19-8174

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

CAMILLE T. MATA,
Petitioner,

v.

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION,
Respondent.

On Petition for a Writ of Certiorari to the Commonwealth of Massachusetts Appeals Court

PETITION FOR A WRIT OF CERIORARI

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DATED: March 27, 2020

FEDERAL QUESTIONS PRESENTED

1. Should senior legal officers of the state court of last resort, such as the Justices of the Massachusetts Supreme Judicial Court, be allowed to deny Petitioner Further Appellate Review when there is constitutional ground to grant it and to contradict its opinion in a precedent, *Christo v. Boyle Insurance Agency, Inc.*, 402 Mass. 815 (1988), displaying circumstances from which legal principles equivalent to the case at bar may be drawn, in violation of the Equal Protection Clause of the Fourteenth Amendment and its federal equivalent, the Due Process Clause of the Fifth Amendment?

2. Would senior legal officers of the state court of last resort, such as the justices of the Massachusetts Supreme Judicial Court, be consenting to race-gender discrimination in contravention of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*) and Title IX of the Education Amendments Act of 1972 (20 U.S.C. §§1681–1688), as denying Petitioner Further Appellate Review simultaneously denies her a Superior Court judicial review of her race-gender discrimination complaint against the Massachusetts Institute of Technology, Department of Urban Studies and Planning ("MIT DUSP")?

PARTIES TO THE PROCEEDINGS

Camille Tuason (T.) Mata is a Filipina-American (female), who applied to the PhD program in Urban Studies and Planning at the Massachusetts Institute of Technology ("MIT DUSP"). She is the Petitioner in the case at bar, the Applicant in the Massachusetts Supreme Judicial Court, the Appellant-Plaintiff in the Massachusetts Appeals Court, and the Complainant in the Massachusetts Superior Court.

The Massachusetts Commission Against Discrimination ("MCAD") is the Massachusetts state agency responsible for investigating discrimination complaints specifically for low-income and poor Massachusetts residents. It is the Respondent in the case at bar and in the Massachusetts Supreme Judicial Court, the Appellee-Defendant in the Massachusetts Appeals Court, and the Defendant in the Massachusetts Superior Court.

HISTORY OF COURT PROCEEDINGS

Mata v. Massachusetts Commission Against Discrimination, Supreme Judicial Court of the Commonwealth of Massachusetts, Docket No. FAR-26694. Judgement entered on January 3, 2020. The Clerk of Court noted that the notice of entry of judgement was not generated on May 9, 2019. As such, Petitioner was not aware that a judgement had been entered on such date.

Mata v. Massachusetts Commission Against Discrimination, Massachusetts Appeals Court, Docket No. 2018-P-0782. Judgement entered on February 14, 2019.

Mata v. Massachusetts Commission Against Discrimination, Massachusetts Superior Court, Docket No. 1778-cv-00081. Judgement entered on February 14, 2018.

Mata v. Massachusetts Institute of Technology, Department of Urban Studies and Planning, Massachusetts Commission Against Discrimination, Docket no. 16SED02743. Disposition of MCAD Investigating Commissioner entered on November 22, 2017.

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INTRODUCTION

This case concerns the professional obligation of the Justices of the Massachusetts Supreme Judicial Court to arbitrate disputes in compliance with the federal standards of due process law and equal protection, to follow precedent when the legal principles drawn from the circumstances of two case laws are equivalent, and to correct errors in applications of law committed by inferior courts when the decision is inconsistent with federal law. The Due Process Clause of the Fifth Amendment was written into the U.S. Constitution as a part of the Bill of Rights to provide equal protection vis-à-vis equal application of the law to all persons residing in the United States. *Stare decisis,* or legal precedent, is commonly used by officers of the law to guide decisions on cases at bar in order to preserve authoritative consistency. The purpose of such legal standards is to shield all persons from arbitrary discrimination.

Individuals are told that their statutory right to equal application of the law is guaranteed in all aspects of public life. This presumption of equal application, therefore, underlies virtually all actions undertaken by institutional actors, *e.g.,* in the evaluation of applicants seeking entry into doctorate programs or in the proceedings of administrative and legal institutions. Yet, when the Supreme Judicial Court of Massachusetts denied Petitioner's Application for Further Appellate Review, it chose a course of action oppositional to a precedent, *Christo v. Boyle Insurance Agency, Inc.*, 402 Mass. App. 815 (1988), from which equivalent legal principles may be drawn, and oppositional to a

reasonable action when the tests determining judicial review availability are met.

When the Supreme Judicial Court of Massachusetts departed from a widely accepted standard of procedure of granting further appellate review when there is constitutional ground and of relying on *stare decisis* to guide decisions on legal disputes, it willfully overthrew the statutory guarantee of equal application of the law. In so doing, it treated Petitioner disparately from *Christo* without reason and became complicitous to repugnant acts of discrimination. We can also ascertain from its decision that the Supreme Judicial Court of Massachusetts considers equal protection to be of little importance to procedural due process. Denying Petitioner Further Appellate Review simultaneously eliminates further opportunity for Petitioner to resolve a converging dispute involving an intersecting federal question of law, pursuant to 42 U.S.C. §2000d *et seq.* and 20 U.S.C. §§1681-1688. Camille T. Mata petitions this Court for a *writ of certiorari* to restore equal protection of procedural due process.

This Court should grant Camille T. Mata's petition for *writ of certiorari* in order to correct a flawed interpretation of the Due Process Clause of the Fifth Amendment, a federal statute governing equal protection against procedural inconsistencies. By ignoring the legal errors committed by the Respondent (MCAD), the Superior Court, and the Appeals Court, the errors of which were highlighted in Petitioner's Application, the Supreme Judicial Court of Massachusetts willfully

contradicted the precedent it established in *Christo*. In so doing, it opened the door for the Supreme Judicial Court to deny further appellate review in the context of valid, constitutional grounds in future cases and to weaken *stare decisis* in dispute resolutions; the result of which can only be capricious and arbitrary discrimination against any persons and, on this basis, to dismiss converging disputes involving equally important questions of federal law. Ergo, this Court should grant *writ of certiorari* also to restore Petitioner's civil rights protection against race-gender discrimination. In denying Petitioner's Application for Further Appellate Review without reason, the Supreme Judicial Court eliminated Petitioner further opportunity to address the errors in Respondent's rational basis for the LOPC determination regarding her race-gender discrimination complaint against MIT DUSP.

