

No. 21-331

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

ALICE GUAN (YUE GUAN),

Applicant,

v.

Bing Ran

Respondent.

On Petition for Writ of Certiorari to the Supreme Court of Virginia

Petition for Writ of Certiorari

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ORIGINAL

QUESTION PRESENTED FOR REVIEW

Respondent sought injunction against Petitioner seeking to void their contract that contains their constitutionally and federally protected property and personal rights and seeking to restrain Petitioner from physical presence, from speech, and from association in the company they co-own, seeking to remove \$2.3M loan Petitioner borrowed per IRS code from Petitioner's own fund that was stored at the company. Petitioner sought Declaratory Judgement to determine whether the contract is enforceable after Respondent resigned and sought injunctive relief against Respondent to prevent him from interfering with the company management. Circuit Judge denied Petitioner's pleadings, ruled Petitioner become a minority owner after removing 2% of her ownership without notice and without due process and granted Respondent's injunctions against Petitioner. Supreme Court of Virginia affirmed and ruled, in one paragraph containing 4 lines of 49 word, that there is no error in the lower court's ruling. The questions presented are:

1. Whether state courts violated Petitioner's federal rights by removing her own property of 2% company ownership and \$2.3M cash without notice and due process, without right to equal protection and substantive due process.
2. Whether state courts erred in denying due process for declaratory judgement relief and for removing contract that is based on state laws and protected by federal law.

3. Whether state courts violated Petitioner's 14th and 1st Amendment rights by restraining Petitioner's freedom of speech, movement and associations, and discriminating her in her workplace.
4. Whether the state supreme court violated Petitioner's constitutional rights, equal protection right and right to due process by affirming lower court decision and rule by merit that there is no error in lower court's decision without offering any opinion.

RELATED CASES¹²³⁴

Alice Guan (Yue Guan) v. Bing Ran, CL07003662, Alexandria City Circuit Court, Judgement Entered May 22, 2019.

Alice Guan (Yue Guan) v. Bing Ran, Case 200995, Supreme Court of Virginia, Judgement Entered January 11, 2021, Petition for Rehearing En Banc filed on January 25, 2021, Order Denying Petition for Rehearing Entered March 26, 2021.

¹ A case relating to individuals', state officials' and organizations' bribery (which conducts were revealed in December 2019 in Protora Law PLLC office space in Tysons Corner, VA) and other wrongful conducts and seeking relief from those conducts was filed in the IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, Civil Case No. 1:21-CV-752-RDA-TCB, DEFENDANTS GARY BELL, SERGEY KATSENELENOBOGEN AND JEN KIM, the Honorable James C. Clark, Judge of the Alexandria Circuit Court; the Alexandria Circuit Court; the Honorable Donald W. Lemons, Chief Justice of the Supreme Court of Virginia; the Honorable Cleo E. Powell, the Honorable William C. Mims, the Honorable Stephen R. McCullough, and the Honorable S. Bernard Goodwyn, Justices of the Supreme Court of Virginia; the Honorable Lawrence L. Koontz, Jr., the Honorable Leroy F. Millette, Jr., and the Honorable Charles S. Russell, Senior Justices of the Supreme Court of Virginia; and the Supreme Court of Virginia sought motions to dismiss. Proposed responses in opposition to motions to dismiss are in the Appendix accompanying this Petition (17-A, 39-A). Case noted that any Justices proven not involved in bribery will be dismissed. Case is motioned for leave to add parties including: Protora Law PLLC, Brian Chandler, Scott Dinner, John Monica, and Michael Stamp.

² As explained in 17-A and 39-A, Civil Case No. 1:21-CV-752-RDA-TCB is not to seek appellant review of state court order, but this Petition is. Petitioner did inform Civil Case No. 1:21-CV-752-RDA-TCB that this Petition will be filed, and stated that in Civil Case No. 1:21-CV-752-RDA-TCB, injuries may be ratified, acquiesced or left unpunished by state court decision without being produced by the state court judgement as in "A plaintiff's injury at the hands of a third party may be "ratified, acquiesced in, or left unpunished by" a state-court decision without being "produced by" the state-court judgment. *Hoblock v. Albany Cty. Bd. of Elections*, 422 F.3d 77, 88 (2d Cir. 2005). Such is the case here." *Hulsey v. Cisa*, 947 F.3d 246, 250 (4th Cir. 2020).

³ In Civil Case No. 1:21-CV-752-RDA-TCB, all official defendants are represented by Virginia Attorneys General's Office. Michael Stamp since 2019 has become a deputy director at the Department of Justice which oversees the FBI.

⁴ Corruption cited in Civil Case No. 1:21-CV-752-RDA-TCB has been reported to the FBI. Virginia Attorneys General Office has full knowledge of the corruption since it is currently defending the official defendants in the case. It is unclear if any investigation will be carried out independent from Civil Case No. 1:21-CV-752-RDA-TCB. Discovery in Civil Case No. 1:21-CV-752-RDA-TCB is yet to begin.

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PETITION FOR WRIT OF CERTIORARI

Alice Guan respectfully petitions for a writ of certiorari to review the judgments of the Supreme Court of Virginia which based on merits affirmed and completely agreed with circuit court stating there is no error in circuit court's ruling.

OPINIONS BELOW

Petition for rehearing en banc was time filed. No order denying petition for rehearing en banc was issued. An order denying a petition for rehearing (2-A) is unreported. The judgement of the Supreme Court of Virginia (1-A) is unreported. The circuit court's order (3-A) is unreported.

BASIS FOR JURISDICTION IN THIS COURT

The judgment of the Supreme Court of Virginia was entered on January 11, 2021. A timely petition for rehearing en banc was filed. Order denying a petition for rehearing was dated on March 26, 2021. This Court's jurisdiction rests on 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

The freedom of expressive association in both the Fourteenth and First Amendment.

