

No. 19-7936

IN THE SUPREME COURT OF THE UNITED STATES

JAMES ZAVAGLIA,

Applicant,

v.

BOSTON UNIVERSITY SCHOOL OF

MEDICINE,

Respondent.

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

PETITION FOR REHEARING

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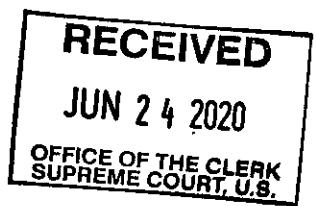


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PETITION FOR REHEARING

Pursuant to Rule 44, Petitioner James Zavaglia requests rehearing and reconsideration of the Court's May 18, 2020 ZAVAGLIA v BOSTON UNIVERSITY SCHOOL OF MEDICINE No. 19-7936, order denying the Petition for a Writ of Certiorari, on the grounds of substantial intervening circumstances and substantial grounds not previously presented. Mr. Zavaglia moves this Court to grant this petition for rehearing and consider his case with merits briefing and oral argument. Pursuant to Supreme Court Rule 44.1, this petition for rehearing is filed within 25 days of this Court's decision in this case.

REASONS FOR GRANTING THE PETITION

The Respondent has failed to Brief in Opposition or asked to waive their right to the Petition for a Writ of Certiorari in a timely manner pursuant to rules 15.3, 12.6, 17.5, 18.6, 20.3(b), and 20.4(b). In preparing this Petition the Pro Se Applicant has researched the aspects, rules and other online resources of why there is a failure to answer the Writ of Certiorari by the Respondent. When confronted with a Petition for Writ of Certiorari filed in the United States Supreme Court, some attorneys will play the odds and let the Court deal with a Petition without even filing a Brief in Opposition. A Respondent may choose to waive the right to oppose a Petition that seems clearly without merit or a Petition is truly frivolous. The Respondent will use this as a tactic to create an air about the Petition for a Writ of Certiorari or the Applicant. Even though the Applicant suffered physical and emotional abuse at the hands of upper management and other agents within the University, that were covered up, causing permanent injuries that have left the Applicant permanently disabled and over the years causing new medical ailments, that can be confirmed by

the Applicants Doctors, to manifest themselves as a direct result of the injuries sustained on the job. Given the non-response of the Respondent, This Court could have granted Certiorari on the merits of the factual information and exhibits presented in the District Court **SEE Zavaglia v BOSTON UNIVERSITY SCHOOL OF MEDICINE,1:14-CV-13924 (1st Cir. 2018) (citation omitted)** and Appeals Court **SEE Zavaglia v BOSTON UNIVERSITY SCHOOL OF MEDICINE,18-1101 (1st Cir Appeals 2019) (citation omitted)** Pursuant to Rule 44.2 this Petition is presented in good faith and not for delay. and when presented in any of the Federal Courts, is in no way, shape, or form, frivolous. All court documents, exhibits, and questions presented in the Petition for a Writ of Certiorari have been factual including the substantial grounds not previously presented that will be part of this Petition. The Questions Presented in this case are too important to leave unsettled by this Court, and they are guaranteed to recur in the absence of a definitive ruling from this Court. Petitioner thus respectfully request that the Court rehear this case so the Justices can reexamine the facts and merits of the case and reach resolution by a majority.

ARGUMENT

As stated above the Applicant has suffered greatly at the hands of upper management and other agents within the University, that were covered up, causing permanent injuries that have the Applicant permanently disabled and over the years causing new medical ailments. one such ailment occurred in June of 2009

when Applicant, in a toe on their left foot, started to experience pain. As the pain got worse the Applicant was notably limping and informed upper management that the pain was getting worse and applicant wanted to go to see their Doctor this was met with resistance by upper management and the Applicant tried to resolve the toe problem as best they could and had to wait almost three weeks to see a Doctor

when they were on vacation over the Fourth of July holiday for a routine appointment. The primary care doctor diagnosed the toe with a staph infection and said the Applicant would be off their feet for weeks and would have to come in for

daily IV's of Antibiotics. The Applicant also had to see their Podiatrist for specialized care concerning the toe. When the Applicant informed upper management of what happened they were not happy that the Applicant would be out of work and the Doctor would provide the necessary notes for sick time upper management said the Applicant should have had the toe seen earlier. The Applicant reminded them that upper management was the reason that the Applicant waited because of their intimidation. The Applicant almost had to miss a convention in Montreal in August where they would be speaking on various media panels as a working vacation. The infection resolved itself so that the Applicant had to use a surgical shoe and cane on vacation and had to severely limit their activities during

