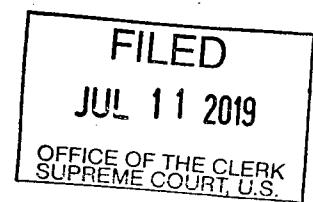


19-880  
No. \_\_\_\_\_



*In The*  
**Supreme Court of the United States**

Yisreal M. Kemp ,  
Petitioner,

**Versus**

Board of Regents of University System of Georgia,  
Members, *et. al.*

Appellee - Defendant,

*On The Petition for Writ of Certiorari to the United  
States Court of Appeals for the Eleventh Circuit*

**PETITION FOR WRIT OF CERTIORARI**

(s) Yisreal M. Kemp

*Pro Se Attorney*

P.O.Box 623

Atlanta, Ga 30301

Date: January 11, 2020

(678) 826 - 6817

RECEIVED

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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**QUESTIONS PRESENTED**

- I. Whether the Eleven Circuit Court error not to determine the equal protection clause, and the civil rights act of 1964, Title VI, authorize Georgia constitution article eight (of public postsecondary education) to establish and uphold that Georgia State University (the University System of Georgia) has the authority and to not actually conflict with the law. Concerning an entry level classification choice for applicate with qualified high criteria standard, Minimum quiliified criteria standard or qualified least criteria standard for an evaluating priority entry admission consideration for such applicate
- II. Whether formal statute and congressional law, maintain undergraduate admission application fees to be included in a develop free education in the University System of Georgia.

**Parties To The Proceedings  
And Rule 29.6 Statement**

Petitioner in this case is Yisrael M. Kemp .  
Defendant - Appellee ,

Board of Regents of University System of Georgia  
Officers Members , of Chair , Vice Chair , Chancellor  
and /or Georgia State University Addmissions Office ,  
Officer Members , Associate Vice President for admission  
and housing , and Director of Undergraduate admission.

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I. Certiorari should be granted from the Court to view entitlement rights of applicants to choose from various entry level classifications. Appellee reserves choosing such a decision for applicate about high criteria or minimum least criteria.	
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## **PETITION FOR WRIT OF CERTIORAI**

Petitioner, Yisrael M. Kemp respectfully submits this petition for a writ of certiorari concerning United States Court of Appeals for the Eleventh Circuit Court which did not review appellee admission evaluation program which determine priority admission for high criteria and secondary admission evaluation for minimum and least qualified standard applicant, App. 32a ,App .38a .

The Eleventh Circuit appeal court did not determine, the United States District Court Northern District of Georgia, Atlanta division, review of appellee undergraduate admission application fees and its regents financial assistance program is not in compliance of state equal opportunity laws for an undergraduate tuition **free** education. App. 23a , App. 24a, App. 50a , App.51 .

The court did not review the court of the Northern District of Georgia Atlanta Division, Judgement that appellee admission evaluation program which determine priority admission for high criteria applicant and secondary evaluation admission for minimum standard applicant. Discriminate against minimum standard criteria applicant, for not requiring such applicate with passing criteria standard policy of grade point average or test score grade average of 1.9 or 2.0 for priority (primary) admission evaluation entry level classification. App. 36a, App. 37a , App. 38a App. 39a .

The panel of the Eleven Circuit and Judge William Pryor, concerning District Court decision of strict scrutiny and narrow tailoring of undergraduate admission policy, race neutral. To have an essential policy for applicants' rights to an undergraduate

education implemented and that Georgia System of University has jurisdiction approve a priority entry level classification evaluation for guarantee minimum passing criteria applicant and high criteria applicant for automatic admission enrollment consideration. App . 36a , App . 38a , App . 39a .

If not reviewed, the Eleventh Circuit decision not determining Constitutional and Civil Right act 1964 entitlement VI, preferences for undergraduate equal education opportunity evaluation and nondiscrimination Federal funded program guarantee. The issue for applicant (citizen) rights and privilege standard still will maintain importance for equal opportunity admission evaluation.

### **Opinions Below**

The judgement of the United States Court of Appeals for the Eleventh Circuit is reported at case no. 18-15242-EE and reproduce in the, App. 1a.

The eleventh circuit order dismissing denied appeal for lack of Jurisdiction reported at 18-15242-EE and reproduce in the appendix, App. 3A, App. 4a.

The order of the United States District Court for the Northern District of Georgia Atlanta Division is reported at Doc. 85# 1:07-CV-0212-BBM and reproduce in the appendix. App. 22a . The judgement of the United States District Court for the Northern District of Georgia Atlanta Division is reported at Doc 86# 1:07-CV-0212-BBM and reproduce in the appendix App. 20a , App . 21a

### Jurisdiction

The United States Court of Appeals for the Eleventh Circuit rendered its decision April 12, 2019. Motion for reconsideration, denying constitution, equal protection clause review and Civil Right Act Title VI of 1964 review, dismissing for untimely lack of jurisdiction. App. 3a.

### Statement of Case

Appellee undergraduate admission program entry level classification do not comply with equal opportunity evaluating minimum qualify criteria standard applicant and high qualified criteria standard applicant for a priority entitlement percentage enrollment consideration.

Appellee entitlement of rights and liberty for such entry level classification they reserve for themselves to decide selection of applicant entry level and refuse the equal opportunity policy for applicant (people) rights and liberty. App. 45a , App. 46a .

### Constitution Provision Involved

The Fourteenth Amendment to the U.S. Constitution provides in relevant Part: No state shall...deny to any person within its jurisdiction the equal protection of the laws and section 1.

Georgia Constitution Article VIII  
(Post-secondary level)

The tenth Amendment powers reserved to the states or to the people.

## **B1. Procedural History and Court's Ruling**

Petitioner file this suit under the equal protection clause and Title VI of Civil Rights Acts 1964, 42 USC 2000d et. Seq, for federal funded program nondiscrimination, claims 42 USC 1981 for equal rights under law; 42 USC 1983, Civil Action for deprivation rights. App. 5a. Defendants general admission policy same 2008-2019 which did not provide entitlement rights to applicant, guaranteeing an equal education opportunity entry level classification choice for both minimum passing criteria applicant and high criteria applicant for undergraduate admission enrollment. During undergraduate admission evaluation appellee denied appellant nontraditional category request and withdrew appellant summer admission application Ap 36a 37a. The District Court determine constitutional entitlement to appellee was, normal in undergraduate admission program to not entitle rights to traditional and nontraditional applicant with a guarantee entry level classification choice for various minimum passing criteria applicant and high criteria applicant for admission enrollment. App. 32a .

## **B2.**

The District Court granted summary judgement for appellee stating appellant provide no evidence of legal standing for action of intent discrimination. The circuit appeal court determine lack of Jurisdiction to rule entitlement rights to appellant. App. 1a, App. 2a. Several United States Court cases about undergraduate General Admission Program address

entitlement of genders and races for no discrimination. The Brown v. Board of Education Supreme court case, open doors for these very issues in education about race and gender nondiscrimination due to the case protection ruling and rights entitlement that separate but equal is unconstitutional. Brown v. Board of Ed., 347US 483 (1954)

Throughout Admission process appellee demonstrated motive of discrimination beginning February 14, 2006 appellee denied nontraditional category request of appellant and denied appellant Morris Brown College transcript as erroneous and did not allow proper required information to get state and FBI background check during first evaluation for summer admission. Appellant appeal to undergraduate admission program about requested nontraditional category admission entitlement. Appellee admission program cleared appellant academic minimum passing criteria April 4, 2006 after appeal and appellee continue with motive of intent discrimination during its continue evaluation for summer admission 2006. App. 13a , 14a .

### **B3.**

Appellee May 19, 2006, withdrew appellant summer application depriving its admission program, due to not getting required necessary FBI check, which appellee informed appellant of its institution responsibility policy May 19, 2006 same day of denial, appellee continue motive of discrimination was its denial of uniform academic calendar policy, which was to allow summer admission consideration evaluation

until June. App. 10a, App 11a, App. 13a App. 14a, App. 42a, App.44a , App. 45a , App 48a , App 49a .

