to FRAP10(a)(1): "the original papers and exhibits filed in the district court [,]" which "constitute the record on appeal[.]"[43]

(3) The District Court orders as to Park's post-trial motions "must be included as part of the record and a notice of the order must be sent to the court of appeals" under Circuit Rule 10 (b). Such rulings are made based on Park's motions; therefore, the rulings together with Park's motions must be included as part of the record and sent to the Seventh Circuit.

(4) The clerks of both the Seventh Circuit and the District Court stated that Park's post-trial filings are on the record and open to the public.

(5) In its order on February 12, 2019 (#318. p. 3), the District Court states, "[i]n her motion, Plaintiff does not cite to any intervening change in the law or any new evidence not available at the time of court's original ruling on January 7, 2019." (p.3). In other words, the District Court does not consider Park's original papers and exhibits filed as new evidence, meaning they were already in the record before the District Court and should be considered by the Seventh Circuit.

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[42] The District Court denied Park's post-trial motions by considering them "collateral attacks on the verdict" (#306, p. 2, 15-2136, citation omitted). Park requested the District Court to grant her motions by arguing that "Rather than raising technical or procedural matters, Defendants should raise their affirmative defense through credible evidence and facts to negate their civil liability. More than anything else, credible evidence and facts should be provided to the Appellate Court for their future ruling" (#301.p.7, 15-2136).

[43] See #45 & #36, "the District Court" section, 18-3017 and #76 "the District Court" section, 18-3225 for details. See also #301, 15-2136 for Park's reply to Defendants' response to Park's motions to correct and supplement omitted evidence (#s 293 & 294, 15-2136).

She also points out how both the District Court and the Seventh Circuit utilized nonfactual UMFs for their rulings without fact checking even when Park repeatedly raised this issue.[44] For any fair ruling, the application of the laws **must** be founded on facts and evidence, not on distorted facts and erroneous findings.

Coming back to the Seventh Circuit's inconsistency, in Order #47, 18-3017, Judge Michael. B. Brennan denied Secolsky's motion (#43, 18-3017), stating, "The assigned merits panel will consider the propriety of the disputed statements." Order #47, 18-3017. However, the Panel (Circuit Judges: Frank H. Easterbrook; Ilana Diamond Rovner; & Amy C. Barrett) in the same Court did not consider "the propriety of the disputed statements[;]" they did not even mention the disputed statements or consider Park's post-trial motions as on the record and called them "other documents," (#74, p.9, 18-3017), which contradict FRAP 10(a)(1) discussed earlier. In short, it is reasonably speculated that the Panel did not even look at Park's post-trial motions, thus they could not rule whether the District Court's denial of her post-trial motions was correct under Circuit Rule 10(b) and FRAP Rule 10(e).

In addition to the University Defendants' complaints about Park's use of her post-trial motions, they also argue that filings in 18-2090 are outside the record on appeal (#44, p.14, 18-3225), stating:

> Park "relies upon an allegation in a complaint filed in a separate claim filed in the District Court under **Case No. 18-2090**. Citations to this case are found throughout her Statement of the Case and the argument portion of her brief. Case No. 18-2090, captioned, Park v. Bd. of Trustees of the University of Illinois, was dismissed at the pleading stage **as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)** (See Doc. 8, Appeal No. 18-2090). Defendants submit it is inappropriate that she rely upon that case to support any factual or legal assertion in the case at bar." (Emphasis added).

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[44] See #45, pp. 9-12, 18-3017 for details.

However, the filings in Case No. 18-2090 should be on the record before the Seventh Circuit because the Panel, in Order #22, 18-2101 referred to the District Court orders in 15-2136; in similar fashion, Park requested the District Court clerk to forward critical filings in 18-2090 to the Appellate Court (See #274, p.2, 15-2136 for the list); she also included filings in 18-2101, as well as her post-trial motions in the required attached appendix in her brief (#36, 18-3017).[45] In addition, no Defendant filed a motion to exclude them, therefore, allowing Park to use them in her briefs.

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[45] Both cases 15-2136 and 18-2090 were assigned to Judge, Colin S. Bruce, before the District Court.

