No. 22-5086

IN THE

SUPREME COURT OF THE UNITED STATES

NOUBOUKPO GASSESSE — PETITIONER
(Your Name)

vs.

UNIVERSITY OF CONNECTICUT RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

APPELLATE/SUPREME COURT OF CONNECTICUT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

NOUBOUKPO GASSESSE
(Your Name)

355 GOODRICH STREET APT1
(Address)

HAMDEN, CT, 06517
(City, State, Zip Code)

203 772 9941
(Phone Number)

ORIGINAL

10

QUESTION(S) PRESENTED

1-Plaintiff invoked the violation of the 14th amendment of the constitution of the United States as to the fact that he was not served with a due process in the proceedings at the trial court. Defendant was given more privileges than the Plaintiff. (See the ruling on Plaintiff's motion for default for failure to plead, filed on 12/14/2020).

2-There are genuine issues to material facts that the trial's court denial and granting of Defendant's motion for summary judgement is in conflict with decisions rendered by the Appellate Court of the State of Connecticut.

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OPINIONS:

The opinions in the lower courts have not been published.

JURISDICTION:

The supreme court of the state of Connecticut denied Plaintiff's petition to appeal on May 10, 2022. Before that, the appellate court denied Plaintiff's motion for reconsideration on March 18, 2022.

Constitutional and Statutory Provisions involved:

Plaintiff believed he has not benefited from a due process in the proceedings that took place at the trial court. The trial court violated the 14th amendment of the constitution of the United States of America as well as the pledge of allegiance to the flag of the United States of America and to the republic for which it stands: "One nation, under God with liberty and justice for all."

STATEMENT OF THE CASE.

STATEMENT OF THE NATURE OF PROCEEDINGS AND FACTS

Plaintiff Nouboukpo Gassesse, filed an application for admission in the Defendant's Ph.D. Program in Linguistics in December 2013. In the official admission decision received from the Graduate school in March 2014, Defendant declared Plaintiff qualified for admission but it could not extend an offer of admission to Plaintiff because there was no faculty advisor that matches Plaintiff's topic of research. Therefore, Plaintiff called the graduate school and discussed with the secretary of the graduate admission office who informed Plaintiff that Professor Jon Sprouse, the co-chair of the graduation admission made that decision on Plaintiff's application. She advised Plaintiff to contact Professor Jon Sprouse for further information.

As a result, Plaintiff called Professor Jon Sprouse to let him know that the issue of the fact that the topic does not match the faculty advisor cannot impede the offer of the admission because we can change or adjust the topic of research and Professor Sprouse advised plaintiff that he is welcome to apply the next academic year. (It is worth noting that the conversation was not cordial between Plaintiff and Professor Sprouse because the latter was going to hang up on Plaintiff and Plaintiff threatened him that if he hangs up on him he would come to the University to see the President and complain). As promised, Plaintiff refiled again in the subsequent academic years in 2014 and 2015 but Defendant has failed to admit Plaintiff despite the fact that Plaintiff refiled with a new topic of research as advised by Professor Jon Sprouse. (These facts are relevant to the case and observed by the Commission on Human Rights and Opportunities and by the trial court in its ruling on Defendant's motion to dismiss (See Docket 115 of 1/18/2018). It is worth noting that

Defendant has denied all these relevant material facts (See Defendant's response to Plaintiff's amended complaint; A6-A9).

Plaintiff filed a complaint with the CHRO on March 4, 2016 following the rejection of Plaintiff's application of 2015 stating that he was victim of racial and educational discrimination by the University of Connecticut. Plaintiff's complaint was dismissed on February 28, 2017. Plaintiff received release of jurisdiction on March 2, 2017 and filed a new complaint dated March 28, 2017 against the University of Connecticut. Defendant moved for a motion to dismiss and the superior court denied the motion as to the claims related to plaintiff's 2013 and 2014 applications. (Reference: Docket 115 of 1/18/2018. Plaintiff revised the complaint after the defendant filed his request to revise. The case was scheduled for pretrial conference on august 22, 2019 before Honorable Constance EPSTEIN. The court took an order requesting that the complaint be amended and set up a scheduling order for trial management and trial for 9/1/2020 and 9/9/2020 respectively. Plaintiff amended the complaint on august 23, 2019. As a result, Defendant filed again a motion to dismiss the amended complaint. On August 9, 2019 the court dismissed the motion on the grounds that the arguments raised by the defendant were not convincing. On October 4, 2019, the defendant moved for a permission to file a motion for summary judgment that was automatically granted by the court. The order gave defendant until January 15, 2020 to file his motion. Defendant would later file a motion for extension of time to plead. Plaintiff objected to that motion but the court granted the motion giving defendant until January 29, 2020 to file his motion. On January 29, defendant filed the motion. Plaintiff filed his response to Defendant's motion on May 1st, 2020. Some days before the trial,