Intent discrimination motive appellant presented, according to strict scrutiny analysts to show fourteenth amendment violation and Title VI of CRA 1964 violation was not rule from either court District or circuit for appellant. The courts refuse to determine appellee general admission policy are to entitle rights to **those with** high criteria applicant and entitle rights to minimum passing criteria applicant with a guarantee choice entry level classification for various type academic standard for admission enrollment. **App. 15, App.16, App.17, App.18 .**

Appellee undergraduate general admission policy constitution entitlement for the transition of high school graduate to post – secondary institutions, entry level classification is without percentage priority admission for least (minimum) qualified standard applicants and high qualified criteria standard applicants. App.38a , App . 45a , App . 46a

#### **B4.**

The fourteenth amendment section one, equal protection clause authorize all person (citizen) within Jurisdiction of United States with privilege rights and Title VI of C.R.A of 1964 prohibit discrimination of (applicants) citizen, in Board of Regents University System of Georgia programs. The United States Tenth Amendment authorize States of America and people of America with rights in post-secondary education matters, due to the United States Constitution and Georgia Constitution Article VIII Section for post-secondary education. Appellant did exercise

entitlement rights for an undergraduate guarantee entry level. App.12a, App.13a, App.14a, App.36a App.50a , App.51.

The color (Rule) of the U.S. law permit entitlement of appellee to set standard admission for higher education and the color (Rule) of U.S. law permit entitlement to guarantee rights for undergraduate (citizens) applicants with an entry level classification choice for tradition and nontraditional applicant with various basic academic qualification for admission enrollment. Appellee is not complying meaning, with the color (rule) of U.S. laws, rights to the people (applicant) entry level guarantee to undergraduate admission enrollment consideration. App.32a , App. 36a , App. 49a .

#### **B5.**

Abigail Noel Fisher admission cases v. University of Texas, Austin 579 U.S. address different preference happening in admission program. The reviving and not reviving policy for races, gender and ethical to support diversity in admission program was discussed and the University of Texas presented an admission policy to the U.S. Court that they had changed their automatic admission from 10% to 7% for top students *from* its state high school. The United States court rule general admission race-based policy at Texas was not unconstitutional. Abigail Fisher maintain that preference policy for race ethical diversity should not be justified. The entitlement rights which Fisher and other University admission program address to U.S. Court acknowledge university authority to have various admission standard. Appellant address these same entitlement authorities of appellee to U.S. Court that the States of

America and its undergraduate university are to comply people rights entitlement with an undergraduate entry level guarantee choice for both traditional and nontraditional applicant. App. 38a , App.40a , App.47a .

#### **B6.**

Therefore; entitlement rights of traditional and nontraditional people (applicants) in appellee undergraduate catalog, manual and application, may such entry level be considered for tuition free guarantee admission enrollment. App.45a , App. 46a , App. 50a , App.51a .

#### **C. Proceeding from Circuit Court**

Appellant appeal (notice) dismiss by the three-Panel circuit Judge Marcus. William Pryor and Grant for lack of Jurisdiction and untimely due to last district court Judgment July 28, 2008 denying appellant summary judgement. Appellant file petition ten years later from district court last order for necessity that appellee, the district court and the circuit court of appeal become compliance with U.S. Constitution Equal Education Opportunity Entitlement Right for different types of students to choose entry level classification for admission evaluation that my guarantee undergraduate enrollment consideration. Presently appellee reserve entitlement rights of various entry level classification only to themselves to decide for applicant various general admission entry levels. App. 6a , App. 7a , App. 36a , App.40 , App.49a .

At the request of Circuit Court Order, January 30, 2019 for appellant to file a reconsideration motion to circuit appeal court about legal ground of appellee entitlement rights that is noncompliance in Georgia System of University admission program. App. 15a App.16a, App.30a, App.40a .

Appellant presented discriminated motive of appellee and their discriminating general admission policy not providing rights to applicant to select from various entry level classification for admission enrollment which did include grounds for states university system having federal opportunity grant program for tuition free undergraduate admission education. App.38a , App. 45a , App. 46a , App. 50a .

Appellee policy to set higher or additional requirement upon every applicant during admission evaluation for their decision to enroll and not enroll applicant . App. 38a , App. 39a . Prevents appellee from compliance of people (applicant) entitlement rights to decide from appellee various traditional and nontraditional category entry level and may the U.S. Court of Supreme decide amongst majority of judges for state-wide federal opportunity grant program for tuition free undergraduate education, App.50a , App . 51a .

Appellant will have U.S. Supreme Court judges view Circuit Court and District Court acknowledge entitlement rights to appellee decision to choose from their various entry level classification for applicant admission enrollment. To also view, District Court and Circuit Court deciding to acknowledge appellee general admission program is to also entitle rights to applicant to select from appellee various

entry level classification which presently reserve to appellee. **App. 36a , App.37a , App. 45a , App.46a .**

### **I. Reasons for Granting Petition**

Petitioner Certiorari should be granted due to Federal authority entitlement rights to states university education system official for Equal Education Opportunity compliance, **App.36a, App.37a.**

Present important Federal question, that conflict with U.S. Court concerning applicant (People) entitlement rights with state Education university system which did not comply policy for People (applicant) to decide their choice from various entry level classification, such as special and exception entry level classification for traditional and nontraditional applicants. State System of University official should also secure blessing of liberty to comply entitlement classification to (People) applicant choice decision to their various entry level classification. **App. 23a , App. 40a , App. 49 .**

### **II.**

The Supreme Court of the United States should grant certiorari because the analysis for appellee general admission policy show discrimination against applicant (student) with minimum passing criteria during admission evaluation. **App. 24a , App. 32a , App. 38a .**

Appellee general admission program, the Eleventh Circuit court did not determine institution compel interest to have their entitlement rights for a

particular applicants non-discrimination admission criteria selection to any undergraduate qualified applicant (high qualified or least qualified) is **to improve** percentage of such applicant choosing an entry level classification for enrollment, **App.32a,38a**

Appellee is refusing to comply with applicant's evaluation constitutional and entitlement rights for equal opportunity undergraduate admission evaluation. Appellee academic program, Reference for Types of approval and notification of academic and related matters is without admission undergraduate catalogue policies in particular for a priority admission consideration for such various types applicants academic matter, **App.45 , App.46 .**

A.

Appellee do have various entry level classification standard reserve (only) to appellee (official) to decide selecting certain percentage of applicant that has least and minimum qualified standard but appellee policy state high criteria standard is primary and minimum criteria standard is secondary for special admission program that's reserve for admitting minimum low applicant standard. Undergraduate admission program discriminates against minimum passing criteria applicant during evaluation. **App.38, App.47, App.48**

The merit and purpose of appellee (official) decision exercising authority entitlement right. Appellee have yet in university system of education to allow the people (applicant) with an admission system which allow (Student) entitlement rights of essential quality choice to decide of various entry level that

appellee only reserve for themselves. App. 32a , App.36a, App.45a, App.46a .

The court should grant certiorari because Georgia State University Admission Program (GSUAP) discriminated during admission evaluation requiring primary admission for applicant with high criteria standard and requiring secondary admission for applicant with minimum limit passing criteria. In lieu of policy remaining for minimum passing applicants, appellee discriminated against minimum criteria applicant App.24a,App.38a App.43a 44a App.45a

Entitlement of Rights and Liberty authorize University System of Georgia admission in program for appellee evaluating primary and secondary applicant for admission that do not discriminate either applicant base upon applicant high or minimum passing criteria standard, appellee is refusing to comply such entry level classification entitlement rights and liberty to applicant (people). App. 32a , App. 43a , App. 44a .

## B.

Appellee states applicant criteria consideration is high school diploma with GPA Scale of 1.9 – 0 and credit (curriculum) course hours admission standard and lieu of normal high test scores standard is without percentage regulations choice policies for least standard applicant App.43a , App.44a , App. 39a, App. 40a. Appellee discriminate against such applicant for priority admission evaluation App. 38a, App.39a

The percentage plan of the University of Texas of Albany and Georgia State University have is not the decision for applicant to select such an entry level classification. Limit admission top percentage plan is reserve only to official of the University System of Education to select such applicant, such entry level classification should not only be reserve to official to select such applicant, but that applicant can decide to select such entry level classification. App. 49a, App. 38a.