OPINIONS BELOW

The opinion of the Supreme Judicial Court of Massachusetts is not given. The judgement is set forth in the Appendix at C005. The opinion of the Appeals Court is unpublished at 2019 Mass. App. Unpub. LEXIS 126 and set forth in the Appendix at A001-A003. The judgement of the Superior Court on the Motion to Dismiss is set forth in the Appendix at B004.

JURISDICTION

The Massachusetts Supreme Judicial Court issued a judgement denying Petitioner's Application for Further Appellate Review on January 3, 2020. No Opinion for the denial was given. This Court's decision is invoked under 28 U.S.C. §1257(a).

STATUTORY PROVISIONS INVOLVED

The relevant federal statute is the U.S. Const. Bill of Rights, Amendment V, Equal Protection under the Due Process Clause.

STATEMENT OF THE CASE

A. Legal Background

With the purpose of preventing mistaken deprivation of "life, liberty, or property," the Due Process Clause under the Fifth Amendment guarantees that the government must comply with a fair and just process before it can act against a citizen. The confluence of equal protection and due process under the Fifth Amendment and the congruence of these statutory guarantees with the State version, the Fourteenth Amendment, have been well documented in the history of the U.S. Supreme Court. Legal precedent has always been the rational basis for incorporating equal protection into the Fifth Amendment's due process protections. *See*, Karst, 1997.[1]

Equal protection as an "additive of due process" was first taken into consideration by dissenting justices in *Hirabayashi v. United States*,[2] when "an American citizen of Japanese parentage"[3] was arrested for violating the curfew law during World War II. The U.S. Supreme Court upheld the overriding national interest - national security. However, in

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[1] Karst, Kenneth L., "The Fifth Amendment's Guarantee of Equal Protection," 55 N.C.L. Rev. 541 (1977).

[2] 320 U.S. 81 (1943), cited in Karst,544.

[3] Karst, p. 544.

a dissenting opinion, the Court recognized that such a law posed a threat to the personal liberties of a racial group of citizens, remarking that "discrimination based on ancestry" was "odious to a government founded upon the principles of equality and fairness."[4] Similarly, in *Korematsu v. United States*,[5] a case that upheld the exclusion of Americans of Japanese descent from the West Coast, the dissenting opinion noted that "the exclusion order was a deprivation 'of the equal protection of the laws as guaranteed by the Fifth Amendment.' "[6]

While *Hirabayashi* and *Korematsu* merely directed attention to the potential erosion of equal protection when governments favor national security interests, in *Bolling v. Sharpe*,[7] a case that recognized deprivation of black children's liberty due to school segregation, the Court asserted that "discrimination may be so unjustifiable as to be violative of due process."[8] These cases demonstrate that the U.S. Supreme Court has long avowed discrimination's Constitutional status and has vigorously declared intolerance towards the disparate application of due process rights by federal and state governments. Judicial opinion in the foregoing cases also signifies that the U.S. Supreme Court has long regarded equal protection to be inseparable from due process and, further, has intertwined these principles with the assumption of "life, liberty or property" granted to all persons of the United States.

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[4] Karst, 545, quoting *Hirabayashi*.
[5] 323 U.S. 214 (1944), cited in Karst, 545.
[6] Karst, 545, quoting *Korematsu*.
[7] 347 U.S. 497 (1954), cited in Karst, 545.
[8] Karst, 545-46, quoting Justice Warren in *Bolling*.

Thereafter, in *Weinberger v. Wiesenfeld,*[9] a case that challenged the Social Security Act of 1935, which precluded widowers caring for minor children from collecting special benefits, the justices held that the U.S. Supreme Court has consistently approached equal protection under the Fifth Amendment in the same way as that to the Fourteenth Amendment:

> "This Court's approach to the Fifth Amendment equal protection claims has always been precisely the same as to equal protection claims under the Fourteenth Amendment."[10]

In another case involving the employment of aliens in federal civil service, *Hampton v. Mow Sun Wong,*[11] the U.S. Supreme Court gave the following opinion:

> ". . . when there is no special national interest involved, the Due Process Clause [of the Fifth Amendment] has been construed as having the same significance as the Equal Protection Clause."[12]

These opinions reflect the trend in the U.S. Supreme Court. In other cases, for example, *Frontiero v. Richardson,*[13] *Washington v. Davis,*[14]

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[9] 420 U.S. 636 (1975).

[10] Karst, 542, quoting *Weinberger.*

[11] 426 U.S. 88 (1976), cited in Karst, 555.

[12] Karst, 553, quoting *Hampton.*

[13] 411 U.S. 677 (1973), in which the court affirmed that a federal statute "defining a military 'dependent' in sex-discriminatory terms" was invalid, cited in Karst, 555.

[14] 426 U.S. 229 (1976), in which the court asked whether a law that has a racially disparate impact a denial of equal protection. However, Karst noted that the opinion "shows no evidence that this distinction was ever considered," cited in Karst, 554.

Jimenez v. Weinberger,[15] and *Matthews v. Lucas*,[16] the justices consistently relied on the equal protection clause of the Fourteenth Amendment as authority.[17] And, where there may have been some doubt as to the confluence of equal protection and due process, *Weinberger v. Wiesenfeld* put them to rest:

> "While the Fifth Amendment contains no equal Protection clause, it does forbid discrimination that is 'so unjustifiable as to be violative of due process.' "[18]

History demonstrates that the U.S. Supreme Court has consistently disparaged unfair treatment by both State and Federal governments due to [its] discriminatory impact and has consistently appealed to precedent to legitimize the court's opinions.

B. Factual Background

Camille T. Mata ("Petitioner") applied to the PhD program in Urban Studies and Planning at the Massachusetts Institute of Technology before the January 3, 2016 deadline for entry in September 2016. Her application portfolio consisted of an academic journal publication as her writing sample; a Curriculum Vita detailing her academic accomplishments, academic awards, and urban planning work experiences; her GRE scores; three letters of recommendation; transcripts describing her academic trainings, inclusive of her three

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[15] 417 U.S. 628 (1974), in which the court argued that it was unconstitutional to deprive illegitimates of social security benefits, cited in Karst, 555.

[16] 427 U.S. 495 (1976), see Footnote 14.

[17] Karst, 555.

