

20-7478
No. 20-_____

ORIGINAL

SUPREME COURT OF THE UNITED

STATES Paul Eric Lewis,

Petitioner,

vs.

Southern Conn State University, and
Assistant Dean of Student Conduct
Christopher M. Piscitelli, both in his
official capacity and as an individual,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Paul E. Lewis

18 TOWER LANE, APT 163

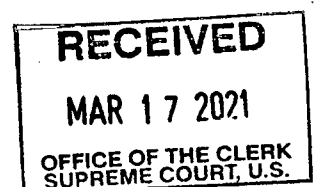
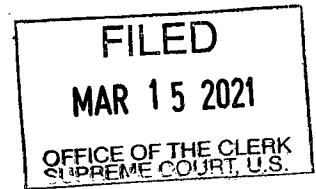
NEW HAVEN, CONNECTICUT

Tel.: (203) 932-0678

Fax: (508) 772-0069

E-Mail: kingreturned@hotmail.com

Citizen of the State of Connecticut



I. Question Presented

Where a plaintiff who was granted *pro bono* counsel, specifically for the purpose “to write the preliminary pleadings sufficiently to allow a jury trial,” is defeated in pre-trial argument due to the refusal by the same Judge Thompson to substitute another *pro bono* attorney when the original *pro bono* attorney was forced to resign, that this same Judge Thompson then ruled that plaintiff’s claim was “insufficiently stated to allow a jury trial,” is there not, therein, a right to counsel violated that also violates as a direct violation of the fourteenth amendment’s due process clause and the sixth amendment’s Constitutional right to bring suit in a court of law?

I. Table of Contents

Contents

I. Table of Contents.....	3
IV. Petition for Writ Of Certiorari.....	6
V. Opinions Below.....	6
VI. Constitutional Provisions Involved	13
Direct appeal.....	18
VIII. REASONS FOR GRANTING THE WRIT	19
X. CONCLUSION.....	19

III. Table of Authorities

Cases

TABLE OF AUTHORITIES

Federal Cases

<u>Adams v. State</u> , 390 P.3d 1194 (Alaska App. February 17, 2017)	
<u>Arizona v. Roberson</u>	
<u>Dube v. State Univ. of New York</u> , 900 F.2d 587(2d Cir. 1990) 3 <u>Flakes v. Frank</u> , 322 F.Supp.2d 981 (W.D. Wis. 2004) <u>Gelboim v. Bank of Am. Corp.</u> (2015)	
<u>Edwards v. Arizona</u>	
<u>Edwards v. Colgate Univ</u> 64 F. Supp. 3d 336, 351 (N.D.N.Y. 2014)	
<u>Giacomazzi v. State</u>	
<u>Gibson v. Collier, Texas</u> , F.5th 51148(5th Cir. 2016)	
<u>Gideon v. Wainwright</u> , 372 U.S. 335	14, 20
<u>Harvey v. Palmer College of Chiropractic</u> , 363 N.W.2d 443, 444 (Iowa App. 1994)....	
<u>Hope v. Pelzer</u>	
<u>Lomax v. Ortiz-Marquez</u> , and <u>Amicus curiae Brief in Support of Reversal by NACDL</u> (National Association of Criminal Defense Lawyers).....	
<u>Lomax v. Ortiz-Marquez United States Supreme Court</u> (pending), No. 18-8369 ...	
<u>McNeil v. Wisconsin</u> 501 U.S. 171,177 (1991)	
<u>Miranda v. Arizona</u>	
<u>Oregon v. Bradshaw</u> 462 U.S.1039 (1983)	
<u>Ray v. Pierson</u> 386 U.S. 547 (1967)	4
<u>Regents of the University of California v. Bakke</u> , 438 U.S. 265 (1978)	14, 19

Smith v. Illinois

Taylor v. Riojas

Tennessee v. Lane, 124 S. Ct. 1978 (2004)

Tenney v. Brandhove Shon D. Cameron and Laura A. Cameron, on behalf of their minor child, 341 U. S. 367. Pp. 386 U. S. 553-555

