

No. 21-1419

IN THE

Supreme Court of the United States

HONG TANG

Petitioner

V.

KURT L. SCHMOKE, et al.

Respondents

On Petition For Writ of Certiorari

To The United States Court Of Appeals For The

Fourth Circuit

PETITION FOR REHEARING

HONG TANG

Pro Se Petitioner

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Maryland to the U.S. District Court for the District of Maryland on or around February 10, 2022. On June 10, 2022, the U.S. District Court for the District of Maryland dismissed the third case (*Tang III*) again on the statute of limitations grounds and *res judicata* (based on the prior dismissal on the statute of limitations grounds in *Tang II*). The petitioner's motion for reconsideration is currently pending in the district court. *Tang v. Schmoke*, Civil SAG-22-00341 (D. Md. Jun. 10, 2022)

The respondents voluntarily removed the petitioner's third case from the Circuit Court for Baltimore City, Maryland to the U.S. District Court for the District of Maryland. Therefore, the respondents have waived their Eleventh Amendment immunity. *See Lapides v. Board of Regents of University System*, 535 U.S. 613,

122 S. Ct. 1640 (2002)(“a State's voluntary appearance in federal court amounts to a waiver of its Eleventh Amendment immunity,”); *Williams v. Morgan State Univ.*, No. 19-2477 (4th Cir. Mar. 18, 2021)(“a State waives its Eleventh Amendment immunity by voluntarily removing a case to federal court, which did occur here.” (quoting *Lapides v. Bd. of Regents of the Univ. Sys. of Ga.*, 535 U.S. 613, 619-20 (2002))); *See also Carter v. Maryland*, CIVIL NO. JKB-12-1789 (D. Md. Dec. 3, 2012)(“Voluntary removal constitutes a waiver of Eleventh Amendment immunity,” (quoting *Lapides v. Board of Regents*, 535 U.S. 613, 616 (2002)))

Moreover, the respondents have also expressly agreed to the petitioner's aforementioned assertion, in their reply memorandum in support of their

motion to dismiss. (*Tang v. Schmoke*, Civil SAG-22-00341 (D. Md. Jun. 10, 2022), ECF No. 26 at 2 n.2)

Given that the initial claim, the first case (*Tang D*) was dismissed solely on jurisdictional grounds (Eleventh Amendment immunity and improper service) and the respondents have now waived their Eleventh Amendment immunity, Petitioner petitions this Court for an order directing the lower courts to reopen the previous proceedings (*Tang v. Univ. of Balt.*, No. 19-1146 (4th Cir. 2019); *Tang v. Univ. of Balt.*, Civil No. JKB-18-2200 (D. Md. Dec. 21, 2018)) and consolidate the instant proceedings with the reopened previous proceedings, so

that this matter can be finally determined on
the merits for the first time.

CONCLUSION

For all of the foregoing reasons, the petition for
rehearing should be granted.

Respectfully submitted,

Dated: July 22, 2022



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CERTIFICATE OF *PRO SE* PETITIONER

HONG TANG

Petitioner

V.

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I hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Supreme Court Rule 44.2.

Executed on July 22, 2022



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No. 21-1419

DECLARATION OF SERVICE

HONG TANG

Petitioner

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As required by Supreme Court Rule 29.5(c), I hereby certify that on August 10, 2022, three (3) copies of the corrected PETITION FOR REHEARING were served, via first-class mail, on the following:

Lillian Lane Reynolds (Counsel for all respondents)

Office of the Attorney General of Maryland, Educational Affairs Division

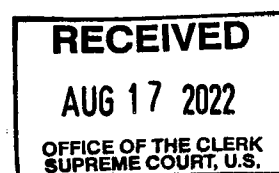
200 St. Paul Place, Baltimore, MD 21202-2021

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 10, 2022



HONG TANG



No. 21-1419

DECLARATION OF SERVICE

HONG TANG

Petitioner

V.

KURT L. SCHMOKE, et al.

Respondents

As required by Supreme Court Rule 29.5(c), I hereby certify that on July 22, 2022, three (3) copies of the PETITION FOR REHEARING were served, via first-class mail, on the following:

Lillian Lane Reynolds (Counsel for all respondents)

Office of the Attorney General of Maryland, Educational Affairs Division

200 St. Paul Place, Baltimore, MD 21202-2021

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 22, 2022



HONG TANG