U.S. Const. amend. I provide in relevant part, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. XIV provides in relevant part, “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.”

U.S. Const. art. I provide in relevant part, “No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.”

U.S. Const. art. III provides in relevant part, “The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; – to all Cases affecting Ambassadors, other public Ministers and Consuls; – to all Cases of admiralty and maritime Jurisdiction; – to Controversies to which the United States shall be a Party; – to Controversies between two or more States; – between a State and Citizens of another State; – between Citizens of different States, – between Citizens of the same State claiming Lands under Grants of

different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.”

Civil liberties as established by the Constitution (the Bill of Rights) on “free speech, privacy, right to remain silent, right to be free from unreasonable searches, right to a fair trial, right to marry, right to vote.”

Title VII of the Civil Rights Act provides in relevant part, “No person employed by a company covered by Title VII, or applying to work for that company, can be denied employment or treated differently with regard to any workplace decision on the basis of perceived racial, religious, national, sexual, or religious characteristics. No employee can be treated differently based on his or her association with someone who has one of these protected characteristics. Additionally, employment decisions may not be made on the basis of stereotypes or assumptions related to any protected characteristic. For example, it is unlawful for a supervisor to refuse to promote a Vietnamese person to a management position because he or she believes that Asian people are not good leaders.”

28 U.S.C. § 2201(a) provides in relevant part, “any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.”

28 U.S.C. § 2202 provides in relevant part, "Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment."

INTRODUCTION

Petitioner Alice Guan is the owner, the employee, the President and the CEO, the Secretary and the Treasure of a government consulting company she founded in 1996. The company's annual revenue increased to \$16M by 2006.

In 2008, Alice Guan sold 49% of her 100% stock to the Respondent, Bing Ran for \$0.1 per share and named Bing Ran as a CEO and Chairman of the board. That sale was documented in a contract (9-A) between Petitioner and Respondent, a contract the state circuit judge incorporated into their decree of divorce by the operation of Virginia State law in 2016 (13-A).

The same contract (9-A) states only Petitioner and Respondent can serve as the members of the board of directors; Petitioner is the President and the Secretary; Respondent is the CEO and Chairman of the Board; Petitioner shall delegate management function to the Respondent, but Petitioner retains veto right to Respondent's decisions; it takes a certain percentage of stock voting to remove the management delegation or to remove any one of them from their positions. Those provisions in the contract are not dependent on stock ownership.

In 2018, Respondent himself voted to remove management function

delegation to him and voted to remove himself from all positions and from the board and then he completely departed from the company. Petitioner voted in agreement.

When Petitioner performed the management function she used to delegate to the Respondent, Respondent sued Petitioner by filing a petition for rule to show cause in their divorce case and sought injunctive relief against Petitioner and sought to prevent her from managing or controlling of the company, sought to restrain her from having any physical access to the company's offices or properties, sought to restrain her from having any contact with company employees, attorneys and/or clients, sought to demand the return of \$2.3M loans she took from the company per IRS code which is her own fund stored at the company's investment account from the accumulation over 10 years from her share of company's profit for which she has already paid income tax to IRS. Petitioner petitioned the same court in the same case seeking the court enforce the contract and injunct Respondent from interfering with her managing and controlling the company and sought for declaratory relief. State circuit court gave 2% of Petitioner's stock to Respondent without notice and without due process, dismissed Petitioner's petition without due process, ruled with Respondent's petition, enjoined Petitioner from representing to the 3rd party that she is the 51% majority shareholder until further order of the court (7-A, 3-A). State supreme court ruled there was no error in state circuit court's judgement and affirmed in a judgement that contains 4 lines of text (1-A).

This petition constitutes a present and immediate injury by creating

contradictions with Constitution and federal laws in violation of Petitioners' rights pursuant to the United States Constitution's First Amendment, 14th Amendment, Due Process Clause, Contracts Clause, Title VII of the civil rights Act, fundamental right of civil liberties, Right of Freedom of Association, rights of Anti-Discrimination Act, rights per IRS Codes, rights of freedom of speech, freedom of association, freedom of expression, and freedom of movement, Equal Property Protection Act/Clause, her right per state law that is protected by Federal laws, her rights to her freedom over majority portion of her productive time because the lower court locked Petitioner down permanently until further court order and banned her from going to her own workplace, from association or interaction with anyone in her company, from any form of speech and expression in her own company, which span over a significant amount of time and taking up a significant portion of her life for her to be in a restrained state.

The constitutional issues and federal issues raised by this Petition reaches far beyond petitioner herself and affect *any* party who has contract created by state law and protected by federal law, affect *any* person who is to be restrained against their will and whose freedom of speech, freedom of expression, freedom of movement and freedom of associate is deprived, affect *any* person whose property is to be taken without notice and without due process, affect *any* state or federal appellant ruling affirming lower court decision with merit without offering any opinion which is a practice becoming widespread.

The decision of the state courts is inconsistent with this Court's precedents and is contradicting the holdings of other state and circuit courts. The state courts' rulings will negatively affect individuals in the United States who face the hardships in trying to maintain their federal rights.

