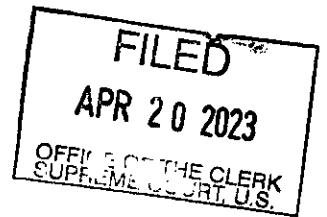


22-1252 ORIGINAL  
No.

IN THE  
SUPREME COURT OF THE UNITED STATES  
DONGMEI LI,  
Petitioner,

V.  
STATE OF CONNECTICUT, ET AL,  
Respondents.



On Petition for Writ of Certiorari  
To the United States Court of Appeals  
for the Second Circuit  
**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION PRESENTED

On May 20, 2021, President Joe Biden signed into law the COVID-19 Hate Crimes Act.

The petitioner is an Asian American woman, a victim of hate crimes and hate incidents. The district court had jurisdiction pursuant to 28 U.S.C. § 1331, as her case presented federal questions. Pursuant to FRCP 12b(1), 12b(2), and 12b(6), the District Court granted 50 of 55 defendants' motions to dismiss, with discovery stay. She filed a timely appeal, the circuit court sua sponte dismissed the appeal for lack of jurisdiction.

The question presented:

Whether it is Unconstitutional, has so far departed from the accepted and usual course of judicial proceedings and has conducted an anti-Asian hate incident when a federal court unlawfully dismissed a civil right case by a victim of hate crimes and incidents.

**All PARTIES**

Dongmei Li, Plaintiff - Appellant, Petitioner

v.

State of Connecticut, Dept of Public Health,  
Connecticut, Dept of Mental Health & Addiction Svcs,  
Connecticut, Richard Colangelo, Joseph T. Corradino,  
Anthony Formato, Morgan Rhodes, Fairfield Police  
Dept, Chris Lyddy, Lance Newkirchen, Richard Peck,  
Fairfield Emergency Communications Center, American  
Medical Response Inc, Bret Jackson, Mackenzie D'lorio,  
St. Vincent's Medical Center, Rachel Bouteiller, Fayoa  
Carmichael, Margaret Chuckta, Kellie Clomiro, Lori  
Dube, Jingchun Liu, Melissa Ortiz, Bonnie Perez, Nadine  
Ritt, Jemesha Wright, Clifford Schwartz, Sharon  
Hasbani, Audrey Harrell, Ryan Liberman, Bujji B.  
Surapaneni, Dora Orosz, Christopher M. Orelup, Simon  
A. Ovanessian, Kelechi Ogbonna, Roger Jou, Lei Li,  
Stephanie A. Sirois, Amanda M. Sandrew, Raj K. Bansal,  
Miriam E. Delphin-Rittmon, Town of Fairfield, Fairfield  
Board of Education, Kovacs, James P. Zwally, Cynthia  
Anderson, Andrea E. Bertolozzi, Cynthia Campbell,  
Patricia Galich, Barbara Mcconachie, Christine  
Pannone, James Richards, Rahul Gupta, Bruny Jacques  
Germain, Lilliana Hernandez,

Defendants - Appellees, Respondents

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**PETITION FOR A WRIT OF CERTIORARI**

Dongmei Li respectfully petitions for a writ of certiorari to review the order of the United States Court of Appeals for the Second Circuit in this case.

**OPINIONS BELOW**

Federal District Court of Connecticut case # 3:21-cv-00996-VAB

On 8/11/2022 Federal District Court Judge Victor Bolden entered 140 ORDER pursuant to FRCP 12(b)(1), 12(b)(2), 12(b)(6) standard, and terminated 50 defendants. On 10/6/2022 Federal District Court Judge Victor Bolden entered 155 ORDER denying 142 Motion for Reconsideration; denying 146 Motion for Default Entry 55(a); granting 150 Motion to Stay; and finding as moot 154 Motion for Sanctions.