Case 18-2090 was filed on March 21, 2018 long before Park began to file her post-trial motions (#s 293 & 294, 15-2136) as a pro se on Nov. 26, 2018 at the direction of the Seventh Circuit on Nov.15, 2018 (Order #24, 18-3017). All the evidence in Park's post-trial motions was filed in #1, Section D in 18-2090. The evidence was well organized thematically for Judge Bruce as follows:

Section D: EXHIBITS (Exhibit A — Exhibit H)
Exhibit A: My Post-Completion OPT
Exhibit B: CIRCE and ESY 490E
Exhibit C: The Nature of Work with Secolsky at UIUC
Exhibit D: Continuous Sexual Harassment
Exhibit E: Documents for SECTION B
Exhibit F: Stake's Amplifying Lie
Exhibit H: Additional Two Conspirators

Evidence in Exhibit C (pp.1-203) supports Park's claim that Secolsky's harassment had to do with do with his and Plaintiff's Respective Relationships with the University. Therefore, Judge Bruce did not need to sift through the thousands of pages of discovery as the Judge claimed in Order #306, p.4, 15-2136. Additionally, Park has repeatedly provided the material which the Judge can easily infer Secolsky sexual harassment had much to do with his and her respective relationships with University.

Park's motion (#308-1, p. 23, 15-2136) lists ample references to prove the District Court Order was founded on erroneous findings as it states, "See (1) #147, pp. 16, 26, & 30, Case No. 15-cv-2136; (2) #276, p9, Case No. 15-cv-2136; (3) "Pl Ex #92 Email Secolsky to Park re: CREA conference paper" (#145-1, p.2); (4) Complaint #1, p. 12 and Exhibit C. The Nature of Work with Secolsky at UIUC. pp. 1-203, Case No. 18-cv-2090; (5) #5, p.19, Case No. 18-cv-2090; and (6) #11, p.33, Case No. 18-cv-3017."

The Panel, in Order #22, 18-2101, refers to the District Court orders in 15-2136.

Court	Lawsuit 1 (vs Michal T. Hudson, Heidi Johnson, & the Board)	Lawsuit 2 (vs Kaamilyah Abdullah-Span, Menah Pratt-Clarke, & the Board)
The Seventh Circuit	Nos. 18-3017 & 18-3225	No. 18-2101
The District Court	No. 15-2136	No. 18-2090

In similar fashion, Park requested the District Court clerk to forward critical filings in 18-2090 to the Appellate Court.

Court	Lawsuit 1 (vs Michal T. Hudson, Heidi Johnson, & the Board)	Lawsuit 2 (vs Kaamilyah Abdullah-Span, Menah Pratt-Clarke, & the Board)
The Seventh Circuit	Nos. 18-3017 & 18-3225	No. 18-2101
The District Court	No. 15-2136	No. 18-2090

Additionally, the Appellate Court did not dismiss Park's appeal (18-2101) based on being "frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) " as stated in University Defendants' brief (#44, p.15, 18-3225), but based on their interpretation of the District Order (#162, 15-2136) as it states: "The district court dismissed her complaint on res judicata grounds because she had raised identical or early identical claims in a prior suit. We affirm on alternative grounds" (Order # 22, pp.1-2, 18-2101) and "**We agree with Park** that the addition of the two new defendants defeats res judicata" (id, p.3, emphasis added), meaning Park's case 18-2090 is not "frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)[.]"

Such evidence contradicts Judge Bruce's claim, "Plaintiff has the burden of demonstrating under Rule 10 (e) why the record on appeal needs to be supplemented. She has not done so, and the motion is denied on this ground." (*id.*, pp.4-5).

While the District Court dismissed Park's complaint #1, 18-2090, it granted her Supplements to Complaint #1 (#5 & #7, 18-2090), which is ironic as Supplement #5 is another version of complaint #1, where Park cites Section D: EXHIBITS from #1.