University of Alabama v. Garrett

Woods v. Rondout Valley Central School District Board of Education 3 466 F.3d 232 (2006)

Federal Laws and Statutes and Constitutional Amendments

ADA of 1990 42 U.S.C. §§ 12181–12189 1291

Federal Rules of Civil Procedure 1, and 23(f)

28 U.S.C. § 1292(a)(1), (a)(2), and (a)(3) and F.R.C.P. 23(f)

The Civil Rights Act of 1964 78 Stat. 241

The Rehabilitation Act, and as amended 29 U.S.C. § 701

United States Constitution, Amendments

State Laws and Statutes

H.B. 6004, "An Act Concerning Police Accountability" The new law amends Section 7-294s of the Connecticut General Statutes ("State and local police training programs to provide training in the use of physical force and body-worn recording equipment and cultural competency and sensitivity training")

Conn. Gen. Stat. §§ 46a-64

Constitution of the State of Connecticut Article I

Conn. Gen. Stat. §§ 53a-137, 53a-138, 53a-139, 53a-140

Statutes

28 U.S.C. § 1257	13
42 U.S.C. § 1283.....	6

Constitutional Provisions

United States Constitution, Amendment I	6
United States Constitution, Amendment V	13, 14
United States Constitution, Amendment VI	12, 14
United States Constitution, Amendment XIV.....	8, 9, 12, 14

IV. Petition for Writ Of Certiorari

Paul Eric Lewis, an elderly and disabled resident living at the assisted living facility in New Haven, Connecticut, The Towers, LLC, at 18 Tower Lane, in New Haven, Connecticut respectfully petitions this court for a writ of certiorari to review the judgment of the Second Court of Appeals in New York City, New York.

V. Opinions Below

The decision by the Second Circuit Court of Appeals denying the appeal of Dr. Lewis is incorrectly reported by the Second Circuit Court of Appeals as *Paul Eric Lewis v Southern Connecticut State University, AKA SCSU, AKA Southern, Christopher Piscitelli, Assistant Dean of Student Affairs, both in his*

official capacity and as an individual, Defendants-Appellees, and Lisa Galvin, Director of Graduate Admissions, both in her official capacity and as an individual, Fitchburg State University, in official capacity, Defendants. The correctly amended complaint is reported as Lewis v Southern ConnState University, and Assistant Dean Christopher M. Piscitelli, both in his official capacity and also as an individual. In reading the wrong amended complaint, the Second Circuit Court of Appeals did not allow itself a chance to review the best written amended complaint of the case Dr. Lewis was presenting to the Second Circuit Court of Appeals. The Second Circuit Court of Appeals made its decision to deny Dr. Lewis' appeal on December 17, 2020 on the wrong complaint. That order is attached at Appendix ("App.") at 1-1. That is the wrong caption to Dr. Lewis' case, using the wrong version of the complaint, being the amended complaint of November 21, 2020, which Dr. Lewis attempted to withdraw upon November 29, 2020 and which motion to withdraw District Court Judge Alvin W. Thompson, even himself, first misconstrued as Dr. Lewis' motion to withdraw his entire case and not just his amended complaint, whereupon Judge Thompson dismissed Dr. Lewis' entire case, without prejudice, upon December 2, 2019 and then reopened Dr. Lewis' case at the status hearing of March 4, 2020 ordering Dr. Lewis to rewrite his amended complaint with the assistance of his *pro bono* attorney Amir Mian, who resigned one month later without assisting Dr. Lewis to rewrite his amended complaint. However, Dr. Lewis did then, himself, rewrite his amended complaint, alone,

