

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Lan Tu Trinh – PETITIONER

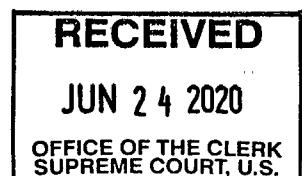
vs.

U.S. Department of Education – RESPONDENT

**PETITION FOR FILING PETITION
FOR A WRIT OF CERTIORARI OUT-OF-TIME**

I, Lan Tu Trinh, respectfully request for the U.S. Supreme Court to file my petition for a writ of certiorari out-of-time, as suggested by the Clerk.

As a pro se litigant, I had asked the Court of Appeals about when the deadline for the petition would be, and they informed me that I could only file after the last entered order. I worked very hard on this petition and have followed the proper procedure as best as I could for being pro se and with very little legal assistance. COVID-19 has made legal assistance even more inaccessible and difficult to obtain, as lawyers have been reluctant to get involved in new cases and printing companies have been totally unresponsive. The COVID-19 pandemic has also caused significant financial strain and life difficulties for me and my family.



For these reasons, I sincerely plead for the Supreme Court of the United States to accept this petition for the Clerk to file my petition for a writ of certiorari.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lan Tu Trinh".

Lan Tu Trinh
775 Mustin Lane
Villanova, PA 19085

Dated: June 19, 2020

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2481

LAN TU TRINH,
Appellant

v.

UNITED STATES DEPARTMENT OF EDUCATION

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civil Action No. 18-cv-01668)
District Judge: Honorable Wendy Beetlestone

Submitted Pursuant to Third Circuit LAR 34.1(a)
November 13, 2019
Before: JORDAN, BIBAS, and PHIPPS, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on November 13, 2019. On consideration whereof, it is now hereby ORDERED and ADJUDGED by this Court that the judgment of the District Court entered May 30, 2019, be and the same is hereby affirmed. Costs taxed against the Appellant. All of the above in accordance with the opinion of this Court.

ATTEST:


s/Patricia S. Dodszuweit
Clerk

Dated: November 15, 2019

Certified ~~as a true copy and issued in lieu~~
of a formal mandate on January 3, 2020

Teste: *Patricia S. Dodszuweit*
Clerk, U.S. Court of Appeals for the Third Circuit

A

NOT PRECEDENTIAL

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

No. 19-2481

**LAN TU TRINH,
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v.

UNITED STATES DEPARTMENT OF EDUCATION

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November 13, 2019
Before: JORDAN, BIBAS, and PHIPPS, Circuit Judges
(Opinion filed November 15, 2019)**

OPINION*

PER CURIAM

Lan Tu Trinh appeals from an order of the United States District Court for the Eastern District of Pennsylvania, which dismissed her complaint and granted summary

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

judgment to the United States Department of Education (“DOE”). We will affirm the District Court’s judgment.

Trinh operated the LT International Beauty School with her sister until a court-ordered dissolution of the school in 2017. Trinh’s sister then apparently took over the property and started her own beauty school, KAT Beauty School. Dkt. #9. In her complaint, Trinh claimed that the DOE, “breaking Gov policy, authorized someone to change my business name and take over its accreditation without my authorization or consent.” Dkt. #2 at 3. The DOE answered the complaint and then filed a motion for summary judgment, noting that the DOE’s only involvement with Trinh’s former beauty school was to provide student aid under Title IV. The DOE noted that it did not, and has no authority to, change a business name or accredit an institution. The District Court granted DOE’s motion for summary judgment.¹

We have jurisdiction under 28 U.S.C. § 1291. We exercise a plenary standard of review and apply the same standard as the District Court to determine whether summary judgment was appropriate. See State Auto Prop. & Cas. Ins. Co. v. Pro Design, P.C., 566 F.3d 86, 89 (3d Cir. 2009). A grant of summary judgment will be affirmed if our review reveals that “there is no genuine dispute as to any material fact and that the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a).