In fact, Park's appeal (18-2101) was dismissed based on the Panel's erroneous factual findings.[46] Among others, relying on Case 15-2136 in the District Court, the Panel in Case 18-2101 concluded that "no university defendants could be liable for failing to correct a situation that did not require remedying" because "Park could not point to any instance of harassment after she complained to the ODEA" and "Park could not identify a single instance of harassment after she complained to the ODEA [.]" (#22, p.4, 18-2101) as follows:

> "The district court concluded in the first suit that the Board was not responsible for the harassment she suffered because Park could not point to any instance of harassment after she complained to the ODEA.
>
> Similarly, regarding her allegations here of discrimination based on sex and national origin, the district court determined in the first suit that Park could not identify a single instance of harassment after she complained to the ODEA, so no university defendant could be liable for failing to correct a situation that did not require remedying.
>
> Finally, regarding Park's allegations here of retaliation based on race, sex, and national origin, the district court determined in the first suit that there was no causal link between her complaint to the ODEA and her professor ending her immigration sponsorship. (#22, p.4-5, 18-2101)."

Ironically, the same District Court cited above states: "Between July 1 and August 2, 2014, Secolsky (...) did do things Plaintiff considered to be a form of harassment" (#162, p.15, 15-2136) and the Panel's order (#74, p. 6, 18-3017) states: "Once Park reported Secolsky's misconduct to ODEA, the only harassment she experienced was during her employment at Secolsky's company," which clearly contradict Order #22, 18-2101.

Part of reason for these multiple, contradictory orders and statements come from

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[46] Therefore, Park filed her petition for rehearing, which was denied without any explanations other than "the original panel have voted to deny the petition" (see #27 for the petition and #28 for the order, 18-2101).

(1) Defendants distorting the facts, turning non-factual statements into "Undisputed Material Facts"(UMF) See #45, pp. 9-12, 18-3017 and #276 & #308-1, 15-2136 for details of how nonfactual statements became UMFs (e.g., quoting Park out of context).

(2) The courts' overlooking or ignoring Park's clear evidence that she submitted repeatedly to show that the court orders were founded on nonfactual misstatements.

Regarding Question 4. FRCP 52 "(b) Amended or Additional Findings" allows a party to file a motion to amend the court findings (to conform them to the evidence and amend the judgment accordingly) no later than 28 days. Park filed a timely motion for amendment of 16 misstatements in Order 74, 18-3017 with manifest evidence (See #82, 18-3225). However, the Panel returned the motion without any explanation as to why they did not correct them (#84-1, 18-3225). As discussed earlier, Order #47, 18-3017 states that the Panel will "consider the propriety of the disputed statements [,]" yet, Order #74 does not address the disputed statements, and the Panel blindly follows Defendants' arguments without providing evidence.[47]

For example,[48] University Defendants state in their brief:

> "[Park] argued in her motion to supplement that the District Court erred in finding that no sexual harassment occurred in the context of the University after June 21, 2014. The District Court pointed out that all of the materials in her motion to supplement referenced conduct that occurred **after Plaintiff had been hired by Secolsky to work for his private company on July 1, 2014.**" (#44, p.15, 18-3225, emphasis added)

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[47] See #76, pp. 97-98, 18-3225 "Judgment #74 conflicts with this Court's order #47."

[48] In her motion #293 and #308-1, Park requested that the District Court correct/modify the false claims.

The District Court also states in its order:

> "Plaintiff cites to numerous phone calls and voicemails sent by Secolsky on July 25, 2014, as evidence of sexual harassment, as well as August 2, 2014, phone calls and emails requesting Plaintiff go to lunch with him. However, this all came after **Plaintiff had been hired by Secolsky to work for his private company on July 1, 2014.** (Order #306, p.3, 15-2136, emphasis added).

Concurrently, the District Court also filed #212-1, 15-2136, "Exhibit A: Stipulation of **Uncontested Facts** and Issues of" which states "73. Plaintiff worked for Secolsky's company (...) for approximately **two weeks (from July 15 to July 28, 2014)**, and she was paid for those two weeks." (p.6, emphasis added).

Another example shows the University Defendants and the District Court claiming:

> "all of the materials in her motion to supplement referenced conduct that occurred after Plaintiff had been hired by Secolsky to work for his private company **on July 1, 2014.** The District Court found **no evidence of harassing behavior occurred in the context of the University after that date** (Doc. 306, p. 3)."
> (#44, p.15, 18-3225, emphasis added).

However, even during the two-weeks of her employment with Secolsky's company, she continued to collaborate with Secolsky on University-based work, although Defendants claim otherwise. Concurrently, the District Court is aware that "Plaintiff [Park] provides an email from July 28, 2014, indicating that she and Secolsky worked on a project for the Culturally Responsive Evaluation and Assessment (CREA) program at the University. The project was presented on September 18-20, 2014." (Order #306, 15-2136). Again, more conflicting misstatements are made by the District Court and Defendants.