[18] Karst, 556, quoting *Weinberger*.

master's degrees. In an e-mail message dated March 8, 2016, the MIT DUSP admissions committee informed Petitioner that she had not been admitted to the PhD program in Urban Studies and Planning. Sometime in July or August 2016, she filed a race-gender discrimination complaint at the MCAD ("Respondent"). In support of her race-gender discrimination complaint, she appended her academic records, not including the letters of recommendations. On May 31, 2017, Respondent rendered a Lack of Probable Cause ("LOPC") determination following an investigation. App. G025-G030. Petitioner appealed the Investigator's disposition to the Investigating Commissioner on June 7, 2017. App. H031-H042. On November 22, 2017, the Investigating Commissioner upheld the LOPC determination, informing Petitioner:

> "The above decision represents a final action by the Commission and no further action regarding this complaint will be considered at the Commission Against Discrimination. This final action of the Commission is not subject to Judicial Review M.G.L. c. 30A." App. F024. *Mata v. MIT DUSP*, No. 16SED02743

Having exhausted MCAD remedies, Petitioner subsequently sought judicial review relief from the Massachusetts Superior Court of Franklin County, alleging Respondent's failure to apply the standards of legal analysis to her race-gender discrimination complaint against MIT DUSP. App. D011-D015. The standards of review for measuring an applicant's academic competence have been established in *Bakke v. Regents of the University of California*, 438, U.S. 265 (1978) and the measures of discrimination have been well-established in *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989), *McConnell Douglas Corp v.*

Green, 411 U.S. (1973), *Tyson Foods v. Bouaphakeo,* 136 S. Ct. 1036 at 1048-49 (2016), and *Anthony Ash, et al. v. Tyson Foods, Inc.* 546 U.S. 454 (2006). As a defensive move, Respondent filed a Motion to Dismiss (*see,* App. E016-023) on grounds and rational basis that contradicted the material facts, "plausible on its face," showing that Petitioner had met the federal requirements to move forward with judicial review. *Ashcroft v. Iqbal,* 556 U.S. 662 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007). The Superior Court nonetheless granted Motion in conflict with U.S. Const. art. III §2 U.S. Const. art. 28 §1331, the Administrative Procedure Act, 5 U.S.C. § 702, 704 (1994), and *Marbury v. Madison*, 5 U.S. 137 (1803). Petitioner appealed to the Massachusetts Appeals Court, citing agency and judicial errors. The Appeals Court upheld Motion, on which Petitioner applied for Further Appellate Review (FAR) from the Supreme Judicial Court of Massachusetts. The Application was denied, in conflict with its precedent, and in abnegation of its judicial obligation, and a notification was generated to Petitioner without an Opinion on January 3, 2020. Petitioner submitted to the Clerk of Court a "Request for the Production of Documents" on January 8, 2020, in which she asked for the Opinion and the original judgement notice. The Assistant Clerk of Court of the Supreme Judicial Court of Massachusetts, Ms. Maura Looney, informed Petitioner in a telephone conversation that she could not give Petitioner the requested documents, and that Justices are not required to give an opinion. In lieu, the Petitioner was e-mailed the Omnibus record of the Court's judgement of Petitioner's Application. App. C008-C010.

C. Legal Proceedings in the Case at Bar

On December 21, 2017, Petitioner filed a Complaint for Judicial Review in the Massachusetts Superior Court of Franklin County, *Camille T. Mata v. Massachusetts Commission Against Discrimination*, Docket 1778CV00081, in order to obtain a review of the legal analysis standards applied by the Respondent to the corpus of material evidence in Petitioner's race-gender discrimination complaint against MIT DUSP, pursuant to 5 U.S.C. §§702, 704 and M.G.L. c.30A §14. As grounds for said Complaint, Petitioner argued that the legal analysis was not consistent with the standards of measuring discrimination, as established in legal precedents. These measurements are "disparate treatment," *McConnell Douglas Corp. v. Green,* 411 U.S. (1973); "pretext," *Anthony Ash, et al. v. Tyson Foods, Inc.* 546 U.S. 454 (2006); *Patterson v. McLean Credit Union*, 491 U.S. 164 (1989), *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. ____ (2016); and "preponderance of evidence" from weighing all the evidence, *McConnell Douglas Corp.* and *Smith v. Lockheed-Martin Corp.*, No. 09-14428 (11th Cir. 2011).

Within days, Respondent filed a Motion to Dismiss, which put a moratorium on Petitioner's ability to submit all the material evidence supporting her judicial review complaint to the Massachusetts Superior Court of Franklin County. The grounds for Respondent's Motion were (1) no jurisdiction over subject matter, pursuant to Mass. R. Civ P. 12(b)(1), and (2) failure to state a claim upon which relief may be made, pursuant to Mass. R. Civ P. 12(b)(6). *See also,* Federal Rules of Civil Procedure, Title III, Rule 12(b)(1) and 12(b)(6). Petitioner did not file a

response to the Motion, as the material evidence in her judicial review complaint sufficiently controverted the grounds given in Respondent's Motion. The Massachusetts Superior Court of Franklin County granted Motion to Dismiss "for the reasons stated in Defendant's Motion and without opposition." On the contrary, Petitioner's Complaint explained the subject matter dispute (race-gender discrimination) on which judicial review was pursued and specified the relief sought. Moreover, Respondent informed Petitioner in a formal notice that any further action regarding her race-gender discrimination complaint would not be considered, indicating exhaustion of available administrative remedies at the MCAD. App. F024.

On July 18, 2018, Petitioner appealed to the Court of Appeals of Massachusetts. *Mata v. Massachusetts Commission Against Discrimination*, 94 Mass. App. Ct. 1122. In her Brief, she pointed to the Superior Court's failure to acknowledge the controversy between Petitioner's and Respondent's material evidence, pursuant to Mass. R. Civ. P. 56 (Summary Judgement), that were "plausible on its face." In *Ashcroft*, the U.S. Supreme Court affirmed that the Federal Rules of Civil Procedure (8)(a) requires sufficient factual matter to "state a claim to relief that is plausible on its face," *at* 570. Similarly, in *Bell Atlantic Corp.* the U.S. Supreme Court concurred that in order to survive a Motion to Dismiss on a Federal Rules of Civil Procedure 12(b)(6), there must be sufficient factual matter to suggest plausibility: "Asking for plausible grounds does not impose a probability requirement at the pleading stage; it simply calls for enough fact to raise a reasonable

expectation that discovery will reveal evidence of [illegal agreement]," *at* 7-17. The Appeals Court did not comment on the controversies in Respondent's grounds for Motion to Dismiss and Petitioner's Complaint for Judicial Review other than to write:

> "the plaintiff appears to argue that the judge should have treated the MCAD's motion as one for summary judgement and denied it based on the existence of disputed facts. But to the contrary, the judge appropriately considered and resolved the motion as one to dismiss for lack of subject matter jurisdiction." *Mata v. MCAD*, 94 Mass. App. Ct. 1122 (2019)

Petitioner never moved for summary judgement. Rather, she argued **against** it due to the plausibility of the controversies in the material evidence. Petitioner had also clarified in her Brief that her appeal of the Motion to Dismiss was couched in the race-gender discrimination dispute she initiated at MCAD. Petitioner further noted that Judicial Review is allowed under M.G.L c151C §4(a), following the exhaustion of all possible opportunities for remedy at the state agency, pursuant to M.G.L c30A §14 (5 U.S.C. §§701-706), and does not explicitly require that the determination be made by the *full* commission in order for judicial review to be available, as the Massachusetts Appeals Court had alleged. *See*, App. J046-J047. In addition, Petitioner pointed to the meaning of final agency action as being neither interlocutory nor tentative, but a final judgement, pursuant to 5 U.S.C. §704 authorizing judicial review of administrative actions,[19] and *Bennett v. Spear*,[20] 520

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[19] American Procedure Act (APA), Pub.L.79-404, 60 Stat. 237 (1946).

[20] A federal case law affirming the doctrine of exhaustion as one of the conditions for judicial review availability. The state equivalent precedents are *East Chop Tennis*

U.S. 154 (1997).[21] The final notice from the Investigating Commissioner informed that the determination upholding the Investigator's LOPC determination was the final action, clearly communicating the fact that Petitioner had exhausted her administrative remedies within MCAD.

Finally, Petitioner appealed to precedent in *Christo*, reproducing the Supreme Judicial Court's prevailing opinion that "(1) Christo is not bound by the ruling of the investigating commissioner, (2) Christo had no right by appeal to obtain a ruling on the tolling question from the full commission, and (3) there is no principle applicable here analogous to the requirement of the exhaustion of administrative remedies," *at* 817. App. I044.

By Memorandum and Order Pursuant to Rule 1:28, the Appeals Court upheld Motion. As its basis, the Court reasoned that judicial review is available only after a determination is made by the "full commission." However, the language under M.G.L c151C §4(a) states merely "commission." App. J046. The Appeals Court also implied from the Supreme Judicial Court's argument in *Christo* - "A preliminary hearing before an investigating commissioner . . . is not subject to G.L. c. 30A . . ., and no statutory right of appeal for judicial review applies to such a determination," *at* 818 - that the statutory right of judicial review, being a provision of M.G.L. c30A, is contingent on the

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Club v. Massachusetts Commission Against Discrimination, 362 Mass. 444 (1973), *Ceely v. Firearms Licensing Review Board*, 78 Mass. App. Ct 1125 (2011).

[21] in Cole, Jared P., "An Introduction to Judicial Review," Congressional Research Service, December 7, 2016.

preliminary hearing, over which the Respondent has discretionary power. There is no statutory basis for such a reasoning in state or federal law. The Appeals Court further insinuated that because Petitioner did not take her complaint out of MCAD and pursued civil action under M.G.L c151B §9,[22] she somehow waived her statutory right to judicial review. In upholding Respondent's Motion to Dismiss, the Appeals Court incorrectly concurred that Respondent has primary jurisdiction over discrimination disputes and has primary jurisdiction, and therefore an overriding authority, over the availability of judicial review. Such rationale conflicts with both state and federal law.[23]

On March 5, 2019, Petitioner applied for Further Appellate Review in the Supreme Judicial Court of Massachusetts, *Camille T. Mata v. Massachusetts Commission Against Discrimination*, No. FAR-26694, on two points. The first point was the Appeals Court's departure from the precedent established in *Christo* regarding the jurisdiction of state agency over judicial review. Arguing on the premise of the doctrine of primary jurisdiction, Petitioner underscored the limitation of Respondent's discretionary powers to its regulatory proceedings, appealing to *F.P. Corp. v. Tamarkin Co.*, 1992 U.S. Dist. LEXIS 17929 (N.D. Ohio Mar. 20, 1992).[24] Citing the Opinion of the Supreme Judicial

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[22] A Massachusetts law that allows complainants to transfer a case out of MCAD to the courts without prejudice.

[23] Under M.G.L. c.30A §14, the Massachusetts courts have "equitable jurisdiction" over higher education discrimination claims. *See,* M.G.L. c151C§ 2(d) and M.G.L. c151C §4(b). The Constitutional standing of discrimination in federal courts is 42 U.S.C. 2000d *et seq.* and 20 U.S.C. §§1681-1688.

[24] *See also, Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41 (1938) and *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 468 U.S. 837 (1984).

Court of Massachusetts in *Christo*, in which the Court established that the preliminary hearing is distinct from the judicial review in relation to the latter's statutory mandate under M.G.L c. 30A, the State Administrative Procedure Act, Petitioner argued that the Respondent has no authority to restrict one's statutory right to judicial review.

The second point on which Petitioner applied for Further Appellate Review were the errors made by the Appeals Court (1) in its interpretation of MCAD proceedings and authority with respect to judicial review availability, (2) in its interpretation of the Opinion of the Supreme Judicial Court of Massachusetts in *Christo* with respect to judicial review availability, (3) of its failure to distinguish the jurisdictional authority of the preliminary hearing, a proceeding within MCAD, from that of judicial review, a proceeding in the courts, and (4) its failure to acknowledge the plausible controversy in Respondent's grounds for Motion to Dismiss and Petitioner's Complaint for Judicial Review. The main points of these errors were discussed in the foregoing paragraphs of this section.

D. The Massachusetts Supreme Judicial Court's Decision

The Supreme Judicial Court ("SJC") of Massachusetts docketed Petitioner's Application for Further Appellate Review on March 8, 2019. The SJC generated a judgement denying Petitioner's Application on January 3, 2020. In the judgement notice, Ms. Maura Looney, Assistant Clerk of Court of the SJC, affirmed that the notice dated May 9, 2019 was not generated to Petitioner. The SJC did not append an opinion.