¹ Trinh mistakenly states in her brief here that the District Court dismissed her complaint for lack of jurisdiction—in actuality, the Court determined that Trinh’s complaint did not articulate a cognizable claim against the DOE.

We discern no error in the District Court's decision to grant the DOE summary judgment. Trinh's filings did not establish that the DOE had any involvement whatsoever in the wrongs that she alleged in her complaint.²

For the foregoing reasons, we will affirm the District Court's judgment.

² In her response to the DOE's answer to her complaint, Trinh appeared to allege that the DOE mishandled LT Beauty's debt to DOE, claiming that it should have satisfied the debt with funds from her sister's new school. Dkt. #9. The District Court determined that "LT Beauty neglected its financial obligations to DOE under Title IV, that DOE properly drew down on LT Beauty's letter of credit to satisfy those obligations, and that DOE has had no interaction with KAT." Dkt. #20. Trinh does not raise this claim in her brief here, but in any event, we discern no error in the District Court's grant of summary judgment on the claim.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAN TU TRINH,

Plaintiff,

v.

U.S. DEPARTMENT OF EDUCATION,
Defendant.

CIVIL ACTION

NO. 18-1668

ORDER

AND NOW, this 29th day of May, 2019, upon consideration of Defendant's Motion for Summary Judgment (ECF No. 13), further briefing in support thereof (ECF No. 15), and Plaintiff's responses in opposition thereto (ECF Nos. 14, 16), **IT IS ORDERED** that the Motion is **GRANTED** and Plaintiff's claims are **DISMISSED WITH PREJUDICE**.

The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.

B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAN TU TRINH,

Plaintiff,

v.

U.S. DEPARTMENT OF EDUCATION,
Defendant.

CIVIL ACTION

NO. 18-1668

MEMORANDUM OPINION

Plaintiff Lan Tu Trinh brings suit against Defendant U.S. Department of Education (“DOE”) for claims stemming from the closure of LT International Beauty School (“LT Beauty”), which Plaintiff operated with her sister prior to its court-ordered dissolution in 2017. ECF No. 9. Plaintiff’s sister subsequently opened KAT Beauty School, Inc. (“KAT”), and Plaintiff generally avers that the closure of LT Beauty and opening of KAT have been mishandled. *Id.*

DOE now moves for summary judgment, asserting that Plaintiff has neither articulated a claim nor adduced any evidence during discovery. Summary judgment is appropriate when the record “shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). Summary judgment is warranted if a party “fails to make a showing sufficient to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The court must “view the facts and draw inferences in the light most favorable to the nonmoving party.” *Ray v. Twp. of Warren*, 626 F.3d 170, 173 (3d Cir. 2010). Because Plaintiff proceeds pro se, the court must liberally construe her filings. *Renchenski v. Williams*, 622 F.3d 315, 337 (3d Cir. 2010).

In her complaint, Plaintiff alleged only that DOE had “authorized someone to change [her] business name and take over its accreditation without [her] authorization or consent,” and that Plaintiff had “requested an answer of why these damages,” but “[n]o one could respond with

an adequate explanation.” ECF No. 2. Plaintiff also attached a number of documents to the complaint, including:

- A license for a cosmetology school granted by the Commonwealth of Pennsylvania for LT Beauty;
- An email exchange with the National Accrediting Commission of Career Arts & Sciences, Inc. (“NACCAS”), where Plaintiff asked to cancel LT Beauty’s “certification” for its current locations;
- What appears to be a database entry from NACCAS indicating that KAT has applied for and received accreditation, and which lists Plaintiff as a supervisor of KAT;
- A Philadelphia Police Department Complaint or Incident Report, indicating that Plaintiff “stated that an unknown person used her name to open up a beauty school”; and,
- The second page of what appears to be a two-page letter from DOE, indicating that administrative actions are pending against LT Beauty, and that additional information was needed regarding its annual audit submission.

Id. Though not entirely clear from Plaintiff’s submissions, Plaintiff she also asserted that DOE improperly handled LT Beauty’s debt to DOE, and that DOE withdrew funds from LT Beauty that should have been withdrawn from KAT.