Ample evidence of Park's university-related work with Secolsky was submitted repeatedly.[49]

In addition, Defendants state that "Defendants will not belabor this Court with a catalog of every misrepresentation of the record on appeal" (#44, p.13, 18-3225), while implying unfounded claims. Among others, they claim that Park worked for Secolsky's company during: (1) July 9, 2014, when Secolsky sent numerous unwanted calls and messages;[50] (2) August 2, when Secolsky relentlessly sent "phone calls and emails requesting Plaintiff go to lunch with him" (Court Order #306, p.3, 15-2136); (3) August 5, when Secolsky retaliated against Park after learning about her complaints to the ODEA, (4) August 6, when Park notified the ODEA of Secolsky's retaliation;[51] & (5) September 16, when Secolsky retaliated against Park by removing her name from a journal publication during the revision process.[52] Defendants, however, have not provided a single piece of evidence to back up their claims. Facts and evidence clearly show that Secolsky's harassment and retaliation listed above occurred in the context of Secolsky's and Plaintiff's respective relationships with the University.

Even with such disputed statements, the Panel's order came without oral argument; the order states: "We have agreed to decide this case without oral argument because the briefs

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[49] See #293, pp.3-18 & pp.23-25; #294; #308-1, pp. 8-17 & pp.20-23; #309, pp.3-8; #309-1, pp. 1-8, 15-2136. See also #1, Att:6-9 (Exhibit C : pp.1-203), Case 18-2090 for Park's university related work with Secolsky.

[50] See p.3 herein.

[51] See #36, p.41, 18-3017 & #293, p.35, 15-2136. See also #1, p.25, 18-2090 for Park's email to Hudson on August 6 and 7 which inform Hudson of Secolsky's retaliation.

[52] See #36, pp.43-45, 18-3017.

and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C)" (Order #74, p.1, 18-3017).

Denying oral arguments to pro se litigants is not unique to Park. It is customary practice of the Seventh Circuit as "Chief Judge Diane Wood referred to the Seventh Circuit's 'Rule 34 docket,' which includes cases in which oral argument is **deemed unnecessary**, as a docket involving 'cases in which **at least one party is pro se** and thus that the court designates for decision **without oral argument**.'"[53] (emphasis added).

Lastly, the Panel threw in another preposterous, distorted fact: "**Five months** after she began working for him, Secolsky decided to end her job" (p. 3, id., emphasis added); this absurdity speaks for itself.[54] Further, the Panel dealt with her § 1981 and § 1983 claims with insufficient legal knowledge, leaving Park to question the Seventh Circuit's practice.

The Seventh Circuit shows insufficient legal knowledge.

Regarding Question 5. The Seventh Circuit acknowledges that District Court "relied on Eleventh Amendment grounds to dismiss Park's § 1983 and § 1981 claims against the Board of Trustees" (Order #74, pp. 3-4, 18-3017). In the same vein, "numerous lower federal

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[53] Citing "Diane P. Wood, Snapshots from the Seventh Circuit: Continuity and Change, 1966–2007, 2008 WIS. L. REV. 1, 22–23 (2008)." Source: Katherine A. Macfarlane, Posner Tackles the Pro Se Prisoner Problem: A Book Review of Reforming the Federal Judiciary, 83 Mo. L. Rev. 121 (2018).

[54] See Appendix C: # 82, 18-3225 for other examples.

court rulings are based solely upon the Eleventh Amendment" when a state asserts that it is "not a person" for the purposes of § 1983" (Martin, p. 88).[55]

However, the Seventh Circuit does not even mention Eleventh Amendment that Park discussed in her briefs; it only states (#74, p.5, 18-3017):

> "Park generally challenges the dismissal of her § 1981 and § 1983 claims against the university defendants. But governing boards of public universities are not "persons" capable of being sued under these statutes. See ***Will*** *v. Mich. Dep't of State Police*, 491 U.S. 58, 71 (1989); ***Haynes*** *v. Ind. Univ.*, 902 F.3d 724, 731 (7th Cir. 2018). Nor may Park bring a claim for damages against the university administrators in their official capacities. *See Haynes*, 902 F.3d at 731–32. Park gives no reason to disturb the district court's ruling." (emphasis added).