STATEMENT OF THE CASE

The state circuit judge held that Petitioner lacked standing in the contract that the same circuit judge incorporated into the divorce of decree by the operation of Virginia state law, therefore he dismissed Petitioner's petitions for a Declaratory relief without due process. After circuit judge took 2% of Petitioner's stock and gave it to Respondent and enjoyed Petitioner from representing she is 51% owner until further court ruling without notice and without due process, he restrained her from any physical access to her corporate offices and spaces and restrained her from any contact with her employees and attorneys and/or clients until further order of the court without due process, he also removed Petitioner's own \$2.3M without due process. On appeal, assignments of error on every sentence of the May 22, 2016 order (3-A) were established. Prior to Virginia state supreme court issued its judgement, it provided an opportunity for the Petitioner for an oral argument. Petitioner argued, as shown in Appendix 61-A through 66-A in front of the Honorable William C. Mims, the Honorable Stephen R. McCullough, the Honorable Leroy F. Millette, and stated that:

1. the lower court's order has violated the 1st and the 14th Amendments of the Constitution.
2. the lower court's order has violated Title VII of the civil rights Act.
3. the lower court's order has infringed on the fundamental civil rights, civil liberties.
4. the lower court egregiously deprived Petitioner's rights of freedom of speech, freedom of association, freedom of expression, and freedom of movement.
5. the lower court egregiously deprived Petitioner's own property of 2% stock and \$2.3M and her ability and her rights to protect her property and her investment in her company, without notice and without due process.
6. the lower court deprived her right that is guaranteed by the amendment which is the divorce decree established by the state law which is protected by the federal law, without due process.
7. the lower court altered the divorce decree, which is established by the state law, which is protected by the federal law, without due process and without both parties' consent.
8. the lower court violated the Constitution's Contracts Clause.
9. The lower court locked Petitioner down permanently until further court order and banned her from going to her own workplace, from association or interaction with anyone in her company, from any form of speech and expression in her own company, which span over a significant amount of time

and taking up a significant portion of her life for her to be in a restrained

state.

10. Petitioner stated that: "These are all matters with public importance. Those are matters of interpretation of Justice to all citizens in the United States."

Despite those federal questions sought to be reviewed were raised in front of the 3-justice panel in the Supreme Court of Virginia, Supreme court of Virginia affirmed the lower court judgment and deemed there was no error in the state court (1-A).

On Petition for Rehearing En Banc, Petitioner raised the Federal questions again (67-A), stating the lower court's order and Supreme Court of Virginia's January 11, 2021 order have created a contradiction with Constitution's 1st Amendment and 14th Amendment, with the Right of Freedom of Association, with Title VII of Civil Rights Acts, with Anti-Discrimination Act, and with IRS Codes. Petitioner further stated that these orders set a precedence which unintentionally not only created an inconsistency with the fundamental doctrines and laws, but they can also lead to severe consequences to people in the US without just and contrary to these long-existing and robust Laws. Nevertheless, Supreme court of Virginia issued an order denying Petition for Rehearing (2-A).

Thus, the state supreme court essentially adopted the District Court's findings and rulings in opposition to well-established laws when it found there is no error and affirmed the decision. For several reasons, the state supreme court's decision should not stand.

First, the decision in the state court departed from this Court's holdings and

created a conflict between states and circuits and administrative proceeding requirements. In particular, the Supreme court of Virginia ruled on merit without offering any opinion, has created a precedent that deprives personal property without notice and without due process; deprives a person's freedom of speech, freedom of movement, freedom of expression and freedom of association without due process; deprives litigant's personal assets without equal protection, permit a contract established by the state law be abolished without due process; dismiss petition for declaratory judgment without due process; discriminated litigant in the workplace, and deprived Petitioner's liberty without substantive due process. In the context of the Contracts Clause, Notice and Due Process Clause, other circuits and states have determined that infringement of freedom, deprivation of property, dismissing petition for declaratory relief and abolish or alter a contract between two parties that are enabled into a court order by the operation of state law must go through constitutionally valid procedural due process. But here, the state courts determined that such contact can be terminated by the state courts without cause or due process or concurrence by both parties, likewise, personal assets can be removed, freedom can be restrained, declaratory relief can be denied and dismissed. In the context of the First Amendment and the 14th, the state courts concluded that not only Petitioner cannot manage or control the company per the contract terms, she has to be restrained endangering her physically and infringe her speech and expression rights and association rights. Other courts form precedents that state

created contract can not be unilaterally erased by the court and that infringement

in personal freedom is a violation of federal law in cases indistinguishable from the present action.

Second, allowing state court or any federal court to freely abolish a state law enacted contract over the objection of a party (parties), especially contracts that create protected property and personal interests such as the decree of divorce in this case, and allowing state court or any federal court to remove a litigant's freedom and assets, and deny the litigant's request for declaratory judgment relief, creates a threatening situation ample for abuse and oppression and harassment by the court system such as in this case. Most especially, when a party's personal and property and pecuniary rights are written into such a contract, that right is protected by the state law and the process of maintaining or removing such rights are protected by the federal law, letting state court or federal court unilaterally void such a contract, delete those rights, impose restraints on personal freedom creates a situation that is completely contrary to the intended function of the court.

Facts and Procedure History

Aforementioned text has already stated, perhaps more than once, the critical facts and the key procedural history in the state courts. Court orders speak for themselves and are clear evidence of the damages and injuries they have caused Petitioner. They basically not just reduced her, but destroyed her, her careers, her

properties, her interests, her rights, and her ability to protect her company and her

ability to build her company. They changed Petitioner from a person who can lead and control her company to a person who cannot approach company premise, can not utter a word or a letter to anyone in the company, cannot in any way maintain any association with anyone in the company, a company she founded, established, and prospered through her leadership and management capabilities.

AdSTM had been a very successful company, winning awards from DOE and DOD under Petitioner's leadership and steadily grew its revenue year after year. It has been profitable.

But since state courts deprived all of Petitioner's rights in AdSTM, there is hardly any profit left at the years' end from the contract revenue generation, and her employee employment was turned into a 1099 under which the same income of \$150,000 per year turned into a much less net income due to the much higher tax rate.