United States Courts of Appeals for the Second Circuit case # 22-1980 / 22-2863

On 12/22/2022 2nd Cir. ORDER dismissing the appeals sua sponte by DAL, JAC, RJL. FILED. [3441945] [22-1980, 22-2863] [Entered: 12/22/2022 11:47 AM]

On 1/20/2023, 2nd Cir. MOTION ORDER denying motion for reconsideration [90] by Appellant Dongmei Li, by DAL, JAC, RJL. FILED. [3456391] [94] [22-1980, 22-2863] [Entered: 01/20/2023 03:46 PM]

On 3/15/2023 MOTION ORDER denying motion to recall mandate, to vacate the orders dismissing the appeal and denying her motion for reconsideration, and to disqualify the panel [100] filed by Appellant Dongmei Li, by DAL, JAC, RJL, copy sent to pro se appellant, FILED. [3484092] [107] [22-1980, 22-2863] [Entered: 03/15/2023 03:13 PM]

## JURISDICTION

The district court had jurisdiction pursuant to 28 U.S.C. § 1331, §1332, §1343, §1367, and §1391 as petitioner presented federal questions.

The plaintiff-appellant timely filed on September 07 and October 31, 2022 notices of appeal. Pursuant to 28 U.S.C. §1291 and §1292(a)(1), the Second Circuit has jurisdiction.

The order of the court of appeals was entered on 12/22/2022. A timely motion for reconsideration was denied on 1/20/2023. A timely motion to recall mandate, to vacate the orders dismissing the appeal and denying her motion for reconsideration and to disqualify the panel, was denied on 3/15/2023. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

This action involves controversies between the United States and the State of Connecticut. Pursuant to Article III of the Constitution and 28 U.S. 1251, the Supreme Court has original jurisdiction.

This action involves the Act of Congress, COVID-19 Hate Crimes Act. Pursuant to 28 U.S. 1253, the Supreme Court has jurisdiction.

This action is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court. Pursuant to U.S. 2101, the Supreme Court has jurisdiction.

## **STATEMENT**

### **A. Factual background**

America has a dark history of silencing talented women through psychiatry. As the old districts of New England, Fairfield and Connecticut have maintained such patriarchal custom and usage of femininity from the British colonial tradition.

In 2016, the petitioner went to her daughter's school (Thomlinson Middle School) to complain about discrimination against Asians in the school.

The school principal and school council retaliated by calling the Fairfield police to detain the petitioner's daughter and threaten the petitioner.

After the petitioner protested against the school and police's violations of human rights, the school and police conspired with American Medical Response (AMR), by way of anesthesia and violent kidnapping, to send the petitioner to St Vincent's Hospital.

Doctors and St. Vincent Hospital falsified medical records; illegally imprisoned the petitioner; conducted illegal medication without consent; conducted anaesthetization, rape, illegal transported the petitioner to another facility; and stole cash from the petitioner's purse.

St. Vincent's Hospital and American Medical Response (AMR) made false and fraudulent claims to the petitioner's medical insurance company and

petitioner, without the petitioner's knowledge and consent.

During the 2020 pandemic, Asian hate crimes spiked.

On June 29, 2020, Fairfield Police Department, AMR, and St. Vincent Medical Center (SVMC) conspired again to kidnap the petitioner from her home to SVMC, and imprisoned her, physically and mentally abused her, and conducted an illegal COVID and other medicine experiment without consent.

In order to make the petitioner permanently disabled and achieve the legalization and long-termization of their illegal behavior, the defendants used physical, psychological ways and drugs (potassium chloride and psychotropic drugs) to murder, lynch, and rape the petitioner after anesthesia. As a result, the petitioner suffered a miscarriage and suffered physical and mental harm.

The defendants made false prosecutions to the petitioner and falsified testimonials.

On July 21, 2020 the petitioner was released from SVMC by order of the Westport Probation Court.

St. Vincent's Hospital and American Medical Response (AMR) made false and fraudulent claims to the petitioner's medical insurance company and petitioner, without the petitioner's knowledge and consent.

