No.20- 187

SUPREME COURT OF THE UNITED STATES

Okwudili Chukwuani,

Petitioner,

vs.

Solon School District,

Respondent.

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

PETITIONER'S REPLY BRIEF

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I. Questions Presented

1. Can an unconstitutional denial of parental rights by a State Court, due to a complaint about IDEA "stay put" violation, be used to deny jurisdiction for an administrative appeal at a Federal Court?
2. Whether the Supreme Court's decision in Winkelman v. Parma City School District, was violated by the 6th Circuit Court of Appeal's denial of jurisdiction for an administrative appeal by a pro se parent?
3. Can a parent who satisfied the IDEA definition of a parent in 34 CFR 300.30(b) at the time he filed an IDEA due process request, be denied jurisdiction to appeal the same due process in a Federal Court, without voiding the entire due process?

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Corporate Disclosure

The petitioner, Dr. Okwudili Francis Chukwuani, has no affiliation or financial ties with any non- governmental corporate entity.

INTRODUCTION

The respondent's attempt to show that this petition for a writ of certiorari fails to meet any Rule 10 criteria, hinges on three reasons, none of which is valid, because they were based on an incorrect interpretation of the basis for the writ. **The respondent re-formulated the questions asked in this petitioner's request for a writ of certiorari, into a format that will suit the respondent's purpose for a dismissal; but in doing so, the respondent altered the substantial reasons for this petition for a writ of certiorari, as expressed in the three questions presented**. The following errors were noticed in the respondent's brief:

1. Denial of the "historical background" of the case that was presented in the petition and absence of a sequential chronological presentation of the case in the respondent's "Statement of the Case" – so that the questions raised in the petition will not be appreciated. This was evident in the respondent's "STATEMENT OF THE CASE", which was not presented in a correct chronological sequence with dates.
2. Re-formulated the certiorari questions into a format that fits the respondent's intended argument for a dismissal, regardless of the issues raised in the original questions presented in the petition. The two questions presented by the respondent, also did not address the issues raised in the petition, this will be clarified in the petitioner's rebuttal.
3. Re-formulated the problems to be addressed in the petition for the writ of certiorari into ordinary personal issues with no relevance in federal law. This will be clarified in the petitioner's rebuttal.

All the above errors led the respondent to conclude that:

1. 'There is no conflict among Circuit Courts or State Courts of Last Resort as to the Sixth Circuit's Basis for Dismissal", whereas the petitioner's reason for requesting the writ

was not based on the presence of such a conflict, but some substantial issues revealed in the "historical background".

2. "This Petition Also Fails to Raise an Important Question of Federal Law", whereas the respondent had mis-interpreted and reformulated the questions, and was focused on that re-formulated version rather than the real questions presented in the petition. Whereas the respondent's argument was applicable to the reformulated questions, they were not applicable to the questions presented in the petition. This will be clarified further in the rebuttal.
3. "Because Chukwuani's Petition Hinges on Alleged Factual Errors and Misapplications of Law, This Court, Should Deny Certiorari", whereas this argument was applicable to the reformulated version of the questions as presented by the respondent, it is not applicable to the actual questions presented in the petition. This will be addressed by the petitioner in his rebuttal of the respondent's reason to dismiss the petition for a writ of certiorari.

REBUTTAL OF REASONS FOR DENYING THE PETITION

The petitioner, clarifies as follows:

1. The "historical background"[1] of this case was presented by the petitioner, in a chronological sequence with dates, in order to enable a comprehensive appreciation of the certiorari questions.
2. The three questions presented in this petition for a writ of certiorari, were mis-interpreted and re-formulated by the respondent into a format that fits the respondent's intended argument for a dismissal; but in doing so, the substantial reasons for requesting for a writ

[1] Please refer to the "Historical Background "section in the petition.

