

22-6282

No. \_\_\_\_\_

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
DEC 05 2022  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ILEEN CAIN, PETITIONER

V.

MERCY COLLEGE, et. Al. RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS SECOND CIRCUIT

PETITION FOR WRIT OF CERTIORARI

ILEEN CAIN

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SUPREME COURT, U.S.

## QUESTIONS PRESENTED

In the matter of *United State v. Morrison*, 529 U.S. 598 (2000) the Violence Against Women Act civil remedy was invalidated. In March of 2022 the Violence Against Women Reauthorization Act established a civil remedy Sec. 1309 which prohibits intimate images of an individual illustrated without their consent, The VAWA implemented Sec. 1401 Cybercrimes using an electronic device e.g. a computer, phone or tablet to harass, stalk, coerce and or cause a student fear.

Question Presented: [1] Can this Court validate the strengthened VAWA Reauthorization Act 2022 Sec 1401 1309 and the Department of Education clause that mandate institutions of higher education implement and adhere to Policy and Procedure that prohibit, sexual assault, dating violence, domestic violence and stalking. [2] Whether under the strengthened VAWA Sec. 1401 cybercrimes can this Court find that Mercy College violated Policy and Procedure mandated by the Department of education and violated their own implemented Policy and Procedure on cyberstalking/stalking [3] Whether Ileen Cain v. Mercy College is ripe for judicial review as it pertains to cybercrime cyberstalking/stalking on campuses in higher education, pursuant to 34 U.S.C. stalking" as defined in 34 U.S.C. 12291(a)(30).

## **LIST OF PARTIES**

All parties **Do Not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Reema Zeineldin, Mercy College  
Associate Provost, Faculty Affairs
2. Kristen Bowes, Mercy College  
General Counsel
3. Thomas McDonald, Mercy College  
Title IX Coordinator, Equity Compliance Officer

## **PETITION FOR A WRIT OF CERTIORARI**

The Petitioner, Ileen Cain, proceeding pro se, respectfully submits this petition  
for writ of certiorari

### **CITATIONS TO THE PRIOR OPINIONS AND ORDERS IN THIS CASE**

The Summary Order of the Court of Appeals for the Second Circuit of New  
York

**The opinion of the Southern District of New York is not published**

### **JURISDICTION**

The judgment of the United States Court of Appeals for the Second Circuit,  
affirmed the District Courts ruling on

The Judgement of the United States Court of Appeals denied Petitioners  
petition for Rehearing and En banc review on

The Second Circuit Court of Appeals of New York is the highest Federal  
Appellate Court with jurisdiction to hear civil cases on appeal from the Southern  
District of, New York.

This petition for writ of certiorari is timely because it is filed with the Clerk of  
this Court within 90 days of the refusal of Rehearing and En banc review.

Petitioner's case was presented to Justice Sotomayor on August 3<sup>rd</sup> 2022 to  
extend to and December 5<sup>th</sup> 2022 to file a petition for a writ of certiorari.

**This Court has Jurisdiction under 28 U.S.C. 2101 Section 1253**

## **INDEX TO APPENDICIES**

APPENDIX A      UNITED STATES COURT OF APPEALS 2ND CIRCUIT  
SUMMARY ORDER

APPENDIX B      SOUTHERN DISTRICT ORDER OF DISMISSAL

## **STATUTES AND RULES**

Title II III Sec. 504 of the Rehabilitation Act Amendments At

29 U.S.C. 794

28 U.S.C. 1331

28 U.S.C. 1291

HR Violence Against Women Act Reauthorization Act 2021

## **RULES**

Fed. R. Civ. P 8(a)(2)

Fed. R. Civ. P 12(b)(6)

Fed. R. Civ. P. 1915(e)

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

## STATEMENT OF THE CASE

Petitioner contends the United States District Court, Southern District of New York and the United States Court of Appeals 2<sup>nd</sup> Circuit did not adhere to Fed. R. Civ. P 8(a) as it pertains to pro se pleadings. “The Court is obliged to construe pro se pleadings liberally, *Harris v. Mills* 572 F.3d. 66, 72 (2<sup>nd</sup> Cir. 2009) and interpret them to raise the “strongest [claims] that they suggest ,” *Triestman v. Fed. Bureau of Prisons*, 470 f 3d 471 (2d Cir 2006) (internal quotation marks and citations omitted) (emphasis in original) “A, pleading that states a claim for relief must contain a short and plain statement of the claim showing that the pleader is entitled to relief, pursuant to Fed. R. Civ. P 8(a)(2)”. For instance, The District Court granted Petitioner Leave to Amend with stipulation and instruction on the body of the amended complaint. The District court instruction: Petitioner is too [1] give the names and titles of all relevant events [2] describe all events, stating the facts that support Petitioner case including what each defendant did or failed to do; [3] give the dates and times of each relevant event or, if not known, the approximate date and time of each relevant event; give the location where each relevant even occurred; [4] describe how each defendants acts or omissions violated Petitioners rights and describe the injuries Petitioner suffered and state what relief Petitioner

seeks from the Court such as, money damages injunctive relief or declaratory relief.