Following the two unreasonable seizures and false imprisonment, the petitioner filed complaints with Fairfield Town Hall, Fairfield Police Department, SVMC, the Connecticut State Attorney General, Connecticut Department of Mental Health and Addiction Services, etc. The petitioner demanded investigations and solutions. However, the petitioner was discriminated against, was treated indifferently, and did not receive due process and equal protection.

## **B. Procedural Background**

### **B.1 Connecticut District Court**

On July 21, 2021, the petitioner filed a complaint with sufficient facts accusing 55 defendants of violating the Federal Constitution and federal laws, Connecticut State Constitution and Connecticut laws. The petitioner's complaint established federal question jurisdiction in the Federal District Court of Connecticut.

This action is brought pursuant to 42 U.S.C. §1983.

The petitioner filed an amended legal complaint on July 30, 2021 (District Court docket #8) and demanded a jury.

On October 25, 2021 all Summons were executed by marshals and returned to the District Court (docket #16).

During 10/29-12/10/2021, all defendants except Stephanie Sirois filed notice of appearance by their counsels.

Pursuant to FRCP 12(a)(1)(C), a party must serve a reply to an answer within 21 days after being served with an order to reply, unless the order specifies a different time. All defendants failed to serve a reply to an answer on time.

During 1/9-1/11/2022 the petitioner filed motion for default entries 55(a) for all defendants.

On 1/19/2022, the district court docket #106, #107, and #108 order denied all motions for default entry, and will address the case on the merits.

On January 04, 2022, the judge issued order docket #62. The order stayed any discovery or response to any discovery already served until the resolution of any and all pending motions to dismiss in this case.

From 11/9/2021 to 2/24/2022, all defendants filed motions to dismiss. The petitioner responded to all defendants motions timely.

On August 11, 2022, the District court issued order docket #140, granting 50 of 55 defendants' motion to dismiss pursuant to FRCP 12(b)(1), 12(b)(2) 12(b)(6) standard. The petitioner's unreasonable seizure claim, false imprisonment claim, state constitutional claims under Article I, Section 7 and 9 of the Connecticut Constitution will proceed.

The petitioner in disagreement timely filed a motion for reconsideration on 8/11/2022, and a notice of appeal on 9/7/2022, pursuant to Federal Rules of Appellate

Procedure (FRAP) Rule 4 Appeal as of right (District Court docket #144).

On 9/9/2022 the petitioner filed a second motion for default entry 55(a) as to American Medical Response Inc., St. Vincent's Medical Center, Mackenzie D'Iorio, Richard Peck, and Town of Fairfield (District court docket #146).

On 9/15/ 2022, defendants filed a second joint motion to stay proceedings and discovery, (District court docket #150) after defendants became aware the petitioner had filed an appeal notice.

On 9/29/2022 the petitioner filed motion for sanctions (District court docket #154).

On October 06, 2022 the District court issued order docket #155.

The order (1) denied the petitioner's motion for reconsideration (docket #142); (2) denied the petitioner-appellant's motion for default entry; (3) granted the defendant's motion to stay proceeding; and indicated that "the outcome of Ms. Li's interlocutory appeal will determine the scope of discovery required in this case"; and (4) denied the petitioner's motion for sanctions.

The petitioner in disagreement timely filed on October 31, 2022 a notice of appeal, pursuant to Federal Rules of Appellate Procedure (FRAP) Rule 4 Appeal as of right (District Court docket #158).

## B.2 Second Circuit

The petitioner received on 09/17/2022 (22-1980) and on 11/1/2022 (22-2863) the packages from the Second Circuit. ON the cover letters, Debra Ann Livingston Chief Judge was listed.