The entitlement of rights and privilege to various entry level classification and not placing such entry **level on** undergraduate application. Such as Presidential and Exceptional entry level classification. That's based upon criterial of applicant minimum standard or even just high school graduate diploma for admission. Is the issue for an avenue entry level classification percentage admission for various academic matter applicant. App. 45a , App. 42a .

### III

The Circuit Court and District Court refuse important interest of entitlement rights of applicant decision of appellee various reserve entry level classification whether nontraditional category or any standing entry classification policy are the sound entitlement of rights and liberty of applicant choice decision. Race neutral in Appellee general admission program. May consideration in this review be given that various entry level classification entitlement which is required by official authority. They (appellee) are reserving such rights and liberty for themselves in the United States System of University. App. 5a, App. 6a.

The three panel circuit judges Marcus, William Pryor and Grant refuse to remand appellant case to district court. That appellee general admission program policy for race neutral are to comply with equal education opportunity structure. App. 1a, App. 2a, App. 3a, App. 12a .

The review for appellee authority of rights and liberty decision applying various type of academic status for admission approval for appellant was not properly at liberty for appellant request. **App. 15a , App. 16a , App. 24a , App. 25a .**

Appellant exercise entitlement of rights and liberty for correct entry-level classification, which was nontraditional category, but due to appellee general admission policy that preference entitlement decision was not appellant right to choose having an entry level admission evaluation approve by appellee in their undergraduate general admission program that embody various type academic matter of applicant, such as high criteria and low minimum criteria applicant. Appellee has such policies as (footnote & general notes) in The Board of Regents university system of Georgia manual but appellee refused to regulate one such percentage policy in its institution catalogue. **App.36a , App.32a , App.45a , App.46a .**

Petitioner (appellant) claim that such applicant of either academic standard is entitled to equal protection liberty laws for an entry level admission classification that preference evaluating high criteria and basic criteria of applicant for priority undergraduate admission. **App.36a , App.37a , App.7a App.8a , App.9a , App.43a , App.44a .**

**CONCLUSION**

The Court should grant the petition  
respectfully submitted(s)

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Atlanta, GA 30301

Pro-Se

**January 11, 2020**

Appendix A  
1a

**APPENDIX A – ELEVENTH CIRCUIT  
OPINION-  
DATED JANUARY 30, 2019**

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

---

No. 18-15242-EE

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YISRAEL M. KEMP,

Plaintiff-Appellant,

versus

GEORGIA STATE UNIVERSITY ADMISSIONS  
OFFICE, BOARD OF REGENTS OF THE  
UNIVERSITY SYSTEM OF GEORGIA,

Defendant-Appellee.

---

Appeal from the United States District Court  
for the Northern District of Georgia

---

Before MARCUS, WILLIAM PRYOR and GRANT,  
Circuit Judges.

BY THE COURT:

This appeal is DISMISSED, sua sponte, for lack  
of jurisdiction. We construe Yisrael M. Kemp's notice

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of appeal as challenging the district court's July 28, 2008 final judgement, its August 6, 2008 order denying his construed motion to amend the complaint, its August 13, 2008 order directing him to pay costs, and its September 10, 2008 order denying his motions to stay pending an appeal and for an extension of time to file an appeal. Because Mr. Kemp's notice of appeal was not filed until December 29, 2018—more than ten years after the last district court order was entered—it is untimely, and we lack jurisdiction. *See* 28 U.S.C. § 2017(a); Fed. R. App. P. 4(a)(1)(A); *Hamer v. Neighborhood Hous. Servs. Of Chicago*, 138 S. Ct. 13, 21 (2017); *Green v. Drug Enforcement Admin.*, 606 F.3d 1296, 1300-02 (11<sup>th</sup> Cir. 2010).

All pending motions are DENIED as moot. No motions for reconsideration may be filed unless it complies with the timing and other requirements of the 11<sup>th</sup> Cir. R. 27-2 and all other applicable rules.

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**APPENDIX B**

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 18-15242-EE  
\_\_\_\_\_

YISRAEL M. KEMP,  
Plaintiff-Appellant,

versus

GEORGIA STATE UNIVERSITY ADMISSIONS  
OFFICE, BOARD OF REGENTS OF THE  
UNIVERSITY SYSTEM OF GEORGIA,

Defendant-Appellees.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Georgia  
\_\_\_\_\_

Before MARCUS, WILLIAM PRYOR and GRANT,  
Circuit Judges.

BY THE COURT:

Yisreal M. Kemp's motion for reconsideration of  
our January 30, 2019 order dismissing this appeal for  
lack of jurisdiction is DENIED.

**April 12 2019**

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**APPENDIX C**

**THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

**Yisrael M. Kemp  
Appellant**

**CASE: 18-15242-EE**

**V**

**Board of Regents of University System of  
Georgia; Georgia State Undergraduate  
Admission Office; Defendants, Chancellor E.  
Davis and Board Members; Director of  
Admissions and Staff Appellee**

**Reconsider Appeal Motion**

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**Reconsider Appeal Facts and Legal Argument  
Motions**

Appellant challenge district court Judge B. Martin's order and judgement. (Doc 85). To have denied prose objection to report and recommendation order for Magistrate Judge Russell G. Vineyard (Doc 74, not to have granted appellant response motion for Summary Judgement that there are genuine issues for trial (Doc 80). Particular pro-se address to U.S., Court of Appeal for the Eleventh Circuit its jurisdiction to reconsider above civil case facts for legal grounds, showing appellee motives of intent discrimination violation to title VI CRA 1964 within its general admission program and appellant same facts and legal analysis to show appellee noncompliance to the United States Constitution fourteenth Amendment Equal Protection Clause of appellant rights.

Appellant maintain claims against appellee for violation of rights under title VI of CRA of 1964 USC-2000-d et seq, which prohibits any recipient of federal financial assistance from discriminating on bases of race, color or national origin. In the eleventh circuit, reviewing strict scrutiny format which analysis of title VI program of CRA 1964, is the same as equal protection analysis to show motive discrimination which is maintain in appellee's general admission policy and appellee motive action in processing appellant's application was not in accordance of Equal Education Opportunity policy. Violation claim 42 US CODE 1983 for deprivation of Right Committee constantly from appellee and appellant maintain 42 USC 1981, equal rights under law claim damages

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incurred. Appellant hold Georgia Board of Regents of The University System of Georgia and board members in violation of Appellant constitutional rights.

**The All Writ (Reconsider) Act**

Prose reconsider writing the necessity for eleventh circuit court respective jurisdiction action of appellant title VI CRA 1964 complaint, that appellee disclose its approval policy of such classification criteria of (various) type test score consideration and (various) type credit (curriculum) course hours consideration for entry admission enrollment consideration become the approval and notification for applicant choice selection for admission enrollment consideration to appellee admission program.

For the all writ (consideration) Act, codified at 28 USC – 1651, contain condition and limitation of writ to the extent necessary to substitute appeal for writ of error. Circuit courts of appeal for writ of error. Circuit courts of appeals have power to issue writs of specifically not in statue which may be agreeable for usages and principle of law.

Appellant submit above motion for its authority concerning jurisdiction and limitation laws for appellant Title VI CRA compliant. For in 1984 D.C. Circuit relied on Dean Foods authority for issuance of an all writ order to compel the FCC to act on a petition that it had allegedly delayed for almost five years without acting on it. (FTCV. Dean Foods Co., U.S. 597 in 1984, the D.C. Circuit relied on case).

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Objection to appellee secondary admission minimum standard requirement policy.

Appellant's application process according to undergraduate minimum system (secondary) admission requirement standard policy. Appellee admission policy same 2006 & 2019. (BOR policy 2014 4.2 & 2006 402).