In its summary judgment motion, with regard to the allegations in the complaint, DOE submitted affidavits stating that it did not have any authority to change a business’s name or transfer its accreditations. ECF No. 13. Rather, as reflected by the materials submitted by Plaintiff and as required by applicable regulations, the Commonwealth of Pennsylvania and NACCAS control licensing and accreditation, respectively. *Id.* Further, with regard to the assertion that DOE improperly handled LT Beauty’s debt, DOE provided evidence that LT Beauty had participated in DOE’s Title IV federal student aid programs between October 1998 and August of 2017, and, as a result, LT Beauty was required to submit financial audits to DOE to account for Title IV funds; that LT Beauty fell behind in its obligations and was required to submit a letter of credit to DOE; and that DOE subsequently drew down on this letter of credit

when LT Beauty stopped responding to communications or otherwise complying with its Title IV obligations. *Id.* Finally, DOE stated that no entity named KAT Beauty School or anything similar has applied to DOE to participate in Title IV, and that DOE has no information regarding such an entity beyond Plaintiff's allegations in this suit. *Id.*

In response to DOE's summary judgment motion, Plaintiff stated that DOE "is allowing KAT Beauty School to operate immediately and illegitimately"; that DOE "conspired to shut down" LT Beauty; that DOE "is providing fraudulent statements and documents in this case"; and that "DOE does not want to take responsibility for the events, allowing KAT Beauty School to operate freely without investigation." ECF Nos. 14, 16.

On this record, summary judgment in favor of DOE is appropriate. Even assuming that Plaintiff's allegations amount to a cognizable legal claim against DOE, Plaintiff has not provided any evidence to support such a claim and thus cannot overcome DOE's motion for summary judgment. *See, e.g., Jackson v. Beard*, 365 F. App'x 332, 333 (3d Cir. 2010) (pro se litigant's "conclusory allegations . . . —without any additional evidence—are insufficient to plausibly demonstrate that a genuine issue of material fact exists"); *Tucker v. I'Jama*, 361 F. App'x 405, 408 (3d Cir. 2010) ("lack of any evidence to overcome summary judgment" rendered summary judgment against pro se litigant appropriate).

Even so, as to the allegations in the complaint—that DOE "authorized someone to change [Plaintiff's] business name and take over its accreditation without [Plaintiff's] authorization or consent"—DOE has provided evidence indicating that it had no authority to take any such action, and that it has not had any interaction with KAT or any similarly named entity. Plaintiff has not provided any evidence to the contrary. In fact, her own submissions indicate that Pennsylvania and NACCAS are the responsible entities for business licensing and accreditation, since LT Beauty's license was granted by Pennsylvania and its accreditation was controlled by

NACCAS. As a result, Plaintiff's conclusory assertions that DOE is responsible are insufficient to defeat summary judgment.

Liberally construing Plaintiff's filings, she also asserts that DOE improperly handled LT Beauty's debt to DOE, and that DOE should have instead taken money from KAT. Again, however, DOE has presented evidence that LT Beauty neglected its financial obligations to DOE under Title IV, that DOE properly drew down on LT Beauty's letter of credit to satisfy those obligations, and that DOE has had no interaction with KAT. Once again, Plaintiff has provided no evidence to dispute DOE's account.

Accordingly, summary judgment in favor of DOE is appropriate. *See, e.g., Jackson*, 365 F. App'x at 333; *Tucker*, 361 F. App'x at 408.

May 29, 2019

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2481

Lan Tu Trinh,
Appellant

v.

United States Department of Education

(E.D. Pa. No. 2-18-cv-01668)

SUR PETITION FOR REHEARING

Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN, HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, and PHIPPS, Circuit Judges

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is DENIED.

BY THE COURT

s/ Kent A. Jordan
Circuit Judge

DATE: December 26, 2019

Sb/cc: Lan Tu Trinh

Landon Y. Jones, III, Esq.

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**Additional material
from this filing is
available in the
Clerk's Office.**