of certiorari was lost. This is evident in the school's "REASONS FOR DENYING THE PETITION", Section II, Subsections A and B as follows:

a. The first question in the petition, was mis-interpreted and reformulated by the school as, "**Whether federal jurisdiction can be denied based on a state court judgement**" which does not convey the same meaning as the original question: "**Can an unconstitutional denial of parental rights by a State Court, due to a complaint about IDEA "stay put" violation, be used to deny jurisdiction for an administrative appeal at a Federal Court?**" – ***which is asking whether a federal court can sanction a state court's departure from the accepted and usual course of judicial proceedings?***. Hence, the school mis-interpreted the original certiorari question and was actually attempting to dismiss that mis-interpreted version of the question in their entire argument. The school had no valid argument to dismiss the original certiorari question. Petitioner's parental right was denied based on a state court's departure from the accepted and usual course of judicial proceedings, which is unconstitutional[2] and cannot be sanctioned by a federal court. Petitioner is a fit parent[3] who was denied parental rights without due process, because he was challenging a "stay put" violation under the IDEA, perpetrated by the respondent. It was even more concerning that the petitioner's denial of parental right was to enable the respondent to dismiss an

[2] See this Court's decision on Troxel v. Granville, 530 U.S. 57 (2000), The Fourteenth Amendment's Due Process Clause has a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests", Washington v. Glucksberg, 521U.S.702,720, including parents' fundamental right to make decisions concerning the care, custody, and control of their children, see, e.g., Stanley v. Illinois, 405 U.S. 645,651. Pp.63-66.

[3] Justice O'Connor in Troxel v. Granville, noted that "There is a presumption that fit parents act in their children's best interests, Parham v. J.R., 442 U.S. 584, 602; there is normally no reason for the State to inject itself into the private realm of the family to further question fit parents' ability to make the best decisions regarding their children, see e.g., Reno v. Flores, 507 U.S. 292, 304.

on-going due process by Ohio Department of Education (ODE)[4] for procedural violations under the IDEA. This created a situation that undermines the integrity of the procedural safeguard in the IDEA and the constitutional rights of a parent. It is a very important problem in federal law which can be resolved by this court.

b. The school also had no valid argument to dismiss the second certiorari question, since their argument was dependent on their mis-interpreted version of the first certiorari question, which did not recognize that there is *a state court's departure from the accepted and usual course of judicial proceedings*, which the federal court sanctioned by denying jurisdiction. The petitioner is a pro se "parent" so it is relevant to review, **"Whether this court's decision in Winkelman v. Parma City School District, was violated by the 6th Circuit Court of Appeal's denial of jurisdiction for an administrative appeal by a pro se parent?** Here the administrative appeal in question is under the Individual with Disability Education Act (IDEA).

c. The third question in this petition was mis-interpreted and reformulated by the school as, "**Whether standing at the onset of litigation confers standing throughout**" which does not convey the same meaning as the original third question in the petition, "**Can a parent who satisfied the IDEA definition of a parent in 34 CFR 300.30(b) at the time he filed an IDEA due process request, be denied jurisdiction to appeal the same due process in a Federal Court, without voiding the entire due process?"** This is because the due process hearing was conducted by the Ohio Department of Education (ODE)

[4] The Impartial Hearing Officer (IHO) of the ODE was aware of this situation and so refused to deny the due process, despite the state court's denial of parental rights, but the district court and the 6th circuit courts denied jurisdiction.

Impartial Hearing Officer (IHO) in **September 2018** and by the State Level Review Officer (SLRO) in **January 2019**, despite the denial of petitioner's parental right through a state court's departure from the accepted and usual course of judicial proceedings in **May 2018**. Neither the IHO and SLRO agreed to deny jurisdiction and dismiss the due process as requested by the respondent – because they witnessed the "stay put" violation and the sequence of events that led to the denial of parental rights[5]. However, the district court and the 6th circuit court denied jurisdiction in **May 2019** and in **April 2020** respectively, based on the same unconstitutional denial of parental rights by a state court in **May 2018**. There is an obvious conflict and lack of consistency in the handling of the due process request, due to the denial of jurisdiction by the district court and by the 6th circuit court – which raises the following questions:

i. Can the entire due process request be voided because of the inconsistency in the denial of jurisdiction between the trier of facts and the appellate courts, while allowing an unconstitutional denial of parental rights and preventing a review of procedural and "stay put" violations under the IDEA, thereby undermining the integrity of the IDEA procedural safeguards?