pro se, without Attorney Mian's assistance, and did submit it upon May 4, 2020, one month prior to its mandated due date of June 5, 2020, per Judge Alvin W. Thompson's order (see App. 2). Judge Alvin W. Thompson suddenly and abruptly, and inordinately, dismissed Dr. Lewis' case with prejudice, upon the date of July 2, 2020, with no additional pleading and without appointing any opposing attorney to this case, just after Dr. Lewis filed his service of process documents, so that there was never any opposing attorney in this case, neither at the district court level nor at the appeals court level; and, also, this case had lain dormant for 1 ½ years in district court ever since filed on January 3, 2019. The Fourteenth amendment provides protections of due process that have just been demonstrated as to how this case was, so far, handled. Judge Thompson stated in his dismissal that the CHRO-brokered contract of July 2017 was not a contract, but it was, indeed, a contract between Dr. Lewis and Southern Connecticut State University, whose terms were hammered out and bargained within the Connecticut Commission on Human Rights and Opportunities West Central-Waterbury Office, on July 13, 2017, and then, *as a contract*, presented to Dr. Lewis in Assistant Dean Christopher M. Piscitelli's SCSU Office of Student Conduct, where Dean Piscitelli mandated Dr. Lewis to present himself before the so-called "threat committee" in order to get this contract signed, which Dean Piscitelli signed, allowing Dr. Lewis back on campus. Southern Conn State University requested of the CHRO this "pre-answer conciliation agreement hearing" that was held on July 13, 2017. One-week later Dean

Piscitelli signed the contract and presented it to Dr. Lewis, upon July 20, 2017. It is an error of law for Judge Alvin W. Thompson to dismiss this case of Lewis v. SCSU, et al. on the basis that this contract is not a contract, but the Second Circuit disallowed Dr. Lewis even to present any Brief. Judge Thomson also ruled that Dr. Lewis failed to enumerate every detail of how his civil rights were violated. Dr. Lewis did enumerate correctly how these defendant parties violated the First, Fifth, Sixth, and Fourteenth amendments in this matter. Furthermore, when state officials do not wish matters to be made public, they use many forms of suppression. This abuse of Dr. Lewis by campus police and administrative authorities in the State of Connecticut school, SCSU have been covered up by SCSU officials; by the Connecticut Board of Regents' issuing a cease-and-desist order in 2013; and then, twice, by the Connecticut district courts (2014 and 2019), and twice by the Second Circuit Court of Appeals in New York in 2016 and 2020. This contract was signed by Assistant Dean Christopher M. Piscitelli. Judge Thompson ruled this contract was not a contract. Judge Thompson also opined that Dr. Lewis failed to describe the details of how Assistant Dean of Student Conduct Christopher Piscitelli and Southern Conn State University violated Dr. Lewis' Civil Rights when Dr. Lewis presented that these following United States Constitutional Amendments and these Federal and State Laws were violated: (1.) amendments I, V, VI, and XIV, (2.) the ADA of 1990 and as amended, (3.) the Rehabilitation Act of 1973, and as amended, and (3.) the Connecticut Public Accommodation Laws,

attached to his federal case under 42 U.S.C. § 1983. Furthermore, Dr. Lewis alleged and alleges that Assistant Dean Piscitelli committed criminal forgery upon November 2017 in an attempt to defraud Dr. Lewis of his lawful right to study on SCSU campus, and now, also, as a contract right (CHRO-brokered contract of July 20, 2017) to be on campus at SCSU to study and to apply to SCSU's Master's program in Counseling Psychology in order to get his Connecticut LPC license to practice psychology, after earning both his Ph.D. in psychology and then his M.A. in Community Psychology, in that order, thus depriving Dr. Lewis with the fruit of his 10 years efforts in academic study with outstanding grades and letters of recommendation. There is a cruel element of premeditation in this matter. There is criminal action in this matter.