Two implications arise from the SJC's failure to provide the rational basis for denying Petitioner Further Appellate Review. Firstly, by ignoring the material evidence demonstrating the exhaustion of remedies for judicial review to be available, ignoring the interpretive errors of State statutes and case laws in the Superior Court's and Appeals Court's reasoning, failing to recognize jurisdiction over subject matter and failing to conform to *stare decisis*, the norm in common law systems, with *Christo*, a case law displaying legal principles equivalent to the case at bar, the SJC sustains, rather than corrects, the errors committed by the Massachusetts inferior courts. This implication gives rise to the second, which is that the Supreme Judicial Court, in its authority as Superintendent of inferior courts, abused its discretionary powers in order to remove Petitioner's grievance from the courts. The proclivity towards discretionary abuses, rather than legal reasoning, is strictly prohibited in the U.S. Constitution. *Hylton v. United States*, 3 U.S. 171 (1796) called for the need to incorporate judicial review as a component of the judicial duties of the U.S. Supreme Court, while *Marbury v. Madison*, 5 U.S. 137 (1803) affirmed the separation of powers principle and coded judicial review in the U.S. Constitution in order to provide a mechanism for illuminating abuses of power. Moreover, in denying Petitioner's Application for Further Appellate Review in light of the numerous errors highlighted throughout the Application, the Massachusetts Supreme Judicial Court displayed blatant disregard for the *Code of Judicial Conduct for U.S. Judges*, which justices/judges are obligated to observe when adjudicating and to implement through judicial actions.

REASONS FOR GRANTING CAMILLE T. MATA'S PETITION

I. The Court Should Review the SJC'S Decision Now Because It Undermines Federal Law and the Legitimacy of the Court as a Superintendent Authority that may Result in Future Departures from Statutory and Procedural Standards.

A. Justices have a professional obligation to conform to professional standards required of justices in ruling on disputes, including complying with the Due Process Clause of Constitutional Law.

The Due Process Clause is the administration of justice incorporated into the U.S. Constitution's Bill of Rights as an assurance against the arbitrary deprivation of life, liberty or property without lawful grounds.[25] Due process has formulated "fairness standards" to ensure that all persons benefit from rights and protections guaranteed by the U.S. Constitution.[26] In this vein, due process requires courts to adhere to standard procedures as a safeguard against arbitrary and capricious departures, whilst incorporating Bill of Rights protections. Equal protection, therefore, has become a standard consideration in questions of federal law pertinent to due process claims. U.S. Supreme Court case law history shows it has consistently and prevalently incorporated equal protections into due process considerations in efforts to safeguard against discrimination. Such cases, all having appealed to precedent, reinforce that equal protection and due process are congruent, "overlapping guarantees."[27]

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[25] Cornell University Legal Information Institute, *https//www.cornell.edu/wex/fifth_amendment.* Accessed January 11, 2020.

[26] Legal Dictionary, *https://legaldictionary.net/due-process/.* Accessed February 6, 2020.

[27] Karst, 554.

The professional obligation of all judges/justices to conform to due process and implement equal protection of the law is encapsulated in the oath of office:

> "I _____ do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all duties incumbent upon me as _____ under the Constitution and laws of the United States. So help me God." 28 U.S.C. §453.

This oath, representing the honor and integrity associated with serving in a judicial capacity and confirming judicial commitment to upholding the laws of the Constitution, aptly summarizes the principle canons governing judicial obligations and responsibilities prearranged in the *Code of Judicial Conduct for U.S. Judges*. 28 U.S.C. §451.[28] All judges/justices are "required to comply with this Code," obligating such persons to "uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety" by "complying (sic) with the law" in order to "promote confidence in the judiciary" and to "avoid abuse of the prestige of judicial office." *See*, *Code of Judicial Conduct for U.S. Judges*,

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[28] This section incorporates the revision of the language 'justice or judge of the United States' to state 'justices of the Supreme Court, the circuit judges, and the district judges' . . . "in order to extend the provisions of this section to judges of the Court of Claims, Customs Court, and Court of Customs and Patent Appeals and to all judges of any court which may be created by enactment of Congress." 28 U.S.C. §453, *Historical and Revision Notes*. https://www.law.cornell.edu/uscode/text/28/451.

Effective March 12, 2019.[29] Equivalent canons are found in the *Massachusetts Code of Judicial Conduct.*[30]

When the SJC ignored Petitioner's compliance with the course of civil procedure to affirm her statutory right to judicial review in light of the material evidence supporting such a determination, and failed to establish that the Massachusetts Superior Court of Franklin County has subject matter jurisdiction, its action violated civil procedural due process law and offended the rule of law. If its denial of Application for Further Appellate Review stands, Petitioner would be mistakenly deprived of the opportunity to a judicial review of her race-gender discrimination complaint against MIT DUSP and, consequently, be denied of the freedom to pursue a fulfilling career of her choosing: conducting studies on urban planning topics that may address socio-economic poverty and environmental degradation in the Philippines. She would also be mistakenly deprived of fair treatment in competitions for training programs that prepare one to fulfill the responsibilities of that chosen career. *See, Butchers' Union Slaughterhouse and Livestock Landing Company v. Crescent City Livestock Landing and Slaughterhouse Company*, 111 U.S. 746 (1884), wherein the court declared that "the liberty of pursuit – the right to follow any of the ordinary callings of life – is one of the privileges of the citizen of the United States," which no law may abridge. It may be inferred from this opinion that no court action may do the same. Failing to adhere to

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[29] "Guide to Judiciary Policy," Vol. 2A, Ch. 2.

[30] *Massachusetts Rules and Orders of the Massachusetts Supreme Judicial Court*, Effective January 1, 2020, Ch. 3.09, pp. 221-255.

procedural due process standards further empowers the SJC to repeat the same offense in future controversies, thus affecting similar liberty interests among the general public.

B. The silence of the Massachusetts Supreme Judicial Court agrees with the errors committed by the inferior courts, which conflicts with federal and state due process laws.