Circuit Court will find appellant Summer application submitted February 14, 2006, appellee committed numerous violations such as non-traditional category request as appellant denied, which still is approve by Chief of Academic of University System of Georgia and that such category request require notification to academic program Office was refused by appellee during evaluation for classification. (Doc. 80, pg. 45). Appellant presented (notice) appeal motion to circuit court to show constant motive of intent discrimination action from appellee. The appellee's dual category for evaluating entry admission consideration selecting priority admission criteria applicate and determining which percentage minimum criteria applicate to choose from admission demonstrated even further during the processing of application to decide appellant's classification as (regular) transfer, though non-traditional transfer is one of two category for non-tradition category. The district court determine it was reasonable for appellee to decide appellant request for non-traditional category to have been changed to regular transfer, which appellant objected to. (Doc. 85, pg. 11). Judge Martin's decision that appellant failed to correct error of appellee modifying appellant's request for non-traditional category March 3, 2006. (Doc 80, pg. 47).

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Appellant inform U.S. Circuit Court of appeal that during the processing of Summer Application, Pro Se did not think appellee would have denied one of two category choices for non-traditional traditional category, which applicate selected due to minimum admission criteria of such category for credit course hours matter in lieu of grade point average (Doc 80, pg. 44; Depo pg. 60, 13-21 and Doc 66, pg. 16, Depo pg. 86; 1-26 & pg. 87 of Depo 1-13). April 4, 2006 appellee denied appellant in their admission program for reason not according to non-traditional category, and decided to use appellant's GPA, discriminatingly and stated general admission based largely on academic and appellant don't meet admission standards. (Doc 77, pg. 65 & Doc. 69, pg. 5). Appellee also stated that appellant's Morris Brown College transcript was viewed as erroneously and without accreditation. (Doc 80, pg. 17 and Doc 77, pg. 49). Judge Martin states appellee's actions were entirely in line with regular admission policy, appellant still objects to appellee's process application as not requested for a regular transfer. (Doc 85, pg. 10). Appellant appeal that denial to Georgia State University Admissions about appellee's discrimination, to sue, and not transfer request but non-traditional transfer category. (Doc 66, pg. 18, 19 & 20).

Appellee stated on May 5, 2006 that due to all documents necessary for evaluating of appellant's academic was reviewed and found acceptable. (Doc 65 , pg.37 ). Appellant stated to circuit court of Appeal academic facts and its record submitted April 4, 2006 and March concerning academic status. (Doc. 80, pg. 50). Appellee's action was of intent discrimination. April 4, 2006, denial into admission program and May

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5, 2006, appellee reason for denial was appellant's academic document was not viewed for acceptance. (Doc 77, pg. 66 & 68). During the processing of appellant's application for admission evaluation appellee denied and then refused to disclose important information procedure concerning Dean of Student policy. Appellant informed appellee of name changes and robbery crime in February 14, 2006 on application (DOC.80 page 2-3). Appellee used general admission normal partial disclose policy of dean of student review in a discriminating manner in processing appellant's admission application. Appellant met with Acting Director of Admissions, Judith Carson, on May 4, 2006 and met with Designee Lanetter Brown of Judicial Affairs for Dean of Students, and appellant informed both personnel of out of state crime. (DOC.80pages 4-5) and Doc 66, pg. 32). Both personal in individual or official capacity refuge in disclose necessity for FBI background check.

Appellee denied appellant on May 19, 2006 into Georgia State Admission Program for not getting an FBI check, which appellee did not inform of necessity until May 19, 2006 for FBI check. Same day appellee denied prose for admission. (Doc 80, pg. 54 & Doc 63, pg. 49).

Appellee institution responsibility policy and undergraduate, general admission policy, do not have regulation for applicant to meet specific with Dean of Students nor do appellee regulate for State and/or Federal Bureau Investigation requirement.

Therefore, appellee use disciplinary criminal review in discriminating manner during appellant's

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first and second application Summer review process 2006 semester, and appellee same institutional responsibility policy 2019, do not disclose Dean of Student meeting and guideline for state and federal background check (**DOC.80** page 15 and GSU catalog, 2019, 1115 policy omitted).

Judge Martin further stated on May 19, 2006 withdrawal of appellant's application was taken for legitimate non-discriminating reasons (**DOC.85** page 11). Judge Martin also because class began May 15, 2006, for Georgia State University program was also reason for appellant's application being withdrew. (Doc 85, pg. 4). Appellant note to United States Courts of Appeals, Eleventh Circuit, appellee uniform academic calendar policy allow semester application entry evaluation latest deadline date to be until one day before registration dates and or until one day before drop and add class date. Georgia State University program allow flexible semester entry evaluation deadline dates.

Therefore, Georgia State University program Summer semester admission evaluation policy for 2006 as well as 2019, allow flexibility for latest entry evaluation date to be up until June. Presented in uniform academic calendar policy, which was not educational opportunity presented to appellant. (BOR manual 3.4.2 and academic and student affairs handbook 2.1 ).

Further evidence of motive discrimination for Appellee is the Board of Regents of the University System of Georgia, August 9, 2006, declined to grant appellant application request for review concerning

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president Patton of Georgia State University final decisions, which determine to withdraw and denied appellant into GSU's Admission program. The Board of Regents (BOR) of University System of Georgia refused to review the action of violation in the processing of the appellant's application. Especially not reviewing race, neutral policy or nondiscrimination admission evaluation and the BOR of the university system of Georgia is not maintaining its equal educational opportunity policy for approve type (applicable) classification related matters for entry admission consideration policy. The Board of Regents of university is currently in violation of the Title VI CRA of 1964, due to its general admission program policy, the limited admissions restrictions 7 percent at Georgia State University guideline which is same as 2006 for admission entry level classification for each type particular minimum criteria applicable with one new **needed** approval application entry level classification for both various qualified high criteria applicable and various least minimum criteria applicable for admission enrollment entry consideration in the university system of GA. (Exhibit 4-special admission policy 3.2.6).

Therefore, the limited admissions restrictions at the university of Georgia policy and appellee related matters policy for approval entry level classification for various types of criteria applicable. (Exhibit 5 – types approval academic matters policy). Circuit court, may find that the Board of Regents of University system of Georgia to develop these policies for equal education opportunity with an additional approval application entry level classification for both various high and minimum criterial application for

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priority admission enrollment entry consideration in the university system of Georgia general admission program.

**Conclusion of Application Process**

Appellant have presented facts showing appellee's general admission policy were used in an official and an individual capacity violating declaratory decree. Judge Martin did not sustain appellant. Valid fact finding or legal analysis to appellant title VI CRA of a1964 compliant. Appellant (Black race) and male gender not primary motive of appellee action under the color of law, appellee use appellant admission criteria, under color of law in admission policy to withdraw application and deny appellant admission entry. Appellee improve policy, student diversity, and legal argument for complying with Affirmative Action, (citizens) students still are denied their right to select various types of admission standard criteria which only approve for Presidents or designee at institutions. Appellant present reconsider appeal document to United States Court of Appeal 11<sup>th</sup> Circuit Court validate facts and legal analysis of appellant response for a reversal or remand civil case motion, that there is a genuine issue for trial, summary judgement motion which Judge Martin found in Section (D) court order to have been denied (Doc. 85).

Appellant address to circuit appeal court, appellee violated declaratory decree of appellant rights; the Fourteenth Amendment U.S. Constitution, section one, the equal protection clause and Violated

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Appellant Title VI Civil Rights Act of 1964 to be no discrimination in appellee's admission programs.