defendant filed a motion of continuation. Plaintiff opposed that motion. (See docket 227 of July 16, 2020)

The court, by the judge Carl Schuman wrote parties that the motion of summary judgment is now ready for ruling if both parties agree to allow the court to decide the case on papers. Neither party agreed to that. Even Plaintiff filed a request of oral argument in compliance with the Practice Book section 11-18. The court (David Sheridan) on ruling on the Defendant's motion for continuance stated that the defendant's motion will be heard for oral argument before/on August 31, 2020. The court for no reason through honorable Carl Schuman disregarded the previous order of Honorable Sheridan and vacated the latter's order of July 16, 2020 granting plaintiff's motion for order. Judge Schuman granted the defendant's motion of continuance but failed to comply with the requested grounds on which the defendant filed his motion for continuance that was to schedule the case for pretrial and trial in case his motion of summary judgment is denied. (Reference: Docket 227 of July 16, 2020; A82)

On August 3, 2020, Judge Schuman denied the defendant's motion for summary judgment without prejudice to refile it thereby violating the grounds on which Defendant filed his motion for continuance; that is to set the case for trial if his motion were denied. Judge Schuman has completely ignored and overlooked the grounds on which the defendant has filed his motion. It is worth recalling here that plaintiff filed two motions for judgment before that were denied and the trial court has never requested that plaintiff refile those motions. This brings plaintiff to lose confidence in the trial court rulings. As said earlier no party allowed the court to decide the motion on papers and most importantly plaintiff requested an oral argument and the defendant marked the motion ready. The defendant refiled his

motion on September 15, 2020 (Dockets: 255 &256). Plaintiff also filed a motion for summary judgment on September 2, 2020 (Dockets: 253 & 254.). At the status conference held on 9/24/2020, the court, the plaintiff and the Defendant agreed on a scheduling order. Plaintiff requested that the Defendant reply to his motion first before he replies to the Defendant's in the strict observance of the Practice Book rules. (Section 17-45(b) of the Practice Book). Defendant was supposed to reply to Plaintiff's motion on October 19, 2020 and the Plaintiff would reply to Defendant's on November 1, 2020. Defendant's reply brief was due on November 16, 20 (See Docket# 258 of 9/30/2020). The trial court through Judge Noble granted the motion on October 13, 2020. (Docket# 360). Plaintiff filed an opposition to Defendant's but the court granted the Defendant's motion. Plaintiff moved for motion to modify the scheduling order on 11/12/2020 (Docket# 364). Defendant filed a partial objection to Plaintiff's motion. The trial court granted Plaintiff's motion on 11/17/2020 but also gave a commensurate time to the Defendant to file his reply to Plaintiff's motion until December 4, 2020. (Docket # 364.86 of 11/17/2020).

Plaintiff moved for motion for default for failure to plead against the Defendant on 12/14/20 (Docket # 369). It is worth noting that Defendant failed to file an opposition to Plaintiff's motion. On January 6, 2021, Judge Noble denied the Plaintiff's motion for default against the Defendant on the ground that the Defendant filed an answer to Plaintiff's motion for summary judgment (See Docket# 369.86) while the truth of the matter was that Defendant had not filed his reply brief to Plaintiff's motion for summary judgment until on January 8, 2021(See Docket #370). Plaintiff is at loss to understand how Judge Noble managed to know that the Defendant filed a reply to Plaintiff's motion for summary judgment when the Plaintiff did not receive any copy of the Defendant's reply until on Friday, January 8, 2021