From 2008, the year Petitioner sold 49% stock to Respondent, through 2018, AdSTM's financial is simple: revenue – expenses = profit, all profits is split equally between Petitioner and Respondent according to the Amendment. During this time period, AdSTM generated revenue of about \$14M - \$16M per year with profit margin between 3% to at least 8%. AdSTM's profit is estimated to be about \$825,000 per year with the total estimated profit AdSTM made is about

~~\$7,5000,000, about \$3,750,000 of which is Respondent's private property, about~~
\$3,750,000 of which is Petitioner's private property.

State circuit court through two previous trials found that Respondent's \$3,750,000 property has already been paid to Respondent, only a small portion of Petitioner \$3,750,000 was paid to her with the remaining portion kept in AdSTM's investment accounts.

Discovery in state court trials found, Respondent even took some of Petitioner's private property from AdSTM's investment account as his own, resulting in a balance of \$2.3M of her property still kept in AdSTM.

Respondent categorized most of the money he took over 10+ years as loans to himself to avoid equal payment to Petitioner per the Amendment. State circuit court agreed that those are proper loans even though Respondent did not have promissory notes for the majority of the loans he took, and he never returned any back to AdSTM.

During trials, Respondent testified to the following loans that he paid himself without any promissory notes: about \$550K prior to October 2014, \$1,431 in Jan 2015, \$20,000 in March 2015, \$70,000 and \$9,193 in April 2015, \$168,328 in June 2015, \$455,879 in July 2015, \$10,000 in October 2015, \$811,727 in Feb. 2016, \$301,430 in Oct 2016, \$346,410 in July 2017. Total is \$2,744,000. The legal effect

of the lower court's and the Court of Appeal's orders deemed those are legitimate

loans and those loans continued to remain as Respondent's personal property.

After Respondent removed himself completely from AdSTM in 2018, Petitioner borrowed \$2.3M of her own money from AdSTM that was stored in AdSTM accounts. State court order demanded the return of all of it, even after she have already returned some installment per the promissory notes established per IRS code. She received completely different legal treatment from the state court on situations that are similar to what Respondent created even though she actually had promissory notes documents and she already returned a portion of the loans to AdSTM per the promissory notes.

Appendix 13-A is an order in which state circuit court used Respondent's expert report to calculate money owed to Petitioner. Respondent's expert made various assumptions in his report. In one portion of that report, Respondent's expert made an assumption of Respondent being 51% owner for the sake of an exercise of his calculation, but state court did not adopt any data from that portion of the report. 13-A did not rule Respondent is 51% owner. That litigation was closed after full circle of appeal and remand completed.

Then in 2019, in the litigation Respondent filed in the same divorce case on disputes on the decree which was already conformed to the Amendment, without

notice and without due process, one February 27, 2019, at the moment when the judge was signing the pre-typed order, he added, by handwriting: Respondent is 51% thus made Petitioner a 49% owner, without providing Petitioner any compensation of the stock he transferred to Respondent right at the bench. 7-A.

Concurrently in that case, state circuit court refused to provide due process for Petitioner's petition for declaratory judgement relief and dismissed and denied her petition.

State circuit court then used that stock transfer as the basis to negate all the provisions in the Amendment that were designed to be independent from stock percentage, as evidenced in the orders and as admitted by defendants in the district case, the very defendants who are now illegally controlling the company. 80-A.

The next move the state circuit court made was to completely make the Amendment disappear, to completely make Petitioner disappear from AdSTM with the most egregious and illegal restraints, discriminating her, all done without constitutional and without adequate due process.

The rest of what happened have been discussed in the earlier sections and are self-explanatory by the orders of the courts contained in the Appendix.

REASON FOR GRANTING THE PETITION

~~This petition should be granted because Virginia Supreme Court have~~
 decided an important question of federal law that has not been, but should be,
 settled by this Court (Sup. Ct. R. 10(c)) and has decided important federal questions
 in a way that conflicts with relevant decisions of this Court (Sup. Ct. R. 10(c)), and
 Virginia Supreme Court has decided important federal questions in a way that
 conflicts with the decision of another state court of last resort or of a United States
 court of appeals (Sup. Ct. R. 10(b)).

Virginia Supreme Court's judgment will have far reaching negative impact.
 It gives courts the power to deprive private citizen's private property without notice
 and without due process, to modify contracts and to impose restriction on freedom of
 association, freedom of speech, freedom of movement without due process, to
 damages any party whose rights are ensured by any decree or court order that is
 established by state law and protected by federal laws, to affirm and find no error in
 lower court's ruling without offering *any* opinion, to discriminate, to disallow
 declaratory judgement relief where there is controversy dispute regarding contract,
 delete and make disappear a contract without due process, deprive liberty without
 substantive due process. This Court should review, and set aside, that judgement
 which will provide critical guidance to all lower courts, both state and federal,
 regarding the scope of standing regarding the prior listed and aforementioned and
 later stated constitutional and statutory provisions at issue.

A. Virginia Supreme Court have decided an important question of federal law
 that has not been, but should be, settled by this Court (Sup. Ct. R. 10(c))

Virginia Supreme Court's 4-Line 49 Words Judgement to Affirm and to State by

Merit that There Is No Error in the Lower Court While Offering No Opinion (1-A) Violated Petitioner's Constitutional Rights and It Is an Important Question of Federal Law that Has Not Been but Should Be Settled by This Court (Sup. Ct. R. 10(c)).

As complicated and as wide-range impact the state circuit judgement imparts (3-A), and as expansive the federal questions raised in the oral argument by the Petitioner (61-A), Virginia Supreme Court's 4-Line 49 Words Judgement to Affirm and to State by Merit that There Is No Error in the Lower Court While Offering No Opinion (1-A) created a continuous and effective deprivation of Petitioner's federal rights. The Virginia Supreme Court's 4-Line 49 Words Judgement in itself departed from equal protection and infringed constitutional rights. Such practice may be common in some courts, but its essence and its impact likely have negated the principal of justice for a long time unattended.