Due process standards apply to determining judicial review availability before a court mistakenly and unjustly deprives a person of life, liberty, or property. While the case at bar was in the inferior courts, Petitioner had furnished material evidence that suggested judicial review was available to her, thus meeting the tests required by federal law. Firstly, Petitioner provided documentation that indicated her race-gender discrimination complaint was ripe for review. In *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967), the U.S. Supreme Court held that 'final agency action', pursuant to Administrative Procedure Act §10, indicated the "controversy . . . 'ripe' for judicial resolution." Secondly, in the Complaint for Judicial Review, Petitioner established that the dispute on which the Motion to Dismiss was filed involved her race-gender complaint against MIT DUSP. U.S. Const. art. 28 §1331 requires that for a court to have subject matter jurisdiction, the dispute must raise a question of federal law, giving the Massachusetts courts, including the SJC, the authority to adjudicate. Constitutional protections against race-gender discrimination fall under 42 U.S.C. 2000d *et seq.* and 20 U.S.C. §§1681-1688, respectively. Thirdly, Petitioner's Complaint described a cause of action, giving the courts

valid reason to review the dispute, a requirement under U.S. Const. art. III §2. Fourthly, Petitioner established that her options for remedy at the MCAD (Respondent) had been exhausted, though courts may balance the interest of the complainant against that of the defendant to give exception to the doctrine of exhaustion. In *McCarthy v. Madigan*, 503 U.S. 140 (1992),[31] plaintiff failed to exhaust prison administrative remedies. The U.S. Supreme Court nonetheless granted *certiorari*, concurring that exhaustion was not required as the petitioner's interest outweighed that of the respondent. Lastly, the material evidence appended to Petitioner's Complaint for Judicial Review, namely the existence of a relief requested, the state/federal law in dispute, and notice of final action, sufficiently controverted Respondent's grounds to warrant overturning the Motion to Dismiss. The errors of the inferior courts with respect to the foregoing tests were highlighted in Petitioner's Application for Further Appellate Review. Nonetheless, the SJC denied the Application without an opinion and ultimately failed to protect Petitioner's statutory right to judicial review. The SJC should have remanded the case at bar to the Superior Court and granted further review. *See, Conley, et al. v. Gibson, et al.*, 35 U.S. 41 (1957), wherein the U.S. Supreme Court granted certiorari because Conley showed evidence of a dispute stated in a " 'short and plain statement' that will 'give the defendant fair notice of what the claim is and the grounds upon

[31] The Respondent and inferior courts in the case at bar concurred with the opinion in *East Chop Tennis Club,* in which the Appeals Court ruled it could not grant declaratory relief because plaintiff's complaint at the MCAD had not been finalized. However, this case was misappropriated as a defense against Petitioner's Complaint for Judicial Review in support of Motion to Dismiss.

which it rests,' " *at* 47, and that "the Court had jurisdiction over the controversy," *at* 44.

Due process standards also apply to *stare decisis*. It is common practice, especially when the circumstances of current and preceding cases are similar, to rely on the "rule of precedent"[32] to guide legal reasoning and decision-making in order to maintain consistency in and to stabilize the law. The legal principles derived from Christo are equivalent to the case at bar. Like *Christo*, Petitioner sought judicial review of the MCAD's decision. Like *Christo*, Petitioner had exhausted all remedy options at the MCAD. Like *Christo*, Petitioner's dispute raised a federal and state question of law. Like *Christo*, Petitioner's Application revealed material evidence in Petitioner's Complaint for Judicial Review that sufficiently controverted Respondent's grounds for Motion to Dismiss. And yet, the SJC did not uphold precedent, contradicting its opinion in *Christo*, and in effect treated Petitioner disparately from Christo. Unlike *Christo*, in which the SJC granted Further Appellate Review, vacated judgement, and remanded *Christo* to the Superior Court for further proceedings, in the case at bar, the SJC did not give an opinion and accordingly did not provide a rational basis for denying Petitioner's Application. It defied its own precedent and eliminated further opportunity for Petitioner to obtain a relief from her race-gender discrimination complaint against MIT DUSP. In its silence, the SJC implied agreement with the inferior courts' action, despite the

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[32] Llewelyn, K.N., "Case law and Stare Decisis: Concerning *Präjudzienrecht in Amerika*." *Columbia Law Review*, Vol. 33, No. 2, February 1993.

presence of controverting material evidence showing Petitioner had met the federal standards for justifying judicial review. Furthermore, the silence of the SJC gave no indication that a special justification existed to legitimize its departure from precedent. *Payne v. Tennessee*, 501 U.S. 808 (1991) confirmed that "[T]his Court has never departed from precedent absent 'special justification.' " Coney Barrett, 2003,[33] quoting Chief Justice Rehnquist). That the SJC departed from its own precedent without a rational basis to indicate even a special justification is a blatant showing of court prejudice against Petitioner.

Several cases reinforce the power of *stare decisis* in relation to equal protection under due process of the Fifth Amendment. The U.S. Supreme Court, in *Wo v. Hopkins*, 118 U.S. 356 (1886), ruled that a city ordinance was administered prejudicially and made it clear "As to the natural persons protected by the due process clause, these include all human beings regardless of race, color, or citizenship." Similarly, in *Terrace v. Thompson*, 263 U.S. 197 (1923), the U.S. Supreme Court concurred that the 1921 Washington State Alien Land Law Act did not contravene the Fourteenth Amendment equal protection under due process clause, as this law did not allow non-citizens to own or lease land, and upheld the equal application principle of this clause consistent with precedent. Finally, in *Hellenic Lines v. Rhodetis*, 398 U.S. 306 (1970), the U.S. Supreme Court held that because U.S. law provides aliens, as it does citizens, injury-related compensation under the 1920

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[33] Coney Barrett, Amy, *Stare Decisis and Due Process*, 74 U. Colo. L. Rev. 1011 (2003).

Jones Act,[34] it should do so here. In each of the foregoing cases, the U.S. Supreme Court consistently applied equal application of the law. Such consistency guides legal reasoning for supreme and inferior courts in present and future disputes. Yet, in the case at bar, the SJC failed to comply with the common law practice of following *stare decisis*, absent a special justification, which resulted in an adverse outcome for Petitioner. Such action opens the door to arbitrary, as opposed to rational, departures from precedent in the future.

C. The silence of the Massachusetts SJC does not fulfill its superintendent obligation to correcting errors of inferior courts and unjustly leads to results adverse to the purpose of Due Process Law.

The weight of precedent suggests that the supervisory power of supreme courts over inferior courts, regarding the constitutionality of legal interpretations and actions, has been well-entrenched in appellate reviews since *McNabb v. United States.*[35] Here, the U.S. Supreme Court, calling on its "implied duty of establishing and maintaining civilized standards of procedure and evidence,"[36] concurred with the district court and determined that confessions obtained from inmates "in prolonged detention"[37] could not be included in evidence. In *Thiel v. Southern Pacific Company,*[38] the Supreme Court, using its supervisory authority over federal district court, confirmed that excluding daily wage workers

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[34] This law grants a remedy for sailors injured or died at sea resulting from the negligence of the owner, master, or another sailor. 46 U.S.C.A. §688.

[35] *McNabb*, 318 U.S. 332, 340 (1943), cited in Coney Barrett, Amy, *The Supervisory Powers of the Supreme Court,* 106 Colum L. Rev. 324 (2006).