Unless Judge Noble is endowed with a magic or sorcery power to read the minds of people (which Plaintiff believes he does not possess and will never possess) judge Noble has grossly violated the rules of the Practice Book. For evidence on that gross error, Plaintiff invites the appeal court to read page 6 Lines 14-22 of the transcript of the oral argument held before Judge Noble on January 11, 2021. Defendant was asking Judge Noble if he had received his reply brief he filed on January 8, 2021 when Judge Noble has already denied Plaintiff's motion for default on January 6, 2021. Judge Noble pretended like he did not hear Defendant's question because he knew the Plaintiff would have found out that he wrongly denied the motion for default for failure to plead.

In compliance with the trial court order of 11/17/2020 Plaintiff filed his reply brief to Defendant's motion for summary judgment on January 15, 2021 (Dockets #: 373 and 374) that the trial court had grossly overlooked and thereby denying Plaintiff's motion for summary judgment but curiously granted Defendant's motion for summary judgment by stating that Plaintiff's reply was untimely along with the records filed under seal (See Docket #378 of 2/11/21) as evidence to controvert Defendant's evidence namely Plaintiff's GPA , GRE scores and that he used to support his motion for summary judgment instead of granting Plaintiff's motion for default for failure to plead against the defendant.

1. Plaintiff' motion for default for failure to plead filed against the Defendant on 12/14 /2020 was wrongly decided by the trial court.

Indeed, the Plaintiff filed this motion in order to let the trial court pronounce a default judgment against the Defendant. Defendant's reply being due on December 4, 2020 shows that the Defendant is fond of dilatory practices and bad faith Plaintiff has been denouncing throughout the whole litigation. The trial court fell into Defendant's traps.

2. Plaintiff states that the trial court has granted him the relief sought in requesting that Defendant reply first to his motion for summary judgment before he replies to Defendant's motion for summary judgment but failed to enforce that request even after its own order of 11/17/21 granting ten days to Plaintiff to file his brief should the Defendant file his reply brief to Plaintiff's motion for summary judgment of 9/2/2020. Plaintiff may present other evidence in support of his request should the appeal court make a request.[1]

[1] Plaintiff made the request that Defendant answer his motion first before he answers Defendant's in compliance with 17-45(b) of PB .The court orally granted it. Plaintiff, in pursuit of that relief, reiterated it during the oral argument.

3. Plaintiff's response and any accompanying records in opposition to Defendant's motion for summary judgment were timely.

The trial court's order of 11/17/2021 supersedes any previous order on scheduling and Section 11-10 of the Practice Book.

Indeed the court by taking the order of 11/17/20 complied with the Plaintiff's request of the strict observance of the rules of the Practice Book; fact that Judge Noble intentionally ignored in declaring Plaintiff's opposition brief untimely. Plaintiff is able to present evidence should the appeal court make a request. In view of this, Plaintiff is categorically rejecting the court's ruling that the defendant has presented uncontroverted evidence that defendant denied admission to the Plaintiff for a non-discriminatory reason. The defendant declared the plaintiff qualified for admission after having taken into consideration Plaintiff's whole application materials including plaintiff's GPA and GRE scores. (See Appendix #: A22). Therefore, the GPA and GRE scores are no longer evidence that can be used as admissible evidence; Plaintiff has dismantled those arguments raised by the Defendant during the oral argument of 1/11/2021; plaintiff, being qualified for admission in his 2013 application could not understand how he will be declared again unqualified. There is only one name Nouboukpo Gassesse, who applied in the Defendant's Linguistics Ph.D. program. The data are in favor of the Plaintiff's claims. The trial court has ignored that important material fact of the complaint; a relevant fact observed both by it and the CHRO and which the Defendant has deliberately and purposely denied. (See the admission decision in A91; See also A58 where it is mentioned that " it would be nice to work with Mr. Gassesse, but UConn does not have relevant background; therefore the lack of faculty advisor matched to Plaintiff's topic of research was the sole reason an extension of offer of