Furthermore, Dr. Lewis alleges that Assistant Dean Piscitelli had been committing these actions in a continuous violation doctrine, this violation of his public accommodation rights to his own master's *Alma Mater* campus at Southern Conn State University, continually, in sequential steps since 2005, making up a fabricated criminal incident (making a false report), another criminal act, in that Dean Piscitelli charged Dr. Lewis, in July 2008, with the crime of presenting some unnamed campus cop a phony ID that neither the state school, SCSU, nor the Connecticut Board of Regents, and that neither District Court cases 14:3-cv-1592 and 19:3-cv-11, nor Second Circuit Court cases 15-1982, 15-2095, 20-2626 would allow these alleged criminal charges against Dr. Lewis to come to the light, per the 6th amendment, for Dr. Lewis to face his

accusers in any court of law or any type of tribunal, such as in SCSU judicial affairs court, nor within any judicial mechanism within the Connecticut Board of Regents. Thus, after Dean Piscitelli signed the CHRO-brokered contract allowing Dr. Lewis back on campus, on July 20, 2017, Dr. Lewis yet again applied to 3 programs at SCSU after this contract was made in July 2017: (1.) in 2017, to the undergraduate IT program; (2.) in 2018, to the master's graduate program in Counseling Psychology; and (3) lastly, in 2019, to the Master's in Public Health program, as Dr. Lewis had created 2 vaccine proposals: (1) to Yale School of Medicine/Department of Epidemiology & Public Health (1987, HIV), and (2) to NIAID-NIH (2020, CoVid-19). In early 2017, Dr. Lewis applied to the undergraduate program in Chemistry, in 2016, and that application provoked SCSU to request a pre-answer conciliation agreement hearing from the Connecticut Commission on Human Rights and Opportunities, because Dr. Lewis was admitted to the Chemistry program but simultaneously was prohibited from being on campus by the false charge of handing some unnamed campus cop a phony ID, that Dean Piscitelli emailed to Dr. Lewis along with his acceptance as a Chemistry Major at SCSU, he was reminded that he also could not be on campus. When Dr. Lewis brought this matter to Conn CHRO, SCSU requested CHRO to hold a pre-answer conciliation agreement hearing, and said hearing produced the contract signed one week later by Dean Piscitelli, on July 20, 2017 allowing Dr. Lewis back on campus "in a smooth transition." This CHRO-brokered contract was handed to Dr. Lewis by Dean

Piscitelli in the presence of SCSU's "Threat Committee," before which Dr. Lewis was mandated to appear, per the bargaining conducted at the CHRO West-Central Office at the pre answer conciliation agreement hearing, one week earlier, upon July 13, 2017: that Dr. Lewis must appear before the SCSU "Threat Committee," in order to get that signed contract. At no time, not from 2005 forward, to this present Christmas of 2020, did any court allow any of these aforementioned facts to be tried on their merits. This matter was suppressed by a cease-and-desist order by the Connecticut Board of Regents, in 2013; it was suppressed by a court ruling in 2016 by district court Judge Robert N. Chatigny and by the Second Circuit (2016); it was suppressed by a court ruling by Judge Thompson in 2020 and by the Second Circuit (2020), again. This case has not been allowed to be tried in any court of law, as to the merits of this case, per the 5th, 6th, and 14th amendments, just as the campus police charge of 2008 was never allowed to be heard upon its merits and that Dr. Lewis was never allowed to face his accusers in any court of law. Nevertheless, Dr. Lewis was banned from campus unlawfully, from 2008 based on these bogus charges. Such is a clear violation of the Sixth amendment Right to face one's accusers in a court of law.

By the new Connecticut Law after the George Floyd protests amending the police accountability laws in the State of Connecticut ("H.B. 6004, 'An Act Concerning Police Accountability,' the new law amends Section 7-294s of the Connecticut General Statutes"), this present case needs to be heard on its merits,

de novo, but the Court of Appeals did not even allow Dr. Lewis to file his brief. No brief was allowed or even to be filed in Second Circuit Court of Appeals, Case Number 20-2626, and summarily dismissed on December 17, 2020. No brief was ever filed, and no brief was ever requested by the Second Circuit Court of Appeals (attached as Appendix (App.”) at 1-1).

Jurisdiction

Dr. Lewis' petition for hearing to the United States Supreme Court was first made on December 25, 2020. Dr. Lewis invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a writ of certiorari within ninety days of the judgment of the Second Circuit Court of Appeals.