This likely is also a violation of due process, especially given the fact that what the Virginia Supreme Court affirmed and found no error in is a circuit judgment that is also very much void of any opinions (3-A) when that judgement determined several extremely critical and life changing injunctions and commands. Due process does not exist in these instant instances.

Laws governing agency actions do provide a guiding light such as when certain district courts have evaluated similar situations with the related law as in "In evaluating agency actions under the Administrative Procedure Act's (APA)

arbitrary and capricious standard, the court must be satisfied that the agency has examined the relevant data and articulated a satisfactory explanation for its action including a rational connection between the facts found and the choice made. 5 U.S.C.A. § 706(2)(A).” When an agency has failed to provide a reasoned explanation for an action, or where the record belies the agency's conclusion, the court must undo its action.” Especially in definitive command that “An agency must explain why it decided to act as it did.” And “In reviewing an agency's decision, the court is not free to substitute its judgment for that of the agency.” 5 U.S.C.A. § 706(2)(A). Iaccarino v. Duke, 327 F. Supp. 3d 163 (D.D.C. 2018) which also stated: “The fundamental principle that an administrative agency must set forth its reasons for a decision is indispensable to sound judicial review. An agency decision would be arbitrary and capricious if it is not supported by substantial evidence because it is impossible to conceive of a nonarbitrary factual judgment supported only by evidence that is not substantial in the Administrative Procedure Act (APA) sense. 5 U.S.C.A. § 706(2)(A).” and in ““Fundamental” requirement of administrative law is that an agency set forth its reasons for decision; agency's failure to do so constitutes “arbitrary and capricious” agency action.” 5 U.S.C.A. §§ 555(e), 706(2)(A). Olivares v. Transportation Sec. Admin., 819 F.3d 454 (D.C. Cir. 2016).

The damaging effect of Supreme Court of Virginia's Judgment (1-A) is such type of a judgement to affirm and to rule by merit that there is no error in lower court's judgment with no opinion that allows both the appellant court and the lower court to arbitrarily decide on issues with no basis, which often can, and in this case

did, deprive state rights and federal rights of a litigant in a way that is outrageous.

This increases the chances of relaxed and trivial treatment of a legal case, to the point of committing intentional or malicious errors, all the way to make occurrences of corruptions more possible and less detectable in events as pled in the case as shown in 17-A and 39-A.

Any litigant has the constitutional rights for a procedural due process, equal protection and the right for justice even in this aspect of judicial process and proceedings as in how the supreme court of Virginia ruled. In addition to circuit court deprived Petitioner's many rights as seen in 3-A, 1-A robbed her again of her rights for procedural due process, equal protection and the right for justice. Such practice may occurs often in both states' and federal appellant courts. If lack of resources is the fundamental reason for such practice, then the legal system allowed resource issue to infringe federal right which is another violation of rights. Litigant relies on appellate court to correct the errors made in the lower court. This aforementioned practice has eroded public trust, at least in this case, likely in many other cases as well, when such practice is allowed to continue.

Supreme court of Virginia ruled on merit without offering any opinion, has created a precedent that deprives personal property without notice and without due process; deprives a person's freedom of speech, freedom of movement, freedom of expression and freedom of association without due process; deprives litigant's personal assets without equal protection, permit a contract established by the state law be abolished without due process; dismiss petition for declaratory judgment

without due process; discriminated litigant in the workplace, and deprived

Petitioner's liberty without substantive due process.

This aspect of this petition for writ should be granted because Supreme Court of Virginia's judgement and how that judgement is documented have decided an important question of federal law that has not been, but should be, settled by this Court (Sup. Ct. R. 10(c)).

B. Supreme Court of Virginia has decided several important federal questions in a way that conflicts with relevant decisions of this Court (Sup. Ct. R. 10(c)), and Virginia Supreme Court has decided several important federal questions in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals (Sup. Ct. R. 10(b)).

Petitioner has personal interest, property interest, pecuniary interest derived from the Decree of divorce that has been conformed to the Amendment by the operation of Virginia state laws. Petitioner's personal interest, property interest, and pecuniary interest including employment, opportunity for advanced education paid by her company, reputation of holding the officer and board positions and authority to do business with clients, physical well-being and health, benefit from her company, personal property, money, etc., are sufficiently recognizable to demand due process protection. *Nelson v. Colorado* (2017). *Board of Regents of State Colleges v. Roth* (1972); *Roth*. *Stotter v. University of Texas at San Antonio* (5th Cir. 2007). *Goss v. Lopez* (1975). *Davidson v. Cannon* (1986). *Daniels v. Williams* (1986). *Mathews v. Eldridge* (1976). *Goldberg v. Kelly* (1970). *Hightower*

v. City of Boston (1st Cir. 2012). San Geronimo Caribe Project, Inc. v. Acevedo-Vila (1st Cir. 2012).

State courts' action has deprived Petitioner of the recognized liberty and property interest absent sufficient process surrounding the deprivation.

This Court has provided standing of the federal laws that are referenced in this Petition. Supreme Court of Virginia's judgement created inconsistencies and contradicted the standings held by this Court, by another state court of last resort and by United States court of appeals. Prior to the ruling by the Supreme Court of Virginia, claimants in the Virginia and in the US were nearly certain of how their federal rights can be protected. Supreme Court of Virginia's judgement eroded that trust and faith to a point such that a claimant in any court can not rely on the judicial proceedings to protect their interests and rights that are ensured by federal laws as referenced in this petition. Supreme Court of Virginia's judgement created danger across all courts, both state and federal court over a wide range of litigated issues as demonstrated in this petition. The harm it can cause likely will be widespread, irrevocable, and continue.