admission was denied to Plaintiff; any other reason raised by the Defendant is purely a pretext and a lie); the trial court has backed the defendant's gross lie by saying that that decision was computer-generated; then the question is to know why is only Plaintiff's decision computer-generated. If it is so, then those who were admitted by the defendant were also not qualified for admission because the defendant has to demonstrate how only the plaintiff's decision was computer-generated; it does not make any sense for the fact that the actual applications of those admitted by the defendant are not submitted by the defendant so that we could see really that those candidates received those GPA and GRE scores as stated in Defendant's pleadings. What is evident is the fact that the other two African/American applicants' records submitted by the Plaintiff in opposition to Defendant's motion for summary judgment fully show that they have high GPA and high test scores but the Defendant has deliberately chosen not to admit them.(See Defendant's pleading docket 202 of 3/19/2020 in A34). It is conclusively established that the GPA and GRE scores issue raised by the defendant is purely a pretext as plaintiff demonstrated during the oral argument. There is no doubt those records controvert defendant's evidence and it is wrong that the trial court declared them untimely and unauthenticated when the truth of the matter is that those records were filed under protective order as required by the law. Plaintiff has not submitted those records for ex-nihilo; they were not submitted to embellish the court's file; they were submitted for the purpose to controvert the defendant's lies and bad faith demonstrated by Plaintiff during the oral argument.

Furthermore, in denying the Defendant's first motion for summary judgment (Docket 168.86; A79) the court stated that the defendant purely relied on inadmissible evidence; it is curious that the same trial court now states in the defendant's denied refiled motion of

9/15/2020 that the motion is properly supported by admissible evidence and is not a duplicate of the previous motion when it is well shown that the Defendant has used the same evidence in its first motion and nowhere has it been noticed that the defendant supported his motion with new evidence outside the pleadings to warrant that he did not deny admission to Plaintiff on non-discriminatory basis. The fact is that defendant has admitted that even though the other two African /American applicants' test scores and GPA were higher than Plaintiff's UConn has not admitted them in its linguistics Ph.D. program. As a result of that statement alone from the defendant, summary judgment cannot enter for the Defendant; there is no doubt, UConn has violated the law and therefore must be held accountable for such a wrong-doing; UConn has engaged in a systemic discrimination practice. Again, the GPA and GRE scores issues are purely a pretext to not extend an offer of admission to the Plaintiff. This evidence is patent through the statement of the two professors who reviewed Plaintiff's 2013 application. See A58.

Indeed, Plaintiff filed his reply brief 7 days after the defendant's reply. Therefore the response and any accompanying records were timely. It is wrong that the trial court declared them untimely.

REASONS FOR GRANTING THE PETITION

Plaintiff did not benefit from due process both at the trial court and the Appellate/Supreme court of the state of Connecticut. The trial court interlocutory rulings departed from the normal proceedings namely the ruling on the parties' cross-motions for summary judgment whereas the Supreme Court departed from the observance of the rules of the Practice Book of Connecticut. Indeed, Defendant's opposition to the Plaintiff's petition to appeal was untimely but the court considered it in its ruling when the Defendant has simply lied to the court stating that Plaintiff refiled his returned petition on March 22, 2022 when it was clear that Plaintiff served the Defendant the corrected petition on March 23, 2022. (See the proof of service in appendix.)

Besides, the trial court was wrong that Plaintiff did not provide any evidence that controverts Defendant's in opposition to Defendant's motion for summary judgment; the trial court intentionally overlooked the records filed under seal by Plaintiff; indeed, those two African/American applicants had higher GPA and higher test scores but Defendant has simply refused to admit them. (Refer to docket 202 in appendix). The court ruling was biased.

CONCLUSION

Respectfully submitted by: NOUBOUKPO GASSESSE on this 8 day of July 2022.

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STATE OF CONNECTICUT
APPELLATE COURT

Date: Hartford, March 1, 2022

To the Chief Clerk of the Appellate Court.
The Appellate Court has decided the following case:

NOUBOUKPO GASSESSE

v.

UNIVERSITY OF CONNECTICUT

Opinion Per Curiam.

Docket No. AC 44633
Trial Court Docket No. HHDCV175045184S

The judgment is affirmed.

Chief Clerk

Rescript