Pro Se (appellant), resubmit such cases as (plaintiff) Annie R. Busby vs Defendant City of Orlando and others, 931F. 2d 764, (Doc 63, pg. 23). Appellant Busby, appeal to Eleventh Circuit about various matters of Jury verdict claims of defendants (appellee), in their individual and official capacity. Appellant Busby was viewed by circuit to have produced evidence appellee's acted outside scope of qualified immunity, and started acting not in good faith one is not entitled to directed verdicts, Peppers v. Coutes 887 F; zd 1493, 11<sup>th</sup> Circuit reverse district court verdict in favor of defendants in their individual capacities on Section 1983 claim racial discrimination, because defendant (appellant) due to employer can be in violation. Respondent superior makes an employer liable for action of employee when action take place within scope of employment alleged deprivation (Fundiller vs. City of Cooper City 777 f. 2d 1436 Casual Connection). Board of Regents of University System of Georgia and or Georgia State University Admission Office, Director and Staff can be in judgement of claim violation, and held liable for GSU Admission Program, action in the processing of appellant admission applications. Such violations of processing appellant application for secondary entry consideration, modifying appellant's right for non-traditional category for transfer entry is a violation. Refusing Morris Brown College transcript and refusing appellant to meet with the Dean of Student Affairs and refusing important information of necessary FBI background check in a timely manner for documentation deadline and appellee violation of

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not allowing appellant allotted time for processing Summer application during month of June.

Therefore, such approval policy of non-traditional category was appellant right to not have application withdrawn and admission denied. Appellee motive of discrimination are a violation of declaratory degree of the 14<sup>th</sup> Amendment, Equal Protection clause and Title VI of CRA 1964.

Legal analysis, minimum and high system admission standard approval policy are rights in Georgia Constitution and the U.S. Constitution for (citizens) applicant (various) type criteria to be approved in institution catalogs and on undergraduate applications.

Strict scrutiny standards for measuring constitution equality in higher education general admission policy also determine narrow tailoring civil right entitlement regulation improvement. The suspect classification appellee still maintain in Georgia system of universities. The United States Court of Appeals for the Eleventh Circuit Court can best view such reference for types of approval and notification of academic and related matters and policies (Exhibit 5 type approval academic), which allows high and minimum various criteria standard approval to president and designated personal of institution. The Board of Regents of University System of Georgia refuse the approval and notification policy not be institution catalog. Therefore, in violation of Title VI CRA 1964 Depriving Citizen (applicable) of such approve entry level classification on undergraduate application.

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These examples in approval notification academic policy, which the Board of Regents of University System of Georgia endorse, list high and minimum standard criteria applicable, appellee allow entry enrollment should either applicable criteria in an area is not standard acceptable. For example, Board of Regents of Georgia, limited admission policy of such modified applicable application classification, and institution of University Systems of Georgia are authorize particularly, limited admission restriction policy for applicable, ones without high test scores, and such applicable are secondary for admissions (Exhibit 6 Exception special Groups 4.2.12. Approve academic matter category exception, Special and other limited admission category for applicable address court rulings of non-traditional and traditional applicant classification entry admission consideration. The Board of Regents' policy show special admission category freshmen and traditional freshmen have options of other criteria evidence for college readiness such as social security number, zip code and their percentage enrollment authorize to be based on entire previous year enrollment of first-time freshmen head count. Limit admission category classification restrict those particular not of traditional classification to seven percent for entry admission consideration, at Georgia State University (Academic Policy 3.2.6.).

Therefore, appellee approve notification academic matter policy that have different limit admission restrictions for evaluating traditional and non-traditional applicable for entry consideration are violating Title VI of CRA 1964, for not approval notification academic matter policy, that allows various types of classification criteria of high and

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minimum standard applicate, that don't meet areas of standard evaluation requirement such as test scores and grade point average. Institution approval authority and not approval various type of academic matter in undergraduate catalog is depriving (citizen) applicate of equal education admission opportunity, which Title VI of Civil Rights Act of 1964 do authorize for applicate admission form.

Further to note, Circuit Court of Appeal appellant legal support views appellee approve policy for determining test scores, a combination calculation for minimum and high standard requirement during admission evaluation. Appellee use from research and policy analysis search, an academic standard **of** Board of Regents. For 2004 grade point average, 3.08 letter grade B and year 2017 2.91, letter grade B authorize Georgia State University and the University of Georgia minimum standard requirement to begin with letter grade B or letter grade below B and S.A.T. score minimum average standard requirement for 2004 and 2017 was number fact 1000. Because GSU's admission requirement for determining minimum admission standard is based upon previous year of freshman category enrollment academic factor means 2018 as well as 2019, minimum standard requirement authorize GSU admission to determine during application evaluating. These applicate with letter grade of B and under letter grade of B and applicate with test score number factor in range of 1000 are minimum standard applicate (limited admission) for entry consideration (DOC. 63 pg. 64 Policy 1120.30). Appellee still approve only those with high test scores for primary admission entry and don't approve in undergraduate catalog applicate of either high test

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score and, those secondary applicate with minimum test score that both category applicate minimum and high applicate standard, each combine **entry level classification (types) can be** authorize for Georgia system of university (citizen) applicate. Therefore, applicate (citizen) constitution and Title VI CRA, 1964 Right are disclosed **not in Undergraduate catalog and to be established** on undergraduate admission application.

**Legal Cases Claims and Violation Decided  
and Legal Court Decision**

Appellant 14<sup>th</sup> Amendment, equal protection clause and Title VI of Civil Rights Act 1964, Motives of Intent Discrimination Legal Issues, 42 U.S. Code **2000d-1** which prohibits discrimination under program and activity receiving federal **funds** and its action **of** violation 42 U.S. Code 1983, claim appellee did deprive of equal education (admission) opportunity and U.S. Code 1981 claim Equal Rights under law, appellee not disclose and allow approve education civil right opportunity in University System of Georgia, that incur liability damages.

Appellant have presented cases of constitution, declaration and Title VI of CRA of 1964 rules to upheld.

Abigail Noel Fisher addressed affirmative action program in admission particular top 10 percent plan and race-based policy in a legal argument to the U.S. Court for denial, in University of Texas at Austin admission program. The Supreme Court determined after remand to circuit court which did uphold

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university admission program diversity (ethical) policy. The Supreme Court's second decision ruled that the University of Texas' admission use of race in their admission policy passes the constitution and Title VI CRA 1964 muster and favors Texas' admission program legal views for denying Abigail Fisher qualifying criteria for undergraduate admission program. Fisher vs. University of Texas 579 U.S. (2016).

Jennifer Johnson's case decided in 2001 concerning the University of Georgia Admission Program, race-based policy was not in the meaning and method views of strict scrutiny for constitution standards. Johnson's legal team and the University of Georgia's legal team rested their case that race-neutral and student body diversity policy for constitution principle achievement determine from court of appeals for 11<sup>th</sup> circuit ruling was acceptable, and case not appealed. (263 F. 3d 1234 11<sup>th</sup> Cir, 01). Appellant address case of Abigail Fisher vs. Texas and Jennifer Johnson vs. University of Georgia. Each case involved discrimination of a university admission program. The legal weight matter of 14<sup>th</sup> Amendment, equal protection clause and Title VI of CRA 1964 was highlighted in each legal complaint. The different university in each case addressed affirmative action compliance for program equal education admission opportunity.

The U.S. Circuit Appeal Court may maintain that demographic challenges of graduates in secondary institutions for entering post-secondary universities, (citizens) applicant is without state university system approving their authorize right in

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under-graduate catalog admission program and on applicate (contract) application. Affirmative action requirement merit minimum and high admission standards of applicate criteria that a new additional choice entry level maintain such applicate type entry classification and type academic level, for priority entry admission enrollment consideration for equal education admission opportunity.

Therefore, appellee authority that's approving academic type for additional or higher requirement policy compel approval as well for such applicate authority themselves to select various high and least qualified standard type criteria for priority admission enrollment level consideration .

Relief in case for claims and liability one hundred thousand dollars. In junction relief case to stop and improve limit admission restriction policy of appellee and institution responsibility policy for applicate state and federal background check to be disclosure

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**APPENDIX D**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

YISRAEL M. KEMP,

Plaintiff,

vs.

GEORGIA STATE  
UNVIERSITY ADMISSIONS  
OFFICE, et. al,

Defendants.