Actual controversy involving contract dispute is destined and should be resolved by declaratory judgement relief. In this instant case, state circuit court was not able to provide that relief because if such relief is provided, the court will have no opportunity to implement what it intended to do: to fabricate a cause to illegitimately breach an unbreakable contract through an illegitimate logic. State circuit court's refusal to provide declaratory judgment remedy by dismissing and

denying Petitioner's request goes directly against other state and federal circuit.

For "a real, substantial, and existing controversy. . . . a party to a contract is not compelled to wait until he has committed an act which the other party asserts will constitute a breach." (quoting *Keener Oil & Gas Co. v. Consol. Gas Utils. Corp.*, 190 F.2d 985, 989 (10th Cir. 1951)). "In these situations, relevant Article III considerations include whether the contractual dispute is real, in the sense that it is not factually hypothetical; whether it can be immediately resolved by a judicial declaration of the parties' contractual rights and duties; and whether 'the declaration of rights is a bona fide necessity for the natural defendant/declaratory judgment plaintiff to carry on with its business.'" *Maytag*, 687 F.3d at 1081.

By the time Petitioner petitioned the state circuit court for declaratory judgment relief, she has already been harmed by temporary injunctive relief (7-A) and was continued harmed in her personal, pecuniary and property rights. Petitioners' petition for declaratory judgment relief is a matter of law, which court denied and dismissed in totality. Also, state circuit court's action which was affirmed by the supreme court of Virginia in their unilateral removal and modifications to Petitioner's contract violated the Contracts Clause, the Due Process Clause, and the First Amendment, and it went directly against all precedence in all courts.

Seeking declaratory judgement of the contract is to prevent any permanent injunction and permanent damages and to prevent ongoing damaging from occurring. But court's refusal to provide due process in litigating the declaratory

judgment relief is a violation of constitutional rights and a violation of Declaratory Judgment Act.

The entry of a declaratory judgment in the present case would have immediately resolved the parties' controversy. And, most importantly, a declaration would enable the company to operate according to the contract while parties' contractual and constitutional rights are protected. State circuit court would not allow declaratory judgement relief because if it were to allow it, it would not be able to do the following:

State circuit court helped Respondent to steal 2% of Petitioner's stock without notice and without due process and without any compensation. Supreme Court of Virginia Removed Personal Property valued at 2% of stock share Without Notice and Without Due Process. Not only such judgement is in violation of federal laws, it also voids the court's jurisdiction over Petitioners and over the matter at hands. "One shall not be condemned in his person or property without notice, and an opportunity to be heard in his defense." "In order to give any binding effect to a judgment, it is essential that the court should have jurisdiction of the person and the subject-matter." "Due notice to a defendant is essential to the jurisdiction of all courts." Earle v. McVeigh, 91 U.S. 503, 23 L. Ed. 398 (1875). They did so first. Then:

State court knew there is no way to prevent Petitioner from managing and controlling AdSTM as well as performing all the management functions she used to delegate to Respondent after Respondent completely departed from the company,

and there will not be enough voting stock from the Respondent to vote her off the board and off her official positions. So, the state circuit court devised an illegal way to do away with the Decree which has already conformed to the Amendment, the contract.

The contract is between Petitioner and Respondent. State circuit courts' acts to remove or to change the terms of the contract unilaterally is to change or remove the contract in which the court is not a party, such change is illegal. Supreme court of Virginia's affirmation of the state circuit court's ruling went again head on with any and all precedents from states courts and federal circuits.

When decree of divorce was conformed to the contract by having the contract amending the content in the decree of divorce, the contract promised petitioner to be always in control of the company she founded and established, to be always on the board and hold official positions, to be guaranteed a employee position, to have the power and authority that comes with Provision 5. When the court removed that contract or altered the terms of the contract, court's action disturbed or vacated that promise, which is a decision going head on against the precedents. 7th Circuit held "... teachers properly relied on a "stable job-security scheme to plan their personal and professional lives, their investments of time and money, and their retirements" (in their tenure ship) and held that it is "not fair to change the rules so substantially when it is too late for the affected parties to change course." (And such change was initiated actually by a party to the contract, instead of a none-party in the instant case.)" notes in parenthesis added. *Elliott v. Board of School Trustees of*

Madison Consolidated Schools, 876 F.3d 926, 934-35 (7th Cir. 2017). Court's ruling to eliminate the contract completely erased all of the promises provided by the contract.

Most outrageously, the state courts lacks standing and lacks the authority to remove or change the terms of the contract, especially the contract has been incorporated into the decree of divorce by the operation of state law and become the operating provisions of the decree through amendment, not through supplementing the decree, the decree has been conformed to the amendment when the same state circuit judge ordered so on May 13, 2016. 13-A.

Supreme Court of Virginia affirmed the Altered Decree and the deletion of the Contract That was Enacted by State Law Without Procedural Due Process and Held Petitioner Lack Any Standing to Exercise State Law Protected Rights and Depriving Her Federal Rights.

The state courts' unilateral removal of Petitioners' contracts through utilization of an illegitimate 2% stock transfer, and even if there were a legal 2% transfer which there were not, contract should still be intact because it is not dependent on ownership. But courts removed the contract anyway, causing injury and violation of Petitioners' constitutional rights. The injury is still present and will continue into the future.

Having the freedom to go to one's workplace, to associate with coworkers and employee, to communicate with clients, to express verbally of opinions and

thoughts, ..., ..., are the most basic and fundamental rights of a human being.

Those are the very rights the state courts attacked next.

