No.22-5765

In the

SUPREME COURT OF THE UNITED STATES

Ryanne Parker & Nakhila Parker (N.P),

Pro se petitioners

V

West Carroll Special School District,

Respondents

On Petition for Writ of Certiorari

To The United States Court of Appeals for the Sixth Circuit

REPLY BRIEF FOR THE PETITIONERS

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Respondents seek to defend the indefensible. Within the respondents' Brief in Opposition, the respondents, in so many words, admit to the findings and substantive violations that were issued to them by the Tennessee Department of Education (TDOE), within the Administrative Complaint#19-68, previously submitted by the Petitioners (ID.,5), therefore the respondents admit to their discriminatory and retaliatory actions. Regardless of any recommended corrective actions completed by the Respondent, the actions of discrimination and retaliation still occurred. Moreso, petitioner R.P, the parent of petitioner, N.P, were never compensated for the retaliation and or discrimination that occurred. The more relative question to this case is, why would the petitioner R.P have to exhaust administrative remedies through IDEA when discrimination and retaliation has been confessed by the agent of the Respondent in a ADA/Section504 due process

hearing proceeding, and when there is no remedy for the parent through the IDEA administrative remedies? In this Court, in Fry v Napoleon, (137 S.Ct. 743, 197 L.Ed.2d 46 (2017)) this court held that "[e]xhaustion of the IDEA's administrative procedures is unnecessary where the gravamen of the plaintiff's suit is something other than the denial of the IDEA's core guarantee of a FAPE." This Court's ruling vacated the Sixth Circuit's opinion, Fry v. Napoleon, 788 F.3d 622 (6th Cir. 2015). I would like to say to this Court that the petitioner's case is far beyond something other than the denial of the IDEA's core guarantee of FAPE. This case is far beyond small procedural violations committed by the respondents in this case within the findings of the numerus TDOE Administrative Complaints provided to this Court by the petitioners within the exhibits of the Petitioners 'petition of writ of certiorari. N.P. a person with Autism, entrusted the respondents and R.P entrusted the respondents to uphold the laws of IDEA, because N.P was a disabled student with an IEP. Within a transcript of the ADA/ Section 504 due process hearing held on November 19, 2019, Tammy Davis, Special Education teacher and former agent of the respondents stated that she "did not want to do ESY...and... did want to do anything else" for NP (Exhibit A, page 143, lines 24&25), referring to educational services for N.P. Mrs. Davis went onto state in her testimony that it was "because of the problems that would go with it." (Exhibit A page 144, lines 2&3), while pointing her hand towards the petitioner R.P, during this statement. In a video of this very hearing that the petitioner also has, that she received from the respondents, it will also show this. Mrs. Davis confessed to her deliberate indifference and her discriminatory and retaliatory actions against both of the petitioners, RP and N.P. During this same hearing, Mr. Dexter Williams, Superintendent and former agent of the respondents also testified after being questioned "Were you ever advised by an attorney to issue a no contact order against Mrs. Parker?" (Exhibit A page 228, lines 17- 22), referring to the petitioner. His answer

was "No", (Exhibit, A page 228, line 23), after Mr. Williams was continued to be question about a no contact advice instructed to anyone in the district(respondents), he replied "Not to my knowledge" (Exhibit A, page 229, lines 3-8). However, these statements were found to be false and untrue through emails, recorded conversations and other evidence. In fact, these statements were so untrue and such an additional piece of evident to support the petitioners claims of retaliation that when the respondents initially mailed the petitioner a copy of this transcript, a portion of Mr. Williams' testimony was left out. It is believed by the petitioner that it was purposely left off the initial transcript given to her. The petitioner, several days after receiving the initial copy reviewed and compared the transcript she received from the respondents, with the video of the hearing that she had and noticed that the transcript did not include all of Mr. Williams' testimony. The petitioner had to reach back out to the respondents. Exhibit B is a copy of the email the petitioner received from the counsel of the respondence that included a "supplemental transcript" to include the remining portion of Mr. Williams' testimony. This occurred only after the petitioner contacted the respondents about the gross error of the initial transcript she received. Furthermore, in regard to the untruthful statements made by Mr. Williams in regards to him having no knowledge about an advice and issue of a no contact order against the petitioner RP, since that testimony there has been discovery of an email sent by former Supervisor of Special Programs and agent of the respondents, Dana Carey, in which Mr. Williams was CC'd (copied), on confirming that both her and Mr. Williams knew of a no contact order for the petitioner and that he was well aware of it. Also, in a sworn in deposition, March 15, 2021, testimony given by former Supervisor of Special Programs and agent of the respondents, Dana Carey testified that after being asked "....you all had received advice to not contact her (referring to the petitioner, RP).." . Mrs. Carey's response was "Yes." (Exhibit C,