the working vacation due to mobility issues. Also concerning the convention in

Montreal The Applicant in November 2008 informed upper management that a

convention in Montreal had contacted had the Applicant to invite them to speak on panels the beginning of August 2009 Applicant was told by upper management the Applicant they would not get vacation time to go to the convention even with a ten-month advance notice. Applicant pointed out to upper management that other staff with less seniority were able to go on vacation at that time in previous years because Applicant had to work for them in the past. Upper

management said they would have to think about the request. In March upper management told staff to put vacation requests in and some staff with less seniority said they wanted to go on vacation the same time as the Applicant had requested. The Applicant called State, Federal, and Legal Advocacy group that specialized on wage, hour, and labor laws and explained the situation, the various agencies informed the Applicant of their rights and to inform upper management of the information given. When the Applicant met with upper management to inform them of the conversation, they got very angry and said the Applicant was stupid and would get in trouble for calling the agencies. The Applicant said they were calling for informational purposes only and the agencies said the Applicant was well within their rights to call for information in case some statute had changed. The Applicant's vacation was finally approved in mid April 2009. The agencies informed the Applicant that it sounded like some form of retaliation after the Applicant was asked some questions about the work environment.

The Applicants Doctors wanted to see them when they got back from Montreal to see if there was any reinfection, fortunately it had resolved both the Doctor and the Podiatrist warned the Applicant That the Staph would always be present in their body because of the delay of treatment and the Applicant would have to be careful from now on especially as they aged. The Applicant always followed the Doctor's orders stringently and went above and beyond the orders. There was a few recurrences that were resolved quickly. Unfortunately, a fast moving bone infection came on the Applicant and even thought the Applicant was doing everything for foot care including antibiotics and oxygen therapy. The toe with the Staph infection had to come off in October 2019. When the Doctors, Nurses, and Surgical staff both

pre and post Surgery including visiting nurses took a history of everything that led up to the amputation they were puzzled and shocked when the Applicant told them of the history of the Staph infection and the delay in treatment. Some of the Medical Professionals said to the Applicant that if treatment was not delayed the Applicant still might have their toe and that upper management should have known better especially working at a Medical School.

All documents and supporting exhibits presented by the Applicant at every level of the Federal Judicial process shows that while at work the Applicant felt if their rights were violated they would research every situation online and call the appropriate State and Federal agency or legal advocacy group to make sure the Applicant was correct in their interpretation of their rights and the law. Applicant would remind upper management of their rights and would be told to shut up or they would be fired. Applicant told B.U. Police, Medical School Public Safety and Human Resources of the assaults and coverup, the false police report against the Applicant, the physical and mental abuse that was endured for years. All of them said there was nothing they could do that the Applicant wrong about the law then they hung up on the Applicant while they were on the phone with them, and later found out during the court proceedings there was no do not trespass notice against the Applicant which was told to them by the HR representative and the Public Safety Officer that escorted Applicant off the property all while the Applicant was on accepted intermittent Family Medical Leave Act for workplace injuries. Applicant was not allowed to clean out their desk and lost personal tools during the process. Applicant asked for and never received any paperwork for the do trespass notice that turned out to be false. As Applicant was researching this petition, they reread all documents connected to this Civil Action and was researching laws they found a reference to laws on the Department of Justice website

specifically, 18 U.S. Code § 241. Conspiracy against rights and 18 U.S. Code § 242. Deprivation of rights under color of law, which is what the Respondent was doing constantly to the Applicant during the Applicant's employment with the Respondent. This can be extended to the Appellate Action referenced above where two judges recused themselves from En Banc due to obvious ties to the Respondent and guest judges should have substituted so Applicant could have had full benefit of En Banc.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for rehearing, vacate the order dismissing the writ of certiorari and restore this case to its merits docket.

Respectfully submitted,
By the Pro Se Applicant
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June 10, 2020

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

/s/James Zavaglia
James Zavaglia (Pro Se)

CERTIFICATE OF SERVICE

I certify that on this Tenth day of June 2020, the foregoing is being sent via U.S. Postal Service for service on all persons registered in connection with this case including:

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