State court not only restrained Petitioner's communication which is a decision that goes head on against free speech precedent through all courts, they also restrained her freedom of association and freedom of movement. In the present case, state courts completely cut off Petitioner's rights of communication to include communication in all forms creating an Outrageous illegal act. Most of the violation of freedom of speech in most precedent is prohibiting a portion or to put limitation on speech. *Speech First, Inc. v. Fenves*, 979 F.3d 319 (5th Cir. 2020), as revised (Oct. 30, 2020). And, "If the First Amendment means anything, it means that regulating speech must be a last – not first 18 – resort." *Thompson v. W. States Med. Ctr.*, 535 U.S. 357, 373, 122 S. Ct. 1497, 1507, 152 L. Ed. 2d 563 (2002). In the instant case, without due process, state court immediately upon Respondent filing of a Petition in February, installed injunction to restrain Petitioner and to deprive her of any and all speech right and rights in all forms in communication, such as emails, etc.

The restraint is a deprivation and violation of Petitioners' First Amendment protections that has been causing injuries, is causing injury right now and will continue cause injuries.

In all actions state courts took against Petitioner, they also caused her be discriminated in her own workplace, violating the Discrimination Prevention Act.

In the final strike, state court deprived Petitioner her \$2.3M personal assets in cash without equal protection. State courts acted contrary to other courts by abridging the privileges and immunities of Petitioner and deprived her of her property without due process of law and denied her the equal protection of the law, in violation of the Fourteenth Amendment to the Constitution of the United States of America; Kennedy v. Med. Serv. Ass'n of Pennsylvania (No. 2), 39 Pa. D. & C.2d 45, 47 (Pa. Com. Pl. 1966).

State court has robbed Petitioner half of her awaking hours resulting in drastic change in her life at her workplace, practically eliminated her from her workplace. All in all, in the instant case, Petitioner has been deprived of a recognized and protectable interest in life, liberty, or property. Wilkinson v. Austin (2005).

State courts discriminated, harassed, removed Petitioner's personal property in the amount of \$2.3M by treating Petitioner differently from how courts treated Respondent regarding loans, thereby infringed Petitioner's rights under "equal protection of the laws." State courts' ruling goes directly contrary with the well-established laws and standing. Stilwell v. City of Williams (9th Cir. 2016); Levin v. Madigan (7th Cir. 2012).

State courts' judgement also abridged the privileges and immunities of Petitioners, charting a path in direct opposition of this Court. McDonald v. City of Chicago (2010).

State courts' judgement also deprived Petitioners' life in the sense of

restraining her in every way to prevent her from her company and from her employees for the majority portion of a person's waking hour each day, deprived Petitioner of her liberty and property without due process of law and deprived Petitioner of equal protection resulting in not only complete violation of 14th Amendment, but also went against precedents and standings of all courts. E.g., *Zinerman v. Burch* (1990).

Furthermore, state courts did not follow fundamentally fair procedures before Petitioner was subjected to damages and injunctive relief, before petitioner was deprived of property and liberty interest. State court also infringed substantive due process in depriving Petitioner's liberty regardless of procedures used, the very liberty of going to workplace, to associate with team members and employees, to interact with clients, to have the ability to express, the liberty that is deeply rooted in this nation's history and tradition by default and implicit in the concept of ordered liberty. State courts' judgment on prohibition is so outrageous and constitutionally arbitrary that is so egregious as to shock the conscience.

State court orders are also in contrary with the following standing or precedents:

The said Act abridges the privileges and immunities of Plaintiffs and deprives them of their property without due process of law and denies to them the equal protection of the law, in violation of the Fourteenth Amendment to the

Constitution of the United States of America; "(d) The said Act deprives the Plaintiffs of their liberty and freedom of contract and of their right to acquire, possess, protect, use and enjoy their property, in violation of Article I; Kennedy v. Med. Serv. Ass'n of Pennsylvania (No. 2), 39 Pa. D. & C.2d 45, 47 (Pa. Com. Pl. 1966).

Property interests protected by procedural due process extend well beyond actual ownership of real estate, chattels or money, and due process protection is required for deprivations of liberty beyond the sort of formal constraints imposed by the criminal process. U.S.C.A.Const. Amend. 14. Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972)

Where a person's good name, reputation, honor or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential. U.S.C.A.Const. Amend. 14. Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972)

Fourteenth Amendment's procedural protection of property is a safeguard of security of interests that a person has already acquired in specific benefits. U.S.C.A.Const. Amend. 14. Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972)

To have a property interest in a benefit, a person must have more than an abstract need or desire for it or a unilateral expectation of it, and he must have a legitimate claim of entitlement to it, it is a purpose of ancient institution of property to protect those claims upon which people rely in their daily lives, reliance that must not be arbitrarily undermined, and it is a purpose of the constitutional right to a hearing to provide an opportunity for a person to vindicate those claims.

U.S.C.A.Const. Amend. 14. Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972)

Property interests are not created by the Constitution; rather, they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law, rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.

U.S.C.A.Const. Amend. 14. Bd. of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972)

The right to freedom of association is not enumerated in the Constitution, but *arises as a necessary concomitant to the Bill of Right's protection of individual liberty*. This Court has recognized a right to associate for the purpose of engaging in those activities protected by the First Amendment—speech, assembly, petition for the redress of grievances, and the exercise of religion. The Constitution guarantees freedom of association of this kind as an indispensable means of

preserving other individual liberties. Roberts v. U.S. Jaycees, 468 U.S. 609, 618, 104 S. Ct. 3244, 3249, 82 L. Ed. 2d 462 (1984).