page 9, line 4) Mrs. Carey went on to later profess and admit that "the no contact… was during a very small time…" (Exhibit C, page 15, lines 7-9). The petitioner would further say to this Court, that the no contact order, not only affected R.P, however caused additional irreparable educational harm to N.P, during this time progress monitoring data shows that N. P's progress scores had dropped tremendously. There is gross proof and evidence that the respondents' actions were retaliatory and discriminatory towards the petitioners. Based on the above information, it would have been futile for the petitioner to continue to seek administrative remedies through IDEA.

In the respondents' Brief in Opposition to this case, it recognizes that there are exceptions to the IDEA's exhaustion requirements, quoting FC v Tenn. Department of Educ., 745 Fed. App;x 605 (6th Cir. 2018) case statements within "when the use of administrative procedures would be futile…" serving as an exhaustion requirement. In this case after the ADA/Section 504 Hearing and decision of the hearing officer was made in the favor of the petitioners, it is obvious that it would have been futile and pointless for the petitioner to continue to exhaust administrative channels of IDEA. Both discriminatory and retaliatory actions of the respondents had been revealed within the testimonies at the November 2018 ADA/Section 504 Hearing. Also, all of N. P's IEP, RTI and IEP meetings (outside of additional requests needed), along with all IDEA issues and concerns were addressed and established by the hearing officer in his decision (Exhibit D, pages 4 &5). More importantly, Mr. Minor, the hearing officer stated to the petitioner, RP, during his concluding comments towards the end of the hearing, " …you made an effort, and you got lot of push back…You got blocked." (Exhibit A, page 242, lines 6-7) referring to the efforts that the petitioner, RP, was making to advocate for NP and also the obvious retaliatory actions of the respondents against the petitioner's efforts, based on the

testimonies and information that was revealed during the ADA/ Section 504 due process hearing. The concluding comments of the hearing officer were also an additional portion that was left off and included within the "supplemental transcript", (See Exhibit B), that was later provided to the petitioner, only days after she found the error of the Respondents not providing her the full transcript of the hearing initially. There was no need for the petitioner to continue an administrative exhaustion, even for the student, N.P. Additionally, the District Court was in error when they dismissed the petitioner's complaint.

The petitioner would also like to say to the Court, the respondents initially chose to ignore the petitioners' petition and chose not to respond within the time frame, in pursuant to the Supreme Court Rule 15.3. Within Rule 15.3 it clearly states that "Any brief in opposition shall be filed within 30 days after the case is placed on the docket." The petitioner's petition was placed on the docket on October 5, 2022. The respondents filed their Brief in Opposition on December 16, 2022, without asking this Court for an extension, this is more than 60 days well beyond the time the petitioners' petition was place on the docket. For this action the respondents chose to ignore not only the petitioners' petition, but also the Supreme Court Rules, the Respondents' Brief in Opposition should be considered null and void.

CONCLUSION

Based on the above and upon information within the petitioner's petition of writ of certiorari, this Court should grant the petitioner's petition.

Respectfully submitted,

Ryanne K. Parker, pro se petitioner

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1-3-23