On 9/21/2022: LR 31.2 SCHEDULING NOTIFICATION, on behalf of Appellant Dongmei Li, informing Court of proposed due date 12/21/2022, RECEIVED. Service date 09/21/2022 by US mail.[3388011] [22-1980] [Entered: 09/23/2022 05:19 PM]

On 11/10/2022: LR 31.2 SCHEDULING NOTIFICATION, on behalf of Appellant Dongmei Li, informing Court of proposed due date 02/13/2023, RECEIVED. Service date 11/08/2022 by US mail.[3419459] [22-2863] [Entered: 11/14/2022 04:54 PM]

On 12/27/2022 the plaintiff-appellant called the Second Circuit to ask for status of e-filing and information about submitting briefs. The plaintiff-appellant was informed that the case was closed, and the case manager has been changed. Later on the same day the plaintiff-appellant received the order dismissing the appeals sua sponte by mail signed by Catherine O'Hagan Wolfe, Clerk of Court, representing Debra Ann Livingston Chief Judge, Jose A. Cabranes and Raymond J. Lohier Circuit Judges, dated 12/22/2022. However, on the docket the Panel Assignment is not available.

On December 28, 2022 plaintiff-appellant called the Second Circuit, spoke with the new case manager Ms. Khadijah Young, and was informed that the case was closed as well, the plaintiff-appellant could file a motion for reconsideration by January 5, 2023 if she does not agree.

1/5/2023 the petitioner filed a motion to reconsider. [2nd Cir.][90][22-1980, 22-2863], argued the following:

**First**, the Second Circuit erroneously held that itself did not have jurisdiction over the interlocutory appeal because the district court did not make a final decision on the case. This view was overturned by the Supreme Court. ( see Hall v Hall, 584 U.S. \_(2018) )

**Second**, the Second Circuit's view that it lacks jurisdiction over my federal question case, is unconstitutional.

**Third**, the Second Circuit sua sponte dismissed the petitioner's appeal, did not allow her to submit briefs without probable cause, is in violation of the petitioner's appeal right protected by the United States Constitution.

Plaintiff allege that the Second Circuit's motivating factor in refusal to plaintiff's appeal was an act of racial discrimination based on Plaintiff-appellant Asian woman identity and and pro se status. The Second Circuit violated plaintiff-appellant's civil right of USC 1981.

The petitioner sought relief from the Second Circuit to (1) reverse the wrong, unconstitutional and

discriminative order dated December 22nd, 2022; (2) refund one of the two filing fees and allow the petitioner to submit a brief by 2/13/2023; and (3) the three judges (Debra Ann Livingston Chief Judge, Jose A. Cabranes and Raymond J. Lohier Circuit Judges) to recuse themselves.

On 1/20/2023, 2nd Cir. MOTION ORDER denying motion for reconsideration [90] by Appellant Dongmei Li, by DAL, JAC, RJL. FILED. [3456391][94][22-1980, 22-2863]

1/27/2023: CERTIFIED COPY OF ORDER, dated 12/22/2022, determining the appeal to DISTRICT OF CONNECTICUT, ISSUED.[Mandate][3459822] [22-1980, 22-2863]

1/30/2023: MOTION, to vacate judgment, on behalf of Appellant Dongmei Li in 22-1980, FILED. Service date 01/30/2023 by CM/ECF. [3461056] [22-1980, 22-2863]

2/6/2023: MOTION, to recall mandate, on behalf of Appellant Dongmei Li in 22-2863, FILED. Service date 02/06/2023 by CM/ECF. [3464752] [22-1980, 22-2863].

## **ARGUMENTS**

1. The order docket # 83 and #94 conflict with a decision of the United States Supreme Court, Hall v Hall, 584 U.S. \_(2018), and consideration by the full court is therefore necessary to secure and maintain uniformity of the court's decisions.

2, The orders dated 12/22/2022 and 01/20/2023 were dismissed by the court of appeals. Pursuant to

(1) FRAP 42(b), (2) Second Circuit Local Rule 42.1, (3) H. Doc. 117-111 and Committee Notes on Rules-2022 Amendment, the dismissal of the case must be with plaintiff-appellant consent. However the plaintiff-appellant did not consent to any documents. Therefore, the dismissal of orders dated 12/22/2022 and 01/20/2023 were without plaintiff-appellant consent, were abuse of process, bias and prejudice, and fraud, thus not effective and void.

