No. 22-5086

IN THE
SUPREME COURT OF THE UNITED STATES

NOUBOUKPO GASSESSE,

PETITIONER

V.

UNIVERSITY OF CONNECTICUT,

RESPONDENT

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Federal Circuit

PETITION FOR REHEARING

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I- SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED.

A-Plaintiff's claims of discrimination in his 2013 and 2014 applications are founded and recognized by both the Connecticut Commission on Human Rights and Opportunities and the Superior Court of Hartford, Connecticut.

Indeed, the findings of fact by the Commission on Human Rights and Opportunities addressed these claims by observing that evidence of the 2013 and 2014 rejections was untimely. Moreover, the 180 day time limitation imposed by paragraph 46a-82(f), although mandatory in nature, is not also subject matter jurisdictional.

Williams v. Commission on Human Rights and Opportunities,257 Conn. 258,271,777 A.2d 645 (2001); Commission on Human Rights and Opportunities v. City of Hartford, 138 Conn. App.141, 167, 50 A. 3d 917, cert denied, 307 Conn.929, 55 A.3d 570 (2012). Therefore, the court having found that the 2013 and 2014 claims were asserted before the CHRO, Defendant's motion to dismiss these claims, based on the Plaintiff's failure to exhaust administrative remedies, is denied.

B)The Trial Court has created an unprecedented jurisprudence by denying a motion of summary judgment without prejudice to refile that was filed on the whole complaint and not on a count of the complaint.

Indeed, the Defendant's first motion for summary judgment of January 29, 2020 was filed on the whole Plaintiff's complaint. Therefore, a denial of that motion is with prejudice The Defendant has moved for summary judgment on the whole complaint of the Plaintiff.

This is in contradiction to the case Hernandez v.TJX Companies, Inc.

The defendant , the Simon Konover Company , moves for summary judgment on the first count of the plaintiff's complaint, which alleges negligence against The Simon Konover Company .It also seeks summary judgment regarding the entire cross claim by the TJX Companies, Inc, which alleges negligence and indemnification against The Simon Konover Company, on the ground that there is no genuine issue of material fact as to the owner of the property where the accident occured. Under CT Practice Book section 17-44, a party may move for summary judgment on a cross complaint "as if it were an independent action."Practice Book section 17-44. " Because a cross claim is a separate and distinct action, ..a party seeking a summary judgment on both a complaint and a cross claim must file an appropriate motion addressed to each".(Citations omitted;internal quotations marks omitted.)Miller v. Bourgoin, 28 Conn.App. 491,500,613 A.2d 292, 223 Conn.927,614 A.2d 825 (1992).

The Defendant, The Simon Konover Company , has not done so in the present case. The Defendant's motion for summary judgment states on its face that it moves for summary judgment on the first count of the plaintiff's complaint , as well as the entire cross claim by the TJX Companies, Inc. Accordingly, the Defendant's motion for summary judgment is hereby denied without prejudice to refile two separate motions, one on the first count of the complaint , and another on the entire cross claim by the TJX Companies,Inc.

In Plaintiff's case, the Defendant's motion for summary judgment on its face moves for summary judgment on plaintiff's whole complaint on racial and educational discrimination. Therefore , its denial by the Trial court should be with prejudice thereby making the case proceed to trial for the simple reason that the case was twice scheduled for trial by the trial court because there is a genuine issue to a material fact in such that a reasonable jury would find the defendant guilty of its violation of the section 46-58(a) of the Connecticut General Statutes and the Title VI of the USC Civil Rights Act of 1964 with regard to Defendant's admissions and the admission data in the Defendant's Linguistics Ph.D program for more than ten years within which the Defendant failed to admit a single African American applicant even if it declared them qualified for admission as it is the case for Plaintiff.

C)Whether Intentional or Retaliatory Act, University of Connecticut has violated the law namely Paragraph 46a-58 of the Connecticut General Statutes and Title VI of the Civil Rights Act of 1964.

Indeed, Paragraph 46-58a of CGS stipulates that":

(a)" It shall be a discriminatory practice in violation of this section for any person to subject, or cause to be subjected, any other person to the deprivation of any rights, privileges or immunities, secured or protected by the Constitution or laws of this state or

of the United States, on account of religion, national origin, alienage, color, race, sex, gender identity or expression, sexual orientation, blindness, mental disability, physical disability or status as a veteran." and Title VI of the Civil Rights Act of 1964 stipulates that: " No person in the United States shall, on the ground of race, color, or national origin , be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance."

42 USC § 2000d

D) Defendant's answers to Plaintiff's interrogatories and Defendant's admissions preclude Defendant to prevail on motion of summary judgment.

Indeed, Defendant declared Plaintiff qualified for admission in his 2013 application into its Linguistics Ph. D program; he also admitted that Plaintiff filed his 2014 and 2015 applications with a new topic of research as advised by the defendant.

E-Besides, Defendant admitted that he took into consideration all the application materials including Plaintiff's GPA and GRE scores before declaring plaintiff qualified for admission in the 2013 application;

Finally, Defendant admits that in more than 10 years, it has never admitted any African/American applicant in its Linguistics Ph.D program (See admission data of the 10 years sent to this court via a certified mail on September 21st , 2022).

In view of all those facts mentioned above, summary judgment was wrongly granted to the Defendant; there is a genuine issue to material facts. It is proven that since Plaintiff has stopped applying, Uconn has continued discriminating against african/American applicants in its Linguistics Ph.D Program.No diversity in the admissions.

F-University of Connecticut failed to apply the diversity policy that it admits to. Indeed, Defendant admitted in the records that it applies diversity in its Linguistics PhD Program but failed to apply that policy when it comes to admit candidates in the program. Within more than 10 years, University of Connecticut has not admitted a single African/American applicant in the program.In 2013, Plaintiff was the only African/American who applied. Despite the fact that Uconn declared Plaintiff qualified for admission, it did not admit Plaintiff even after the latter had changed his topic of research as advised by Professor Jon Sprouse, Co-chair of admissions for the graduate school.

G.Defendant is liable for the moral prejudice Plaintiff suffered.Therefore, Plaintiff is claiming compensation for that wrong-doing.

Defendant declared plaintiff qualified for admission but failed to admit Plaintiff even after the latter had changed his topic of research as advised by the co-chair for the graduate school , Professor Jon Sprouse.

CONCLUSION

This is a case in which federal and constitutional issues are involved.

On rehearing , the Pro-Se petitioner respectfully requests the Court vacate the judgments of the Courts below and remand to the District Court for further proceedings or grant plaintiff any relief it deems appropriate in the name of justice and the rule of laws.

Respectfully submitted,

November 25, 2022.

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CERTIFICATE OF GOOD FAITH

Petitioner Nouboukpo Gassesse states under penalty of perjury that the foregoing Petition for Rehearing is presented in good faith and not for delay and that it is restricted to the grounds specified in Supreme Court Rule 44.2

/S/ _____

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