VI. Constitutional Provisions Involved

United States Constitution, Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

United States Constitution, Amendment VI:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

United States Constitution, Amendment XIV:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

VII. Statement of the Case

In Regents of the University of California v. Bakke, the Court ruled that the rigid use of racial quotas as employed at the school violated the Equal Protection Clause of the Fourteenth Amendment. In Gideon v. Wainwright, the Court ruled that the Fourteenth Amendment creates a right for criminal defendants who cannot pay for their own lawyers to have the state appoint attorneys on their behalf. Since the Sixth Amendment does not distinguish on its face between capital and non-capital cases, Clark found that there was no reasoning to read that distinction into it. As Lewis v. SCSU et al. is a civil case, yet as there was already the appointment

of a *pro bono* attorney by the Court, this case presents a matter for the Supreme Court of the United States to decide.

This case presents the question: did the University of California violate the Fourteenth Amendment's equal protection clause, and the Civil Rights Act of 1964, by practicing an affirmative action policy that resulted in the repeated rejection of Bakke's application for admission to its medical school? Does this present case not ask, similarly, whether the finding of discrimination exist in cases of individuals, who, are deprived of due process rights of the 14th amendment's equal protection clause, as a student with disabilities, thus: "individuals with disabilities are a discrete and insular minority who have been ... subjected to a history of purposeful unequal treatment and relegated to a position of political powerlessness in our society." 42 U.S.C. § 12101(a)(7). This standard of such purposeful unequal treatment and placing such individuals with disabilities into a position of political powerlessness is the operating common action of this present case Lewis v. SCSU, et al, in being denied public accommodation rights; the right to a fair hearing to face his accusers; the right to have his case reviewed on its merits in a court of law; the right to have a hearing on this matter of being falsely accused by the campus police in a scheme to defraud Dr. Lewis of his rights to be on campus to study for a clearly laudable purpose, to be thus so forcefully suppressed by the Connecticut Board of Regents and to be so powerfully and successfully opposed by the Office of the Connecticut Attorney General, who kept these matters suppressed. The Breyers rule

is satisfied when officers violate the law by committing numerated crimes of the criminal code in order to suppress a disabled person. It is unlawful to commit misprision in federal court, which Dr. Lewis brought to the attention of the U.S. Attorney for Connecticut Deirdre Daly, when he sued Associate Counsel R. Thomas Clark in 2014, in federal court case 14:3-cv-1592. Chief of Campus Police Joe Dooley committed felony forgery in November 2017. In continuous violation of Dr. Lewis' public accommodation rights, Chief Dooley and his supervisor Vice President Dr. Ronald Herron and also Assistant Dean Christopher Piscitelli committed the crime of filing a false report, both in 2005 and 2008. And yet, they, in charging Dr. Lewis with a fabricated crime, of producing a false ID used the punishment for this crime of disallowing Dr. Lewis from taking necessary courses at SCSU, and, thereby, depriving Dr. Lewis of his ability to finish his requirements for the LPC license to practice psychology and to make money by this study and licensure, thus, to be independent in society and to rise above this disability status of being "relegated to a position of political powerlessness in our society." 42 U.S.C. § 12101(a)(7) (University of Alabama v. Garrett, Breyer's dissent).

The ADA was not working as Congress had intended, and the ADAA was strengthened by Congress, later, to make the ADA more strongly stated to protect the purposes intended by Congress when the ADA was written into Law in 1990. When Assistant Dean of Student Conduct Piscitelli met with Dr. Lewis at the meeting of the "Threat Committee" of SCSU in the office for Student Conduct,