3. The plaintiff-appellant found the following documents were missing from the case docket: 6, 7,9, 16,30,44,46,60,63,64,69, 70, 71, 72, 73,, 77, 79, 80,81,85,86,87,92,93. This proves that the Second Circuit used internal operating procedure, and caused the plaintiff-appellant to lose her appeal rights. This is unlawful and void.

Secret dockets have been ruled unconstitutional in the Eleventh Circuit and in the Second Circuit .See Hartford Courant Co. v. Pellegrino, 380 F.3d 83(2d Cir.2004)

The plaintiff-appellant alleges that this is an Asian-American hate crime that willfully violates the constitutional rights of the plaintiffs. The court did not perform in the usual manner in its impartial task of adjudging cases. The plaintiff-appellant seeks disclosure of these documents. from the Second Circuit, under 18 USC 1001, the law prohibits falsehood, forgery, concealment, or disguise.

4, Pursuant to FRAP 27 ( c) Power of a Single Judge to Entertain a Motion. A circuit judge may act alone on any motion, but may not dismiss or otherwise determine an appeal or other proceeding. A court of appeals may provide by rule or by order in a particular case that only the court may act on any motion or class of motions. The court may review the action of a single judge.

Therefore The plaintiff-appellant requests the Second Circuit to assign a three-judge panel and hold a hearing to review the action.

5. The plaintiff-appellant in her motion for reconsideration dated 01/05/2023 requested the three judges (Debra Ann Livingston Chief Judge, Jose A. Cabranes and Raymond J. Lohier Circuit Judges) to recuse themselves from this case due to strong bias, prejudice, racism, xenophobia, and intolerance against AAPI.

The order dated 01/20/2023 denying the plaintiff-appellant's motion for reconsideration was still issued/ signed by Catherine O'Hagan Wolfe, Clerk of Court, representing Debra Ann Livingston Chief Judge, Jose A. Cabranes and Raymond J. Lohier Circuit Judges. This is in violation of due process and common law.

The Supreme Court addressed recusal in the 2009 case Caperton v. A. T. Massey Coal Co. (08-22). The Supreme Court holds that it does not matter whether or not the judge is actually biased. What matters is that even if the judge is not biased,

the high probability of bias still damages the integrity of the judicial system. Any party in a lawsuit may request that a judge recuse him or herself. Therefore the judges need to recuse themselves. However, not only the three judges refused to recuse themselves, they represented stronger bias, prejudice, racism, xenophobia, and intolerance against AAPI in the order denying the plaintiff-appellant's motion for reconsideration. This is retaliation. The orders and the mandate were illegal and void.

The impartiality and neutrality of judges is an indispensable feature of the American justice system. An impartial judiciary is imperative to ensure procedural fairness to individual litigants (See *Marshall v.Jerrico, Inc.*, 446 U.S. 238,242 (1980)) and to preserve public confidence in the integrity of the judicial process. Realizing these objectives requires that judges be neutral and unbiased in fact. Preserving public confidence, however, additionally requires that judges present an appearance of scrupulous impartiality even in the absence of any actual bias.? For the judiciary to maintain its authority in the public eye, "justice must satisfy the appearance of justice" at all times."

In order to maximize both actual and apparent impartiality in federal judicial decisionmaking, Congress enacted 28 U.S.C. § 455, a statutory framework for judicial disqualification. Section 455(a) requires a district judge to disqualify himself or herself from a case if under the circumstances a

reasonable person would question the judge's impartiality.

The plaintiff-appellant moves the court to disqualify Debra Ann Livingston Chief Judge, Jose A. Cabranes and Raymond J. Lohier Circuit Judges.