CIVIL ACTION  
FILE NO. 1:07-  
CV-0212-BBM

**JUDGEMENT**

This action having come before the court, Honorable Beverly B. Martin, United States District Judge, on the Final Report and Recommendation of the Magistrate Judge, and the court having adopted said recommendation and granted defendants' Motion for Summary Judgement, it is

**Ordered and Adjudged** that plaintiff take nothing; that the defendants recover their costs of this action and the action be, and the same hereby is, **dismissed**.

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Dated at Atlanta, Georgia, this 28<sup>th</sup> day of July,  
2008.

JAMES N. HATTEN  
CLERK OF COURT

By: s/Amanda Querrard  
Deputy Clerk

Prepared, Filed, and Entered  
In the Clerk's Office  
July 28, 2008  
James N. Hatten  
Clerk of Court

By: s/Amanda Querrard  
Deputy Clerk

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**APPENDIX E**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF  
GEORGIA ATLANTA DIVISION**

YISRAEL M. KEMP,

Plaintiff,  
vs.  
CIVIL ACTION  
FILE NO. 1:07-  
CV-0212-BBM

GEORGIA STATE  
UNVIERSITY ADMISSIONS  
OFFICE, et. al,

Defendants.

**ORDER**

This matter is before the court on several motions. Defendants Georgia State University Admissions Office and Board of Regents of the University System of Georgia have file a Motion for Summary Judgement (Doc. No. 61), and there is a Report & Recommendation authored by Magistrate Judge Vineyard ("R&R") recommending that summary judgement be granted for the Defendants (Doc. No. 74).

Plaintiff Yisrael M. Kemp ("Mr. Kemp") filed the following motions: Motion to Amend Response to

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Defendants' Motion for Summary Judgement (Doc. No. 78); Motion to Inform Court (Doc. No. 79); and Supplemental Motion Summary Judgement (Doc. No. 80). The Defendants have moved to Strike Plaintiff's Supplemental Motion for Summary Judgement (Doc. No. 84).

**I. Factual and Procedural Background**

Mr. Kemp applied for admission to Georgia State University ("GSU") for the summer semester on February 12, 2006. He checked the application box indicating that he was applying as a Non-traditional student. He also indicated that he previously committed a crime. The application instructed that the applicant should attach an explanation with the dates and circumstances of the crime committed. Mr. Kemp's attachment, in full, read: "I Yisreal M. Kemp under my previous name Willie James Kemp arrested in Atlanta Ga. 2003 for a robbery which I serve time for in 1986- **88** but GA. did not close the case until 2003." (Dep. of Yisrael Kemp, Ex. 2)

GSU has various admission policies, depending on the type of student who applies. Transfer applicants are those applicants who have previously attended a regionally accredited college or university. Transfer applicants must have at least a 2.5 cumulative grade-point average ("GPA") in the college-level courses, among other requirements. Non-traditional applicants are those applicants who have been out of high school for at least five years, hold high school diploma from an accredited high school, have not attended college with the past five years, and have earned fewer than 30 transferable semester credit

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hours. An applicant who has earned 30 or more transferable semester credit hours but has not been enrolled in any college level classes for five or more years will be considered a Non-traditional Transfer applicant. Such applicants may be admitted as Limited Admission Transfer Students even if they do not meet the GPA requirements for Transfer applicants.

Mr. Kemp supplied GSU with a copy of his transcript from Morris Brown College, where he completed over 30 semester hours of college-level work. GSU designated him a Transfer applicant, even though he had checked Non-traditional on the application form. On March 3, 2006, GSU sent Mr. Kemp a letter acknowledging receipt of his application and asking him to verify certain information, including that his student type was Transfer. Mr. Kemp did not respond in any way to the March 3 letter. On April 4, 2006, GUS wrote Mr. Kemp to notify him that his application for admission had been denied because he fell below the minimum cumulative GPA requirement for Transfer applicants. Mr. Kemp appealed the decision and requested consideration as a Non-traditional Transfer applicant. GSU subsequently determined that he was academically acceptable for admission in that category.

GSU has a policy of requiring an applicant who has been found guilty of a crime to interview with the Dean of Students before being cleared for admission and class registration. On May 3, 2006, Mr. Kemp supplemented his explanation of his criminal activity with a sheet of paper explaining that he had been arrested for a few felonies, including several drug

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charges and several theft charges, but no violent crimes. He also executed a release authorizing GSU to obtain information on his criminal background. On May 5, 2006, GSU notified him that, due to his prior criminal convictions, he would be required to participate in an interview with the Dean of Students. On May 8, 2006, Mr. Kemp provided GSU with a print-out from the Florida Department of Corrections website that listed his criminal convictions and incarcerations. The next day, Mr. Kemp met with Lanette Brown, GSU's Judicial Affairs Officer in the Office of the Dean of Students. On May 12, 2006, GSU obtained Mr. Kemp's Georgia criminal history report, which showed previously undisclosed convictions for burglary and trespass. On May 19, 2006 GSU asked Mr. Kemp to submit two letters of reference and a National Fingerprint record from the FBI. Meanwhile, classes for the summer semester had begun on May 15, 2006. Accordingly, GSU notified Mr. Kemp on May 19, 2006, that his application was being withdrawn from the 2006 summer semester because the Dean of Students review had not been completed. That withdrawal had no effect on the ongoing review by the Dean of Students of Mr. Kemp's criminal history.

On June 5, 2006, Mr. Kemp submitted another appeal complaining that GSU's race neutral policy of admissions had hindered his ability to be accepted. GSU informed Mr. Kemp that he had in fact been admitted pending the Dean of Student's review of his criminal history. His application was still in process at the time, so no review or appeal was appropriate. To date, GSU still has not made a final decision as to where Mr. Kemp will be permitted to enroll in classes

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because he has not yet submitted the letters of reference or fingerprint record.

Mr. Kemp filed this lawsuit on January 24, 2007. His claims are based on 42 U.S.C. § 1983 and Title VI of the Civil Rights Act of 1964. He alleges generally that the Defendants discriminated against him on the basis of his race (African American) and his gender (male) in denying him admission to GSU. The named Defendants are the GSU Admissions Office and the Board of Regents of the University System of Georgia.

**II. Analysis**

The court will address each outstanding motion separately.

**A. Mr. Kemp's Motion to Inform Court**

The court construes Mr. Kemp's Motion to Inform Court as a Request for extension of time. The court understands Mr. Kemp to have requested until July 15, 2008, to file his Supplemental Motion for Summary Judgement. He did in fact file a motion on that day. Therefore, his request for an extension is GRANTED, nunc pro tunc.

**B. Mr. Kemp's Motion to Amend Response to Defendants' Motion for Summary Judgement**

This Motion is styled a Motion to Amend, but in fact it appears to be Mr. Kemp's response to the Defendants' Statement of Material Facts. The

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Defendants filed their Statement of Material Facts on December 26, 2007. Mr. Kemp's request to amend was filed on July 3, 2008, after the Magistrate Judge issued the R&R, and well after the appropriate time for a response had passed. His Motion is untimely and will be DENIED.

**C. Mr. Kemp's Supplemental Motion for Summary Judgment and Defendants' Motion to Strike**

With his self-styled Supplemental Motion for Summary Judgment, Mr. Kemp attempts to add a new claim based on 42 U.S.C. § 1981. Plaintiffs may not "raise new claims at the summary judgment stage." Gilmour v. Gates, McDonald & Co., 382 F.3d 1312, 1314 (11<sup>th</sup> Cir. 2004). This claim is not properly before the court, and will not be addressed. The rest of Mr. Kemp's Motion appears to be his objections to the R&R. He objects to specific findings by the Magistrate Judge and includes citations to the R&R. Because Mr. Kemp is pro se, the court will grant him some leeway. The Supplemental Motion for Summary Judgement is DENIED, but the court will consider the document to the extent that it contains objections to the R&R.

The Defendants have moved to strike Mr. Kemp's Supplemental Motion for Summary Judgement on the ground that it is untimely filed. Summary judgment motions were required to be filed within 20 days from the date of the close of discovery, or December 30, 2007. Both parties moved for summary judgement at the time, but Mr. Kemp's motion failed to comply with the Local Rules. His attempt to amend his motion to bring it into

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compliance failed, and the Magistrate Judge struck his pleadings. He has now filed this document. The court agrees that a new motion for summary judgement would be untimely at this point, but review of the document reveals that it is Mr. Kemp's attempt to make objections to the R&R. Accordingly, the court will consider it for that purpose only. The Motion to strike is DENIED.