Chief of SCSU campus police Joseph Dooley said to Dr. Lewis: “we made up that story about the phony ID; we believed you were a threat.” When Dr. Lewis stated that fact to the only person Dr. Lewis was then allowed to communicate with, Assistant Dean of Student Conduct Christopher M. Piscitelli, in the fall semester of 2017, upon Dr. Lewis’ application to the graduate program in Counseling Psychology, Dean Piscitelli sent Dr. Lewis a threatening letter warning of more sanctions, again, if Dr. Lewis continued to speak the truth of what Chief Dooley said to him on July 20, 2017, a significant event, in that the fabricated incident of July 2008, was stricken from the record and Dr. Lewis was granted permission to return to campus “in a seamless transition” that Southern Connecticut State University and its signee, Dean Piscitelli promised “to assist with.” This agreement was made in a formal “pre-answer conciliation agreement hearing” by the Connecticut Commission on Human Rights and Opportunities, West Central Office in Waterbury, Connecticut upon July 13, 2017 and made into a contract signed by Dean Piscitelli and presented to Dr. Lewis in the Office of Student Conduct at SCSU upon July 20, 2017, allowing Dr. Lewis back on campus, despite Judge Thompson ruling to dismiss this case with prejudice upon the grounds that this was not a contract.

Furthermore, in disallowing free speech and certainly in disallowing of truthful factual conversation of Dr. Lewis and stating that if Dr. Lewis continued to “lie” and would be subject to additional sanctions, Dr. Lewis ceased to insist on taking any other action other than to apply to the master’s program at SCSU in

Counseling Psychology, which application was blocked by this dean's office, the same way that his 2017 application to SCSU's department of Internet Technology was blocked, in that Southern's undergraduate admission department had denied receiving applicant Dr. Lewis' transcripts from schools colleges and universities that avowed they had sent the official transcripts and/or letters of recommendation. That is, after this contract was duly brokered, signed, and given to Dr. Lewis on July 20, 2017, Dr. Lewis' application attempts to apply to SCSU's IT undergraduate department, and to SCSU's Counseling Psychology graduate department, and to SCSU's MPH graduate department were similarly blocked in the same way by SCSU's undergraduate and graduate admission offices, in 2017, 2018, and 2019, although these application attempts were guaranteed by this contract brokered in July 2017, brokered by the Connecticut CHRO, that District Court Judge Alvin W. Thompson ruled was not a contract and that Dr. Lewis did not give enough detail on how his civil rights were, thus, violated by Southern Conn State University.

Direct appeal

On direct appeal, Lewis attempted to get an impartial review by the Court of Appeals that his Civil Rights had been violated when he was charged with a crime, in 2008, allowing Southern Conn State University to ban him from its campus without any type of judicial review and without any right to face his accusers. In a published opinion, the Second Circuit Court of Appeals stated that, there was no issue of fact of law presented in Dr. Lewis' case to

merit any review by the Court of Appeals. Dr. Lewis' case had not been allowed to be reviewed on its merits in district court. It is now disallowed review in the Court of Appeals. This same case, essentially, against SCSU, in 2014, had been similarly disallowed in the same district court and its appeal to the Second Circuit was also disallowed. Dr. Lewis' attempt to present this matter of being unlawfully banned from campus at SCSU to the Connecticut Board of Regents in 2013 was met with a cease-and-desist letter from BOR counsel R. Thomas Clark.

VIII. REASONS FOR GRANTING THE WRIT

To avoid erroneous deprivations of the right to counsel, this Court should clarify the standard under Regents of The University of California v. Bakke that applies when a party sues the state university whose statutory legal representation is the attorney general of the same state seeking to crush the party suing the state school because the police are systemically granted qualified immunity in addition to the hurdle of state sovereignty given by the 11th amendment and the unequal standing of a *pro se* non-attorney litigant in fighting against the powerful office of the attorney general, in light of the interpretation of the Fourteenth amendment as clearly and boldly expressed in the Gideon v. Wainwright case.

X. CONCLUSION

For the foregoing reasons, Dr. Lewis respectfully requests that this Court issue a writ of certiorari to review this action of the Court of Appeals.

DATED this 15th day of March 2021.

Paul E. Lewis March 15, 2021

Paul E. Lewis

Paul E. Lewis
3/15/2021

Paul E. Lewis
Citizen of the State of Connecticut
March 15, 2021
18 TOWER LANE, APT 163
NEW HAVEN, CONNECTICUT 06519
Tel.: (203)932-0678
Fax: (508)772-0069
E-Mail: kingreturned@hotmail.com