6. The Second Circuit's issuing of the orders and the mandate clearly shows fraud and caused unconscionable results. The mandate should be recalled and amended. See *United States v. Ohio Power Co.*, 353 U.S. 98 (1957), *Bronson v. Schulten*, 104 U.S. 410 (1881); *Marine Ins. Co. of Alexandria v. Hodgson*, 11 U.S. (7 Cranch) 332 (1813); *Perkins v. Standard Oil Co. of Calif.*, 487 F.2d 672 (9th Cir. 1973).

In extraordinary circumstances, an appellate court, by motion or on its own, may recall a mandate that has been issued. The U.S. Supreme Court has held that "the courts of appeals are recognized to have an inherent power to recall their mandates." *Calderon v. Thompson*, 523 U.S. 538, 549 (1998). Recall of the mandate is reviewed for an abuse of discretion. Among the extraordinary circumstances warranting recall are to resolve jurisdictional issues not previously raised so that the Supreme Court would not confront the issue for the first time without the benefit of a prior ruling on it, see *Alsamhouri v. Gonzalez*, 471 F.3d 209, 209-10 (1st Cir. 2006), and, less substantively but nonetheless important, to add instructions about post-judgment interest, see

*Mars, Inc. v. Coin Acaptoers, Inc.*, 557 F3d 1377, 1378-80 (Fed. Cir. 2009).

The plaintiff-appellant requests the following reliefs:

- \* Order dated 12/22/2022 to be vacated.
- \* Order dated 01/20/2023 to be vacated.
- \* Mandate dated 01/27/2023 to be recalled
- \* Documents missing from the Docket to be disclosed ( documents numbered 6, 7 , 9, 16,30,44,46,60,63,64,69, 70, 71, 72, 73, 77, 79,80,81,85,86,87,92, and 93.)
- \* Disqualify Debra Ann Livingston Chief Judge, Jose A. Cabranes and Raymond J. Lohier Circuit Judges.
- \* The court assigns a panel and En Banc Determination to review the case and hold hearings.

2/14/2023 BRIEF, on behalf of Appellant Dongmei Li received in a closed case, RETURNED.[3469086] [22-1980, 22-2863]

On 3/15/2023 MOTION ORDER denying motion to recall mandate, to vacate the orders dismissing the appeal and denying her motion for reconsideration, and to disqualify the panel [100] filed by Appellant Dongmei Li, by DAL, JAC, RJL, copy sent to pro se appellant, FILED. [3484092][107][22-1980, 22-2863] with missing documents #102, #105, #106.

## REASONS FOR GRANTING THE PETITION

### A. This case has great social and public significance.

One hundred and fifty years ago, Congress passed Section 1983 to enforce the Fourteenth Amendment and ensure that individuals could go to federal court to redress constitutional violations by state and local governments and officials and obtain justice. Written in sweeping terms, Section 1983 provides that "[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

On May 20, 2021, President Joe Biden signed into law the COVID-19 Hate Crimes Act, which incorporated the Khalid Jabara and Heather Heyer National Opposition to Hate, Assault, and Threats to Equality Act of 2021 (Jabara-Heyer NO HATE Act). Congress enacted this legislation in response to the dramatic increase in hate crimes and hate incidents against Asian American and Pacific Islander (AAPI) communities, during the COVID-19 pandemic.

However, according to another report made by the U.S. federal court system

(<https://www.uscourts.gov/statistics-reports/judicial-business-2022>), it shows that last year, both civil and

criminal cases in the U.S. federal courts were in a state of sharp decline. At the same time, the number of complaints against judges has increased. The U.S. Courts were created under Article III of the Constitution to administer justice fairly and impartially, within the jurisdiction established by the Constitution and Congress.

The effective intervention of federal courts in hate cases and hate incidents is of great significance in reducing the growing hate crimes, especially Asian hate crimes.

So this case has broad and important social and public significance, and the Supreme Court should grant this petition.

**B. The case has enormous legal, especially constitutional, implications**

The Supremacy Clause of the Constitution of the United States (Article VI, Clause 2) establishes that the Constitution, federal laws made pursuant to it, and treaties made under its authority, constitute the "supreme Law of the Land", and thus take priority over any conflicting state laws.