**D. Defendants' Motion for Summary Judgement and the R&R**

The court has reviewed the comprehensive R&R completed by the Magistrate Judge and agrees with its conclusion. The court has also reviewed Mr. Kemp's filings and concludes that he has not valid objections either to the factual findings or the legal analysis of the R&R. Accordingly, summary judgement will be granted in favor of the Defendants, for the following reasons.

“In every suit there must be legal entity as the real plaintiff and he real defendant.” Lovelace v. DeKalb Cent. Prob., 144 Fed. Appx. 793, 795 (11<sup>th</sup> Cir. 2005). The capacity of an entity to be sued is determined by the law of the state in which the district court sits, Georgia in the case Lawal v. Fowler 196. Appx. 765, 768, (11<sup>th</sup> Cir. 2006) Georgia recognizes only three categories of legal entities: natural persons; artificial persons such as corporations; and ‘quasi-artificial persons as the law recognizes as being capable to sue.’” Id. (quoting Ga. Insurers Insolvency Pool v. Elbert County, 258 Ga. 317, 318, 368, S.E.2d 500, 502 (1988)). The GSU Admissions Office is not an entity capable of being sued. It is not a natural person

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or corporation, but rather a division of GSU. The court agrees with the analysis contained in the R&R that holds that Georgia law would not recognize the GSU Admissions Office as a quasi-artificial person capable of being sued. Cf. Gunn v. Jarriel, No. CV 306-039, 2007 WL 2317384, at \*5 (S.D. Ga. Aug. 10, 2007) (finding the Medical College of Georgia not an entity capable of being sued under Georgia law); William v. Ga. Dep't of Human Res., 150 F. Supp. 2d 1375, 1377 (S.D. Ga. 2001) (noting that Georgia Regional Hospital is an institution of the Georgia Department of Human Resources, which in turn is an agency of the state, and thus not capable of being sued); Peirick v. Ind. Univ.-Purdue Univ. Indianapolis Athletics Dep't, 510 F.3d 681, 694 (7<sup>th</sup> Cir. 2007) (finding that the Athletics Department was not a legal entity from the university and not capable for being sued). Mr. Kemp's claims against the GSU Admissions Office cannot be maintained and will be dismissed.<sup>1</sup>

Mr. Kemp sued the Board of Regents of the University System of Georgia ("Board of Regents") under 42 U.S.C. § 1983. The Board of Regents is an arm of the State of Georgia, which has immunity under the Eleventh Amendment. Section 1983 does not create a waiver of state Eleventh Amendment immunity. Thus, the Board of Regents may not be subjected to suit under Section 1983. Marzec v. Toulson, No. CV 103-185-2007 WL 1035136, at (S.D. Ga. Mar. 30, 2007). Mr. Kemp's Section 1983 claim against the Board of Regents will be dismissed.

Finally, Mr. Kemp sued the Board of Regents for a violation of his rights under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., which

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“Prohibits any recipient of federal Financial assistance from discriminating on the basis of race, color, or national origin in any federally funded program.” Burton City of Belle Glade, 178 F.3d 1175, 1202 (11<sup>th</sup> Cir. 1999). In the Eleventh Circuit, Title VI analysis is the same as equal protection analysis. Carr v. Bd. Of Regents of Univ. Sys. of GA, 249 Fed. Appx. 146 (11<sup>th</sup> Cir. 2007). The plaintiff must therefore demonstrate that the challenged action was motivated by an intent to discriminate. *Id.* At 149. Such intent may be established by evidence as such factors as substantial disparate impact, a history of discriminatory official actions, procedural and substantive departures from the norms generally followed by the decision maker, or discriminatory statement in the legislative or administrative history of the decision. ID.

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The R & R concludes, and the court agrees, that Mr. Kemp has made no such showing. Mr. Kemp's theory of his case appears to be either that (1) someone in the Admissions Office saw his application, noted that he was an African American male, and intentionally made mistakes in the processing of the application because of his race and gender; or (2) that GSU's avowed race neutral admissions policy discriminates against him by failing to award him preferences on the basis of his race and gender; or (3) both. (Dep. Of Yisrael Kemp 69-78.) Operating under either theory, Mr. Kemp has provided zero evidence of discriminatory intent on the part of any GSU officials.

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Specifically, there is no evidence of any procedural or substantive departures from the normal procedures decisionmaker. GSU's actions were entirely in line with its regular admissions policies. The only action that can be construed as at all irregular is the processing of Mr. Kemp's application as a Transfer student, even though he had checked "Non-traditional" on the form. However, GSU's decision in so classifying him was reasonable, was not corrected by Mr. Kemp despite his opportunity to do so and was ultimately resolved by GSU itself. Mr. Kemp's application included his transcript from Morris Brown College, reflecting enough credit hours to qualify him as a

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Transfer student. He was asked to review a summary of his application sent by GSU and failed to correct the error. When Mr. Kemp did ask GSU to consider him as a Non-traditional Transfer student, GSU agreed and cleared him for admission, subject to its normal policy of interviewing potential students with criminal backgrounds. Because Mr. Kemp has a serious criminal past, and did not include all relevant information in his initial communications with GSU, GSU requested an additional fingerprint record and letters of reference. Mr. Kemp has provided no evidence to refute the conclusion that all of GSU's actions were taken for legitimate, non-discriminatory reasons.

Mr. Kemp has supplied the court with no other evidence that could be used to prove discriminatory intent on the part of GSU. To state a Title VI claim, the plaintiff must

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allege that, through state action, similarly situated persons have been treated disparately, and that the disparate treatment was motivated by race. Draper v. Reynolds, 369 F.3d 1270, 1278 n.14 (11<sup>th</sup> Cir. 2004). Mr. Kemp admits that he is not aware of any students outside of his protected class who were treated differently, much less students who were similarly situated to him in all relevant aspects. There is simply no evidence to support Mr. Kemp's claims. The Defendants' Motion for Summary Judgment is GRANTED.

### **III. Conclusion**

Based on the well-reasoned and thorough conclusions of the Magistrate Judge, the court ADOPTS the Final Report

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and Recommendation [Doc. No. 74], which, along with the foregoing, shall constitute the Order and Judgement of the court. Defendants' Motion for Summary Judgment [Doc. No. 61] is GRANTED. Plaintiff's Motion to Inform Court [Doc. No. 79] is GRANTED, nunc pro tunc. Plaintiff's Motion to Amend Response to Defendants' Motion for Summary Judgment [Doc. No. 78] is DENIED; Plaintiff's Supplemental Motion for Summary Judgment [Doc. No. 80] is DENIED; and Defendants' Motion to Strike Plaintiff's Supplemental Motion for Summary Judgment [Doc. No. 84] is DENIED. This case is DIMISSED.

IT IS SO ORDERED, this 28<sup>th</sup> day of July, 2008.

**s/ Beverly B. Martin**

BEVERLY B. MARTIN

UNITED STATES DISTRICT JUDGE

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#### **1050 Policies and Disclosures**

**(//catalog.gsu.edu/associate20192020/university-information#/policies-and-disclosures)**

#### **1050.10 Equal Opportunity Policy**

Georgia State University is an equal opportunity educational institution. Faculty, staff and students are admitted, employed, and treated without regard to race, sex, color, age, religion, national origin, sexual orientation, or disability. Georgia State University complies with the Title IX of the Education Amendments of 1972, Title VI and VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, Sections 503/504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Vietnam

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Era Veterans Readjustment Assistance Act, as well as other applicable federal, state and local laws. In compliance with these laws and regulations, Georgia State University has established the following specific policies:

**Civil Rights and Equal Employment Opportunities –**  
Georgia State provides equal employment and educational opportunities for all individuals without regard to race, sex, age, religion, color, national origin, sexual orientation or disability. All Georgia State University educational and personnel actions will be governed by an affirmative action program developed in compliance with applicable federal and state law and regulations, and the policies of the Board of Regents of the University System of Georgia.