In addition to the Seventh Circuit failing to address the Eleventh Amendment, neither *Will* nor *Haynes* applies to Park's case because in both *Will* and *Haynes,* states and state officials were protected by the Eleventh Amendment whereas Park's § 1981 and § 1983 claims in Count XVI & XIX involve the Eleventh Amendment waiver.

In her briefs, Park argues that the Board of Trustees can "not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court" according to 42 U.S.C. § 2000d-7(a)(1) because they violated provisions of Federal statute prohibiting discrimination through University Officials' misconduct, which involves national origin, race, and sex. This is especially true when Hudson and Johnson of the ODEA violated administrative regulations that involves:

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[55] Section 1983 Litigation, by Martin A. Schwartz, published by the Federal Judicial Center, 3d edition, 2014. See p. 253 (Notes 801), id. for other appellate courts' § 1983 decision relying on the Eleventh Amendment immunity in the following link: https://permanent.access.gpo.gov/gpo54237/section-1983-litigation-3d-fjc-schwartz-2014.pdf

> "far more than a mere difference of opinion over how the rules and regulations should be interpreted or applied and are not simply the result of some inadvertent oversight or de minimis technical violation." *Leetaru v. Board of Trustees of the University of Illinois*, 2015 IL 117485 at ¶49.

ODEA's failure to follow their own policy and procedures alone waives the Eleventh Immunity to the Board.[56] In *Leetaru*, the Supreme Court held that:

> "The doctrine of sovereign immunity affords no protection, however, when it is alleged that the State's agent acted in violation of statutory or constitutional law or in excess of his authority" ¶ 45 [...] "The State cannot justifiably claim interference with its functions when the act complained of is unauthorized or illegal." ¶ 47 (internal citations omitted).

Additionally, when Park continued to challenge ODEA, they retaliated by excluding her from their service by denying her F1-OPT employment with the University as a valid status, which involves national origin discrimination. See (1) Park's briefs #36, pp. 87-97, 18-3017 & #63, pp.81-82, 18-3225; (2) her rejected petition for rehearing, #76, pp.32-44, 18-3225; & (3) Park's motion for amendment, #82, pp. 5-12, 18-3225 for Defendant's violation of provisions of Federal statute prohibiting discrimination and the "Eleventh Amendment" sovereign immunity waiver to them.

More importantly, according to "the Five- Factor test,"[57] set forth in *Mitchell v. Los Angeles Community College District*, 861 F.2d 198 (9th Cir. 1988), the Board of Trustees

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[56] Colleges or universities receiving federal funding must adhere to Title IX of the Education Amendments of 1972 in combination with the Dear College Letter of 2011, which provides federal guidelines about how to investigate and adjudicate sexual violence on campus.

[57]Park discussed the five-factor test in #5, pp. 29-31, 18-2090, which was granted by the District Court. "The five factors set forth in Mitchell v. Los Angeles Community College District are as follows: (1) whether a money judgment would be satisfied out of state funds; (2) whether the entity performs central governmental functions; (3) whether the entity may

cannot be considered as an "arm of the State"[58] with only 8.8 %[59] of its budget for Fiscal Year 2019 coming from the State (Factor One), the Board of Trustees of the University of Illinois, a public corporation, (Factor Five) with a substantial degree of economic and political independence from the State (Factors Two & Four)[60] can sue and be sued[61] and enter into contracts (Factor Three).

> Furthermore, the "Liability for Intentional Actions: 42 U.S.C. § 1983 (1871)" states:
>
> "The Eleventh Amendment does not automatically protect political subdivisions of the state from liability. Moor v. County of Alameda, 411 U.S. 693 (1973). The main factor is whether the damages would come out of the state treasury. Hess v. Port Authority Trans-Hudson

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sue or be sued; (4) whether the entity has the power to take property in its own name or only in the name of the state; & (5) the corporate status of the entity." (p.29).

See also #36, p.99, 18-3017 as to Factor One.

[58] https://www.uillinois.edu/about/budget

[59] "Even higher percentages of state funding than that available to the University of Illinois have led to denials of sovereign immunity." See #28, pp.3-7, 15-cv-2136 for details.