Both Article III, section II of constitution and 28 U.S.C. §1331 use the same phrase, "arising under" to define federal question jurisdiction. The Constitution and 28 U.S.C. § 1332 vest federal courts with jurisdiction to hear cases that "arise under" federal law.

Petitioner's statement of her own cause is a federal question in the district court, and the appeal in the circuit court is on that ground.

Subject matter jurisdiction can NEVER be waived.

The district judge granted the motions to dismiss based on the FRCP Rule12(b)(1) standard. The appeal judge found itself lacking jurisdiction. It was wrong and provocative to the U.S. Constitution, U.S. statutes, and the inherent federal jurisdiction of the U.S. federal courts.

The Judge and the defendants regard themselves as kings and nobles who can arbitrarily violate the constitutional rights of citizens but can escape punishment with absolute immunity. This is anti-constitutional, anti-democratic, and anti-American performance.

Constitutional rights are those that are enshrined in the U.S. Constitution or federal law.

The judge thinks unreasonable seizure and false imprisonment was not a violation to the petitioner's U.S. constitutional rights. It is a denial of constitutional rights, and of the inherent jurisdiction of the United States federal courts over federal matters, and is unconstitutional. It has conducted anti-Asian hate and sex discrimination incidents.

Howlett: per the Supremacy Clause, a state cannot refuse to hear a claim arising under federal law when that defense would not bar an analogous state law claim

Haywood: per the Supremacy Clause, a state cannot invoke a non-neutral jurisdictional rule to decline to hear a federal claim if there is an analogous state law claim.

The U.S. Supreme Court applied the Supremacy Clause for the first time in the 1796 case, *Ware v. Hylton*, ruling that a treaty superseded conflicting state law.

Shortly thereafter, in the 1801 case, *United States v. Schooner Peggy*, the court ruled in favor of a private citizen's lawsuit against the government on the basis of a treaty, and for the first time elaborated upon supreme nature of ratified treaties.

In *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816), and *Cohens v. Virginia*, 19 U.S. 264 (1821), the Supreme Court held that the Supremacy Clause and the judicial power granted in Article III give the Supreme Court the ultimate power to review state court decisions involving issues arising under the Constitution and laws of the United States. Therefore, the Supreme Court has the final say in matters involving federal law, including constitutional interpretation, and can overrule decisions by state courts.

In the case of *California v. ARC America Corp.*, 490 U.S. 93 (1989), the Supreme Court held that if Congress expressly intended to act in an area, this would trigger the enforcement of the Supremacy Clause, and hence nullify the state action. The Supreme Court further found in *Crosby v. National Foreign Trade Council*, 530 U.S. 363 (2000), that even when a state law is not in direct conflict with a federal law, the state law could still

be found unconstitutional under the Supremacy Clause if the "state law is an obstacle to the accomplishment and execution of Congress's full purposes and objectives". Congress need not expressly assert any preemption over state laws either, because Congress may implicitly assume this preemption under the Constitution.

Therefore, the Supreme Court's acceptance of this case has enormous legal and constitutional implications.

**C. The decisions of low courts conflict with common law.**

C.1:

District court's granting motion to dismiss under FRCP Rule 12(b)(6) and staying discovery conflicts with common law- *Conley v. Gibson*, 355 U.S. 41 (1957) and *Bell Atlantic Corp. v. Twombly*, 550 U. S. 544(2007)

*Conley v. Gibson*, 355 U.S. 41 (1957), was a case decided by the Supreme Court of the United States that provided a basis for a broad reading of the "short plain statement" requirement for pleading under Rule 8 of the Federal Rules of Civil Procedure. A complaint should not be dismissed under 12(b )( 6) unless it appears *beyond doubt* that the plaintiff can prove *no set of facts* in support of his claim which would entitle him to relief.

1. The plaintiff's pleading had sufficient facts to support her claims.

2. The defendants did not respond to the plaintiff's complaint. This means the defendants acknowledged the facts in the plaintiff's complaint.