[36] *Id.* at 340.

[37] *Id.* at 341-342.

[38] *Thiel*, 328 U.S. 217 (1946).

from jury duty is unconstitutional in the federal court. In *Castro v. United States*,[39] the Supreme Court ruled that the District Court is required to fulfill its due process duty by notifying *Castro*, a *pro se* litigant, of the recharacterization of his Motion "as one for habeas relief" and the consequences of doing so before "recasting a prisoner's motion as such (sic)."[40] Yet, in the case at bar, rather than defend fair civil proceedings, the SJC failed to correct the error of the inferior courts of granting Respondent's Motion to dismiss Petitioner's judicial review complaint from the courts, altogether. The SJC's silence, rather, implies agreement with the decision of the inferior courts[41] and ultimately undermines equal protection in relation to inferior court procedures. The SJC's defiance of its judicial obligation of supervising inferior courts is inconsistent with the common law judicial practice of correcting errors of inferior court proceedings, a power authorized by U.S. Const. art. III and Massachusetts statute, M.G.L. c211 §3. *See*, App. K048-K049. Without the U.S. Supreme Court's intervention, Petitioner's statutory right to judicial review will forever be suspended, despite having met the tests that warrant judicial review, and will result in varied conclusions regarding the due process of judicial review. The U.S. Supreme Court should intervene now to uphold equal protection under due process of law.

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[39] *Castro*, 540 U.S. 375 (2003), cited in Coney Barrett, 2006, 330-31.

[40] Coney Barrett, 2006, 331-32, quoting Castro at 382-83.

[41] Coney Barrett, *Stare Decisis and Due Process*, 2003, see Footnote 14 on p. 1016.

II. The SJC's Decision Creates a Conflict with Federal Law and Leads to Results that Indicate Consent to Higher Education Discrimination Against Petitioner in Violation of 42 U.S.C. 2000d *et seq.* and 20 U.S.C. §§1681-1688.

In privileging *Christo* over the case at bar, the SJC arbitrarily defied the well-established practice of protecting all persons equally vis-a-vis equal application of the law to contravene the Fifth Amendment. Denying Further Appellate Review resulted only in dismissing Petitioner's case from the courts, an action that indicates consent to higher education discrimination in violation of 42 U.S.C. 2000d *et seq.* and 20 U.S.C. §§1681-1688, federal law protections against race-gender discrimination in higher education. The U.S. Supreme Court should act now to prevent the erosion of equal protection under the due process clause. Considering the common law practice of relying on precedence to guide decisions, failing to enforce this practice could potentially lead to the revocation of judicial review statutory rights without justification for future complainants. Furthermore, the SJC's failure to act on the errors could extend to other areas of law. The fact that Petitioner is a member of two protected groups is an important consideration with respect to the SJC's departure from its decision in *Christo*.

III. The Issue Presented Could Affect Every Person Seeking to Correct Inferior Courts' Errors and Its Importance Necessitates Immediate Review.

A. The SJC's decision arbitrarily denies equal protection under the Due Process Clause and weakens the integrity of the Judiciary.

Every year, Filipina-American women and many others apply to urban planning doctorate programs. Many will have strong academic records, punctuated by interesting backgrounds that bring color and insight to their desired discipline and will contribute to innovation in urban planning research. Most will be denied admission despite strong academic credentials. Even though the Association of Collegiate Schools of Planning (ACSP) regularly promotes the notion that representation of planning professionals and academic scholars should reflect the diversity of the United States and the world, Filipina-American women have been and remain underrepresented in many doctorate programs, and more so in the urban planning discipline, including at MIT DUSP. Lay persons may attribute the reason to the lack of popularity of this discipline amongst this protected group. Scholarship, however, has demonstrated that institutional discrimination is more likely the cause of underrepresentation. Race-gender considerations aside, it remains that the U.S. Supreme Court upholds academic record as the primary concern in higher education admissions. Although race may be considered in admissions decisions as a plus factor, *see Grutter v. Bollinger*, 539 U.S. 306 (2003), the applicant must nevertheless demonstrate strong academic credentials, enhanced by life and professional experiences, which set her apart from other applicants

belonging to Filipina/o-American, other racial, and international demographics. Petitioner, a naturalized U.S. citizen who immigrated from the Philippines during the Ferdinand Marcos dictatorship and whose interest in poverty alleviation and sustainability was influenced by her exposure to the poverty and environmental degradation of the Philippines, is one such applicant. Her academic publications and three master's degrees show a preparation for urban planning doctorate programs which exceeds that of most, if not all, applicants. Truth be told, it is rare for a doctorate applicant to have earned three master's degrees and to have published academically before earning a PhD. It is likely that Petitioner's academic record will be replicated by future applicants to doctorate programs who may also need to be protected against arbitrary dismissals of discrimination complaints, if filed.

While Petitioner has asserted her inalienable right to equal treatment in higher education admissions procedures and equal protection from arbitrary and capricious discrimination, the SJC's silence has revoked Petitioner of the statutory right to a judicial scrutiny of her race-gender complaint against MIT DUSP, specifically of Respondent's failure to subject the corpus of submitted material evidence to the standard measures of discrimination that have been well-established in case laws.[42] Petitioner's identity, which falls under two protected group categories, "Filipina/o" and "woman," may have been a factor for the SJC's departure from precedent. Indeed, case laws

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[42] *See again, Bakke v. Regents of the University of California*, *Patterson v. McLean Credit Union*, *McConnell Douglas Corp v. Green*, *Tyson Foods v. Bouaphakeo*, and *Anthony Ash, et al. v. Tyson Foods, Inc.*

demonstrate that the government has exhibited prejudice to the broader Asian-American group. For example, in *Kaoru Yamata v. Fisher*, 189 U.S. 86 (1903), pursuant to the Immigration Act of 1891, which permitted the deportation of immigrants believed to likely become public charge, the U.S. Supreme Court upheld the deportation of Yamata, a sixteen year-old girl from Japan, who was believed to have landed illegally in Seattle, Washington. The investigator had assumed she was illegal. Throughout the proceedings, it became known that Yamata's right to due process had been violated because the investigator did not provide her with a translator and because she was not represented by counsel. The U.S. Supreme Court did not acknowledge the violation, as it recognized only the constitutionality of the Act. This Act, which was devoid of a due process provision, conflicted with the Fifth Amendment due process clause enacted in the U.S. Constitution on December 15, 1791.