ii. Can jurisdiction be granted by the federal court to avoid sanctioning an unconstitutional denial of parental rights and to protect the integrity of the IDEA by allowing for the administrative review of the allegation of

[5] Both parents had a shared parenting plan, with equal decision making and alternate week parental custody, but the school colluded with one parent to seek to deny the petitioner parental rights for the sole purpose of allowing the "stay put" violation and dismissing the due process request – although it is a very important procedural safeguard in the IDEA. This is well clarified in the "Historical Background" section of the petition – which was presented in a chronological sequence with dates.

procedural and "stay put" violations under the IDEA? This constitutes a very important problem in federal law which can be resolved by this court by granting this writ of certiorari. The constitution[6] of the United States and the integrity of the IDEA procedural safeguard are both at stake, which makes this petition for a writ of certiorari very important.

The school did not address any of the above issues because they mis-interpreted and reformulated the third question in the petition for this writ of certiorari. It is better to base the decision on this petition for a writ of certiorari on the original questions posed in the petition rather than on mis-interpretation and reformulated questions presented by the respondents.

CLARIFICATION OF THE REASONS FOR THE WRIT

3. This certiorari was requested on the basis of Rule 10 (a) and 10 (c) as follows:

   a. Rule 10 (a) - The 6th circuit court and the district court, by denying jurisdiction, sanctioned or adopted an order that was based on a departure from the accepted and usual course of judicial proceedings by a state court. This is because the state court's process did not follow the accepted and usual course of judicial proceedings. Moreover, the denial of jurisdiction prevented an administrative

[6] In Troxel v. Granville, 530 U.S. 57 (200), Justice O'Connor, joined by THE CHIEF JUSTICE, JUSTICE GINSBURG, and JUSTICE BREYER, concluded that §26.10.160(3), as applied to Granville and her family, violates her due process right to make decisions concerning the care, custody and control of her daughter. Pp. 63-75. ****The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." Washington v. Glucksberg, 521 U.S. 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." Id., at 720; see also Reno v. Flores, 507 U.S. 292, 301 – 302 (1993). The liberty interest at issue in this case – the interest of parents in the care, custody, and control of their children – is perhaps the oldest of the fundamental liberty interests recognized by this Court. More than 75 years ago, in Meyer v. Nebraska, 262 U.S. 390, 399, 401 (1923), we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own."

process designed to protect the integrity of the IDEA procedural safeguard and to prevent some aspects of the Constitution of the United States from being violated.

b. Rule 10 (c) - The 6th circuit court and the district court decided on an important federal question in a way that conflicts with the relevant decisions of this court. This is because the denial of jurisdiction on the basis of pro se parent under the IDEA, conflicts with this Court's decision in Winkelman v. Parma School District.

c. The certiorari was not based on erroneous factual findings or misapplication of a properly stated rule of law, as claimed by the respondent. It is the mis-interpretation and **incorrect** re-formulation of the questions that drives that incorrect claim.

4. The three questions in this petition for a writ of certiorari, presented some important problems in federal law which if resolved by this court will help in:

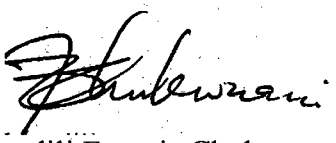
   a. Protecting the integrity of the IDEA procedural safeguards or its checks and balances.

   b. Protecting the constitutional rights of parents to participate in the education of their children by ensuring that those rights are not denied without due process.

CONCLUSION:

Based on the above reasons, I respectfully request for this petition for a writ of certiorari to be granted.

Respectfully submitted on this 11th day of October, 2020.



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