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### **3.1 Requirements for Undergraduate Admissions**

The following section contains policies and procedures related to admission of students. Institutions have the authority, unless explicitly prohibited by policy, to require additional or higher requirements for general admission to the institution or to special programs at the undergraduate level institution seeking exception to policy must receive approval from the Executive Vice Chancellor and Chief Academic Officer of the University System of Georgia (USG).

**3.1.1.1. Freshman Requirements (*Academic Affairs Handbook*)** Applicants graduating from non-accredited homeschools or high school with documentation of partial completion of the RHSC may be admitted on the same basis

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and with the same conditions as other applicants with deficiencies.

### **High School Grade Point Average (HSGPA)**

A minimum 2.0 High School Grade Point average (HSGPA) is required. The HSGPA is calculated on a 4.0 Scale using the 17 units of the RHSC. Numerical grades indicated on transcripts should be converted to letter grades based on the conversion table provided by the high school. Institutions must obtain these tables. The letter grades should be converted to quality points as follows:

- $A = 4$
- $B = 3$
- $C = 2$
- $D = 1$
- $F = 0$

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#### **3.1.1.7 Exceptions to Transfer Requirements**

***(Academic Affairs Handbook)***

Transfer applicants who do not meet USG requirements may be considered for admission under the Limited Admission provision. Institutions may admit up to 10% of all transfer students under this provision. The base of this percent is the number of unduplicated headcount new transfer students admitted over the previous fiscal year. This Limited Transfer Admission category is separate from the Freshman Limited Admissions category.

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#### **3.1.1.8 Academic & Student Affairs Handbook**

Non-traditional freshmen must hold a high school diploma from an accredited or approved high school as outlined in Section 3.1.1.1 or have a state-issued high school

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equivalency certificate or diploma earned through the successful completion of a high school equivalency test approved by the Board of regents. The following high school equivalency tests are approved:

- GED
- HiSET
- TASC

Students admitted as non-traditional are not subject to the RHSC requirements

Students who were previously enrolled at a USG institution and who now can be considered as non-traditional are not subject to previous RHSC requirements. Institutions may set additional criteria for non-traditional students.

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#### **Non-Traditional Transfers**

The number of non-traditional transfers an institution enrolls will not be counted against the percent of Transfer Limited Admissions allowed each institution.

#### **Academic Calendar 2018-2019**

<b>Events - Three Week Session</b>	
Schedule of Classes	Feb 18
Registration	May 4 - May 12
Late Registration	May 13 -14
Class Begin	May 13
<b>Events - Seven Week Session</b>	
Schedule of Classes	Feb 18
Registration	May – June 9
Late Registration	June 10 – June 14
Classes Begin	June 10

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#### **USG Freshmen Admission Requirement**

#### **FOOTNOTES**

- 1) The SAT FI formula uses the Old (pre-March 2016) SAT. New (March 2016 or later) SAT scores are converted to the comparable old SAT scores using the College Board conversion tables. New SAT Reading test scores are converted to comparable old SAT Critical Reading section scores and new SAT Math scores are converted to comparable old SAT Math section scores.

The SAT FI formula is:

$$500 \times (\text{HSGPA}) + \text{Old SAT Critical Reading section score} + \text{Old SAT Math section score}$$

The ACT FI formula is:

$$500 \times (\text{HSGPA}) + (\text{ACT Composite} \times 42) + 88$$

- 2) The High School GPA (HSGPA) is calculated using the 17 units of the Required High School Curriculum (RHSC) as outlined on the USG's Staying on Course document. The HSGPA is calculated on an alpha four-point scale. Numerical grades provided on high school transcripts are converted to letter grades based on the conversion table provided

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by the high school. The letter grades are converted to quality points as follows:

**A = 4            B = 3            C = 2            D = 1            F = 0**

### **3.4 Academic Calendar**

#### **3.4.1 Semester System**

#### **3.4.2 Uniform Academic Calendar**

The academic calendar for each USG institution shall consist of two semesters, each with at least 15 weeks of instructional time, as defined by federal regulations issued by the United States Department of Education. The 15 weeks of instructional time shall not include registration or final examinations.

All USG institutions, with the exception of the Medical School and Dental School at Augusta University and the

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College of Veterinary Medicine and School of Law at the University of Georgia, shall begin and end classes for fall semester and spring semester within the prescribed periods set forth in the Academic & Student Affairs Handbook. Each institution will determine all other

### **ACADEMIC PROGRAMS**

#### **Academic Affairs Division**

#### **Reference for Types of Approval and Notification of Academic and Related Matters**

Type of Action Exceptions to Undergraduate	Type of Approval or (Board, Chancellor,	Policy Manual Citation	Academic Affairs Handbook Citation
Admission Requirement	President, or System Office)		

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<b>Administrative Approval – Chief</b>	
Academic Office	3.2.6, 3.4,
& Executive Vice	4.2 3.5, 3.6,
Chancellor;	3.7,3.8,
Review Biennially	and 3.9
By the Board	
Exceptions for Limited Admissions	
Presidential	
Approval	4.2.1.2 3.3

## **BOARD OF REGENTS POLICY MANUAL**

Official Policies of the University System of Georgia

### **4.2 Undergraduate Admissions**

Individuals seeking undergraduate admission to any University System of Georgia (USG) institution shall meet the requirements for one of the categories listed below and

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any additional requirements that may be prescribed by the institution. Meeting minimum requirements does not guarantee admission to any USG institution.

These policies must be applied in accordance with the standards, procedures, and guidelines provided in the

#### **Academic & Student Affairs Handbook**

([https://www.usg.edu/academic affairs handbook/](https://www.usg.edu/academic_affairs_handbook/)). Any exceptions to these admission policies may be made only with written approval of the USG Chief Academic Officer.

#### **4.2.1.3 Exceptions to Freshman Requirements**

USG institutions may admit freshman applicants not meeting freshman requirements but showing evidence of college readiness using the following alternative categories.

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### **Limited Admissions Category**

In recognition of the fact that a limited number of applicants do not meet established standards but do demonstrate special potential for success, institutions are authorized to grant admission to a limited number of such applicants. Institutions shall establish minimum criteria for Limited Admission, which shall include the use of multiple measures whenever possible, such as interviews, portfolios, and records of experiential achievements. In

#### **4.1 GENERAL POLICY ON STUDENT AFFAIRS**

##### ***4.1.1 INSTITUTIONAL RESPONSIBILITY***

###### **BOARD OF REGENTS POLICY MANUAL**

Admission, discipline, promotion, gradation, and formulation of all rules and regulations pertaining to students of University System of Georgia institutions are

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matters to be handled by the institutions within the framework of policies and regulations issued by the Board of Regents. Students failing to comply with Board of Regents' or institution rules, regulations, or directives may face disciplinary actions.

### **Presidential Exceptions Policy 3.1.1.3**

Each institution Presidents or his or her designee may grant exceptions to the Limited Admission requirements if the applicant shows promise for academic success and has at least a high school diploma or a state-issued high school equivalency diploma or certificate.

Presidential Exceptions are included as part of the institution's maximum percentage for Limited Admission.

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#### **Applicants with Outstanding Scores**

Institutions may grant admission to applicants who demonstrate very high academic ability by achieving a Total SAT or Composite ACT score in the upper five percent of national college-bound seniors for the most recent test year and who show other evidence of college readiness.

#### **BOARD OF REGENTS POLICY MANUAL**

Official Policies of the University System of Georgia

#### **4.4 Regents' Financial Assistance**

##### **4.4.1 Regents' Opportunity Grants Program**

The 1978 General Assembly (H.B. 1463) amended the law creating the Georgia Higher Education Assistance Authority so as to authorize the Board of Regents to award grants, scholarships, or cancelable loans to economically

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disadvantaged students who are residents of Georgia enrolled in a graduate or professional degree program in a USG institution.