In *Hirabayashi* and *Korematsu*, the U.S. Supreme Court legitimized the curfew and settlement exclusion policies targeting all Japanese persons, including U.S. citizens of Japanese parentage, based on the national security interest. In contrast, when Timothy James McVeigh bombed the Oklahoma City federal building, no laws were passed that imposed a curfew on U.S. citizens of Irish heritage or excluded such persons from settling in Oklahoma City and the surrounding regions in the interest of national security. McVeigh's sentence was capital punishment. *See, United States v. Timothy James McVeigh*, 119 F.3d 806 (10th Cir. 1997). In this case, the U.S. Court of Appeals recognized

that the terrorist act committed by McVeigh did not implicate persons of Irish heritage, at large, unlike the treatment of Hirabayashi and Korematsu, both of whom were implicated by the Japanese Emperor's bombing of Pearl Harbor as plausible war-time collaborators by virtue of their race.

In a recent higher education discrimination lawsuit involving Harvard University and Asian-American applicants, *Students for Fair Admissions, Inc., v. President and Fellows of Harvard College (Harvard Corporation)*, 261 F.Supp.3d 99 (2017), the U.S. District Court declared that Harvard's use of race as part of its consideration of the "whole applicant" in order to preserve diversity of its undergraduate body, was constitutional. The outcome of this case, contrary to its intent of complying with 42 U.S.C. 2000d *et seq.*, used race **to reduce** diversity and **to affirm** the constitutionality of discriminating against the litigant. The Asian-American litigants were denied admission, despite reportedly strong academic records, and were not credited for contributing to the diversity of Harvard's undergraduate student body, despite their Asian heritage. Here, the court displayed a paradoxical ruling by arguing in favor of Harvard's race-inclusion admissions policy, and yet ruled against the litigants, indicating the U.S. District Court's refusal to recognize that the litigants' race contributed to Harvard's undergraduate student body.[43] Furthermore, while not overturning Bakke, the ruling seemed to trivialize the litigants' academic records.

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[43] Biskupic, Joan, "Federal Judge Upholds Harvard's Admissions Process in Affirmative Action Case, CNN, October 1, 2019. Accessed on March 4, 2020 https://www.cnn.com/2019/10/01/politics/harvard-affirmative-action/index.html.

The foregoing cases are merely examples of many others in which Asian-American litigants have been harmed by the government.[44] These decisions establish a pattern of ruling that may be replicated in future disputes.

B. This Court Should Exercise Jurisdiction Now

The U.S. Supreme Court should review the SJC's denial of Petitioner's Application now in order to preserve the integrity of the judicial system, to preserve equal protection under due process, and to preserve equal treatment in the higher education admissions process. In departing from *stare decisis* in *Christo*, the SJC established a judicial pattern of privileging one litigant over another for no apparent reason. Petitioner, like Christo, had met the federal standards test for determining judicial review availability, and yet she was denied the appellate review that would have remanded her case to the Massachusetts Superior Court of Franklin County. In privileging Christo, the Massachusetts SJC not only exhibited prejudice towards Petitioner, but also failed to preserve equal protection under the Due Process clause of the Fifth Amendment, a failing that may be replicated in future, similar disputes, and at the same time fail to preserve authoritative consistency.

A corollary effect would be consenting to higher education discrimination, thus contravening the protections afforded by 42 U.S.C.

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[44] *See*, Ancheta, Angelo N., *Race, Rights, and the Asian American Experience*. Rutgers University Press, 1998.

2000d *et seq.* and 20 U.S.C. §§1681-1688. When the SJC denied Petitioner further appellate review, it precluded a Superior Court scrutiny of Respondent's rational basis for Lack of Probable Cause from the material evidence presented by the parties in Petitioner's race-gender discrimination complaint against MIT DUSP. If the U.S. Supreme Court does not grant *certiorari*, the Motion to Dismiss initially granted by the Superior Court and subsequently upheld by the Appeals Court and the SJC, will stand and so will the errors in constitutional interpretations committed by the inferior courts, the errors in the standards of review of discrimination complaints committed by the Respondent, and the consent to these errors implied from the silence of the SJC. Consequently, Petitioner would be denied of any further opportunity for a relief to her race-gender discrimination complaint that would result in mistakenly depriving her of the liberty to pursue a doctorate in urban planning, a required step towards a scholastic career through which to address socio-economic and environmental poverty in the Philippines.

Without this Court's intervention and if the SJC's decision is not reversed, equal protection under due process would be jeopardized. The SJC's decision may also conceivably be repeated in future cases that raise the same federal question. The reasons above meet the tests justifying compliance with due process established in *Matthews v. Eldridge,* 424 U.S. 319 (1975), in which the U.S. Supreme Court held that "Resolution of the issue here involving the Constitutional sufficiency of administrative procedures requires consideration of (1) the

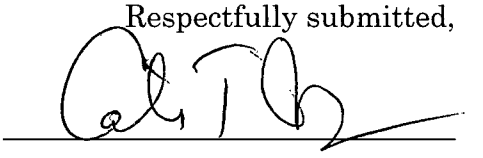
private interest . . . (2) the risk of an erroneous deprivation of such interest . . . and (3) the Government interest." *Id.* at 332-35.

If Petitioner had survived the Motion to Dismiss in the inferior court proceedings, the federal issue of equal protection under due process would be moot. The inferior courts have decided the federal issue and Petitioner may succeed on the merits of the case. *See, Cox Broadcasting Corp. v. Cohn,* 420 U.S. 469 (1975), *at* 470, and 476-478. The SJC had chosen its course and this federal question is now "ripe for review" by this Court because the material evidence pertaining to the grounds in Respondent's Motion to Dismiss have been produced forthwith and it remains now only that this Court resolve the issue of judicial obligation to equal protection under due process. *See, Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568 (1985), stating "[t]the issue presented . . . is purely legal, and will not be clarified by further factual development," *at* 579-582. Refusing to review the state court decision would erode equal protection under due process, making this issue a matter of national importance. *See, Layne & Bowler Corp., v. Western Well Works, Inc.,* 261 U.S. 387 (1923), stating "[I]t is very important that we be consistent in not granting the writ of certiorari except in cases involving principles, the settlement of which is of importance to the public, as distinguished from that of the parties . . .," *at* 393.

CONCLUSION

For all these reasons, this Court should grant Camille T. Mata's petition and issue a writ of certiorari to the Commonwealth of Massachusetts Appeals Court.

Respectfully submitted,



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