Association does not have to associate for “purpose” of disseminating certain message in order to be entitled to protections of First Amendment; association must merely engage in expressive activity that could be impaired in order to be entitled to protection. U.S.C.A. Const.Amend. 1. Boy Scouts of Am. v. Dale, 530 U.S. 640, 120 S. Ct. 2446, 147 L. Ed. 2d 554 (2000)

First Amendment protects expression, be it of the popular variety or not. U.S.C.A. Const.Amend. 1. Boy Scouts of Am. v. Dale, 530 U.S. 640, 120 S. Ct. 2446, 147 L. Ed. 2d 554 (2000)

Under the First Amendment, the State may not exclude speech where its distinction is not reasonable in light of the purpose served by the forum, nor may it discriminate against speech on the basis of viewpoint. U.S.C.A. Const.Amend. 1. Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the L. v. Martinez, 561 U.S. 661, 130 S. Ct. 2971, 177 L. Ed. 2d 838 (2010)

Among rights protected by First Amendment is right of individuals to associate to further their personal beliefs. U.S.C.A. Const. Amend. 1. Healy v. James, 408 U.S. 169, 92 S. Ct. 2338, 33 L. Ed. 2d 266 (1972)

Right of expressive association—freedom to associate for purpose of engaging in activities protected by the First Amendment, such as speech, assembly, petition for redress of grievances, and exercise of religion—is protected by the First Amendment as necessary corollary of rights that amendment protects by its terms. U.S.C.A. Const.Amend. 1. McCabe v. Sharrett, 12 F.3d 1558 (11th Cir. 1994)

Individuals, corporations, and other associations generally possess rights under the First Amendment that are of the same nature and quality. U.S. Const. Amend. 1. ESI/Emp. Sols., L.P. v. City of Dallas, 450 F. Supp. 3d 700 (E.D. Tex. 2020)

The Supreme Court has explained the protections afforded by the freedom of association by recognizing a right to associate for the purpose of engaging in those activities protected by the First Amendment—speech, assembly, petition for the redress of grievances, and the exercise of religion. The Constitution guarantees freedom of association of this kind as an indispensable means of preserving other individual liberties. *Roberts v. United States Jaycees*, 468 U.S. 609, 617–18, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984) (holding that a state discrimination law which had the effect of requiring the Jaycees to admit women did not violate the freedom of association). The Supreme Court added that

the freedom to associate “plainly presupposes a freedom not to associate.” *Id.* at 623, 104 S.Ct. 3244.

The Middle District of Pennsylvania has recognized that “[t]he rights of locomotion, freedom of movement, to go where one pleases, and to use the public streets in a way that does not interfere with the personal liberty of others are basic values ‘implicit in the concept of ordered liberty’ protected by the due process clause of the fourteenth amendment.” *Bykofsky v. Borough of Middletown*, 401 F.Supp. 1242, 1254 (M.D.Pa.1975). *Johnson v. City of Cincinnati*, 119 F. Supp. 2d 735, 745 (S.D. Ohio 2000), aff’d, 310 F.3d 484 (6th Cir. 2002)

Whether a particular type of classification is lawful under the Equal Protection Clause depends both on the group being classified and the activity being regulated: laws that draw lines distinguishing a suspect class, like those based on immutable characteristics such as race, alienage, and national origin, or those that affect a fundamental right will be analyzed under strict scrutiny; with some exceptions, all others will be reviewed under rational basis scrutiny. U.S. Const. Amend. 14. *ESI/Emp. Sols., L.P. v. City of Dallas*, 450 F. Supp. 3d 700 (E.D. Tex. 2020)

Deprivation of such a property interest is the quintessence of an injury-in-fact sufficient to create standing under Article III. See, e.g., *Cahoo v. Fast Enterprises LLC*, No. 17-10657, 2020 WL 7493103, *10, __ F. Supp. 3d __ (E.D. Mich. Dec. 21,

2020) (deprivation of property interest in unemployment benefits constituted injury-in-fact); *Swepti, LP v. Mora County, N.M.*, 81 F. Supp. 3d 1075, 1156 (2015) (holding that “[d]eprivation in a property interest’s value and the inability to exploit one’s property interest is sufficient injury in fact”); *Zavolta v. Lord, Abbett & Co.*, No. 2:08-cv04546, 2010 WL 686546, *5 (Feb 24, 2010) (explaining in the trust context that a property interest is “the sin qua non of Article III standing”); *Experian Marketing Solutions, Inc. v. U.S. Data Corp.*, No. 8:09CV24, 2009 WL 2902957, *6 (Sep. 9, 2009) (invading property interest in trademark satisfied injury-in-fact requirement).

Finally, state circuit court violated the Fourteenth Amendment by voiding substantive Due Process and Failure to Act. I have reported to the circuit court, that my rights have been violated, but it stayed silent and failed to act. Its inaction is implicit-but-affirmative encouragement, resulting in the exacerbation of my harm, risk of injury, subjecting me to harms I would not have faced but for the state circuit court’s inaction.

Supreme court of Virginia also violated the Fourteenth Amendment by voiding substantive Due Process and Failure to Act. Post the conduct in the circuit court, I have reported to the Supreme court of Virginia of those federal rights violations and the state-created danger and harm and injuries, Supreme court of Virginia stayed silent and failed to act. Their inaction is also implicit-but-affirmative encouragement.

This Court should grant cert to resolve the contrary and contradiction between this present case and the precedents in federal circuits and other state courts of the last resort regarding all aforementioned federal questions and violations of federal laws.

This Court has the power to prevent the wrongful deprivation from continuing and to remedy the wrongful deprivations that have already occurred. At this juncture, the only remedy for the injury and damage is the post-deprivation process which this Court can initiate.

And Most Importantly:

This Court has the power to provide clarity for individuals in the US who are struggling and who will struggle to protect their First and 14th Amendment rights and other federally protected rights.

CONCLUSION

The petition for a writ of certiorari should be granted.

August 23, 2021

Respectfully Yours,

A handwritten signature in black ink, appearing to read 'Alice Guan', is written over a horizontal line.

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