See also *Parker v. Franklin Cty. Cmty. Sch. Corp.*, 667 F.3d 910, ¶927 & ¶928 (7th Cir. 2012):

> "who is legally obligated to pay any judgment in this case? The answer to that question is **the defendants, not the State of Indiana.** With the enactment of PL 146, state funding now makes up between **two-thirds to three-fourths** of the state budget and state sales-tax distributions have replaced local property taxes as 100 percent of the schools' general fund revenue. Nevertheless, it's irrelevant that state aid may find its way to the plaintiffs' pocket. Gary A., 796 F.2d at 945." [id., 927 &928]. Emphasis added.

[60] https://www.bot.uillinois.edu/governance/statutes

[61] 110 ILCS 305/ University of Illinois Act.

Corp., 115 S. Ct. 394 (1994), If the state would have to pay for damages from the state treasury, then the Eleventh Amendment will serve as a shield from liability."

https://biotech.law.lsu.edu/map/ExceptionstoEleventhAmendmentImmunity.html

Therefore, **the Board of Trustees**, not the State must pay monetary judgment against the University Defendants, and Park may bring a claim for damages against the University Defendants' in their official capacities under § 1983 & § 1981 and 775 ILCS 5, et seq.

The Seventh Circuit shows indifference.

Regarding Questions 1-5. While "[s]exual violence on campus is a major issue facing students, faculty, and administrators, and institutions of higher education are struggling to respond[,]"[62] the Seventh Circuit's unjust responses to Park's appeal fulfill Richard Posner's criticism of its treatment of pro se litigants: "[t]he underlying problem is the downright indifference of most judges to the needs of pro se's."[63]

This case concerns 9 long years of Park's agony and suffering.

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[62] Graybill, R., Minister, M., & Lawrence, B. (2017). Sexual Violence in and around the Classroom. Teaching Theology & Religion, 20(1), 70–88.

[63] Richard A. Posner, Reforming the Federal Judiciary: My Former Court Needs to Overhaul Its Staff Attorney Program and Begin Televising Its Oral Arguments (2017). At 31.

Hye-Young Park suffered from Robert Stake and Charles Secolsky's sexual violence and retaliation at the University from 2011 to 2014. She experienced PTSD and panic attacks as a result and was forced to seek medical assistance in March 2014. She also suffered from University Defendants' deliberate indifference and retaliation when she reached out for help in June 2014. She suffered a heart attack and was sent to the emergency room due to the accumulated trauma in August 2014 and again, in August 2018 soon after the trial.

Despite all hardships, Park persistently fought for justice. Nevertheless, the Seventh Circuit rejected Park's Petition for Rehearing solely because of a trivial issue with the word length, which they never properly explained to this day. Equally without proper reasoning, the Panel did not correct the misstatements, which have been proven with clear evidence.

Much injustice occurred throughout Park's drawn-out case. Among others:

(1) Despite that Stake admitted his assault and his forced kiss (Count XI-Battery), he became the prevailing party for whom costs were awarded against Park.

(2) While University Defendants stated that an OPT is considered employment and acknowledged Park's OPT, they argued that they had no jurisdiction over Park's complaint because she had no status at the university. Nevertheless, the District Court ordered that "Nothing Defendants did or did not do after June 21, 2014, caused Plaintiff to undergo harassment or made her liable or vulnerable to it" (#162, p.51, 15-2136).

(3) Defendants and the Seventh Circuit littered this case with misstatements, such as claiming that Park had been hired by Secolsky's company on July 1, 2014, and the Panel claiming that she worked for "five months," among many others.

As Martin Luther King Jr. states:

"We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed[,]" [58] Park respectfully requests the Supreme Court grant her petition to address the Seventh Circuit's institutional indifference for pro se litigants nationwide.

Although the fight to change the attitude of federal judges towards pro se litigants, especially in the Seventh Circuit, will not come easy, Park is committed to holding Defendants accountable for their misconduct and believes that the Supreme Court can and will make the right decision to leave a meaningful, impactful change for the greater good.

CONCLUSION

Park's petition for a writ of certiorari, if granted, will make a positive revolution forward in the continuous struggle to bring justice for all.

Respectfully submitted,
Petitioner, Hye-Young Park
Date:_____

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