3. The plaintiff responded to defendants' motion to dismiss.

Based on the above facts the District Court's granting the defendants' motion to dismiss under 12(b)(6) conflicts with common law (see Conley v. Gibson, 355 US 41(1957.)

In Bell Atlantic Corp. v. Twombly, 550 U. S. 544(2007) the court adopted a more strict, "plausibility" standard, requiring in this case "enough fact[s] to raise a reasonable expectation that discovery will reveal evidence of illegal agreement." The *Twombly* reading was upheld in Ashcroft v. Iqbal · 556 US662 ( 2009 ) in 2009. However, on 12/15/2021, Fairfield Town Defendants (Town of Fairfield, Fairfield Board of Education, Fairfield Emergency Communications Center, Fairfield Police Dept, Anthony Formato, Kovacs, Chris Lyddy, Lance Newkirchen, Richard Peck, and Morgan Rhodes) filed a motion to stay discovery (District court docket #55). On 1/3/2022 the plaintiff filed a response with objection (District court docket #61). On 1/4/2022 the District court issued 62 ORDER and stayed any discovery.

On 8/11/2022 Judge Victor Bolden granted defendants motion to dismiss under FRCP 12(b)(6) without discovery. This action conflicts with common law.

C.2: The Supreme Court ruled in *Hall v Hall*, 584 U.S. (2018) that when a final decision is reached in one of multiple consolidated civil cases, the losing party can appeal immediately, even if the other consolidated cases are still pending.

Therefore, the Second Circuit court order #83 on 12/22/2022 erroneously held that it did not have jurisdiction over the interlocutory appeal because the district court did not make a final decision on the case. This view was overturned by the Supreme Court.

Vertical *stare decisis*—the idea that the decisions of higher courts take precedence over the decisions of lower courts—is deeply entrenched in the American legal system. This idea is part of what makes the Supreme Court “supreme.”

Allowing lower courts to create their own common law will cause chaos in the American judicial system. Therefore, my petition should be granted.

**D. The case has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call an exercise of this court’s supervisory power.**

1. Pursuant to FRCP 12(a)(1)(C), a party must serve a reply to an answer within 21 days after being served with an order to reply, unless the order specifies a different time. All defendants failed to serve a reply to an answer on time. The petitioner filed motion for

default entries 55(a) for all defendants, but denied by the district court Judge.

2. FRCP Rule 12 governs motion to dismiss, triggers an automatic stay of discovery before the disposition of such motion. However On January 04, 2022, the judge issued order docket #62. The order stayed any discovery or response to any discovery already served until the resolution of any and all pending motions to dismiss in this case.

3. Pursuant to FRCP Rule 16, (f) and FRCP Rule 37(b)(2)(A)(ii)-(vii), the petitioner filed on 9/29/2022 motion for sanctions (District court docket #154) for defendant's counsel's failure to attend 26(f) conference. However this motion was denied by the District court.

4. Pursuant to FRAP 42(b), Second Circuit Local Rule 42.1, H. Doc. 117-111 and Committee Notes on Rules-2022 Amendment, the dismissal of the case must be with all parties' consent. However the second circuit court dismissed my case without my consent. The docket had many missing "internal files".

The United States Supreme Court indicated in dicta in *Faretta v. California*, 422 U.S. 806 (1975) that courts should not excuse pro se litigants from compliance with procedural requirements. The Supreme Court itself has treated this dicta as settled law in subsequent cases, and lower federal courts have followed it as well.

Nobody should get special treatment. This is constitutionally correct.

So, are judges and litigants with counsels free to disobey the law? Should they be sanctioned and disqualified?

*Article III's distinction between supreme and inferior courts operate as a source of inherent authority for the Supreme Court. So I call an exercise of this court's supervisory power, because this case has so far departed from the accepted and usual course of judicial proceedings, and sanctioned such a departure by the lower courts.*

## CONCLUSION

The petition should be granted.

Respectfully submitted.

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