The Court stipulated: "The body of Petitioner complaint must tell the Court who violated her federally protected rights; what facts show that her federally protected rights were violated; when such violation occurred; and why Petitioner is entitled to relief. The Court further stipulated Petitioner should separate her different claims into sections: Title VI, ADA, ADAAA, Admissions and Title IX".

Petitioner amended complaint provided, time, date and emails, transmitted between the parties, herein named as parties to Petitioner complaint. The amended complaint joined parties; Reema Zeineldin, Mercy College Associate Provost, Faculty Affairs; Kristen Bowes, Mercy College General Counsel; Thomas McDonald, Mercy College Title IX Coordinator, Equity Compliance Officer and Nick Canzano, Dean of Student Affairs.

The United States Court of Appeals for the 2<sup>nd</sup> Circuit was gracious in allowing Petitioner to present her case before the 2<sup>nd</sup> Circuit Appeals Panel. Petitioner presentation was novice. Petitioner presentation harped on the District court instruction and stipulation of her amended complaint.

#### Disability Under the ADA

Disability under the ADA is determined by a three-prong analysis [1] A physical or mental impairment that substantially limits one or more major life

Disability under the ADA is determined by a three-prong analysis [1] A physical or mental impairment that substantially limits one or more major life activities [2] A record of such impairment [3] Discrimination based upon a perceived or actual impairment is prohibited under the ADA and the ADAA and Post Traumatic Stress Disorder is an impairment that are not transitory and minor are covered under the Americans with Disabilities Act Amendments Act.

The Jeanne Ann Cleary Act the Violence Against Women Act Reauthorization Act and Title IX focuses on (cyber stalking, stalking, dating violence, domestic violence, and sexual assault. Mercy College has implemented policy and procedure under the aforementioned.

On September 30<sup>th</sup> 2019, Petitioner Ileen Cain filed a formal complaint via Mercy College intranet with claims of victimization, cyberstalking/stalking taking place on Mercy College, Harlem Campus. Nick Canzano, Dean of Student Affairs and Rajih Kumar, Dean of Student Success, met with Petitioner on Friday October 4<sup>th</sup> 2019. Petitioner discussed with the two deans she is a victim of cyberstalking/stalking. Petitioner described students are blatantly heckling her in the hallway and in class and the heckling is calling her a kook and to keep gang mocking her, keep mocking her, kook her, mock her throughout the entire Mercy College Harlem campus.

Petitioner identified the heckling stems from social media the internet, and her resemblance is posted on the internet. Ms. Cain described the rant as persistent and that she is frightened because students are mocking her to her face and that it is affecting her, performance in class and that she is frightened and concerned for her safety.

Ms. Cain further shared She was diagnosed in 2008 with Post Traumatic Stress Disorder due to the murder of her son in 2005. And discussed she was terminated from other schools of higher learning after she complained of the same instance. Ms. Cain informed the two deans that the schools fabricated her character and conduct to up hold their termination from the schools, program.

Petitioner explained to Nick Canzano and Rajih Kumar the stalking is sexually and gender motivated and that it began in her neighborhood where she recently became a new tenant; after she rejected the sexual advances of her neighbors.

Mr. Canzano, asked “what does Ms. Cain see happening at the end of this meeting”. Ms. Cain said she would like Mercy College to help her bring the perpetrators to justice by conducting, an investigation that would substantiate her claims. Mr. Canzano replied “in a perfect world”. And admitted Cyberstalking/stalking on Mercy College campus has been substantiated in the past but it was Mercy College students”. In 2018, The College of New Rochelle became Mercy College, Harlem, campus, after The College of New Rochelle was rendered

defunct due to misappropriation of college funds. The majority of the College of New Rochelle Harlem campus student body is comprised of African American Women. To compare, the majority of Mercy College student body is comprised of Women, that are White, and Hispanic,

Mr. Canzano ended the meeting, "it was nice meeting you". Ms. Cain attended classes the following week, October 7<sup>th</sup> 2019 and was informed Mercy College contacted Ms. Cain' classmates and professors. On or around October, 8<sup>th</sup> students came to class, concerned students exclaimed they are shocked because they received phone calls, from Mercy College asking if they are afraid to attend classes, because of outbursts, and threatening behavior. Whether Ms. Cain was shoving desks around; talking to herself and disrupting the class yelling obscenities while the professor was lecturing. Students were upset because Mercy College was trying to coerce students to substantiate the aforementioned and talk bad about Petitioner Ms. Cain. Petitioner contacted Mr. Canzano via email regarding the phone calls. Mr. Canzano did not respond.

Respondent Mercy College, conducted a for month investigation October 2019 to January of 2020 to substantiate Petitioner was a threat to herself, professors and her fellow classmates; The investigation created a hostile environment for Petitioner; made Petitioner feel like an outcast; Petitioner was embarrassed, ashamed,

feared for her safety, and had huge feelings of abandonment and hopelessness.

Petitioner began leaving classes early.

## **CONCLUSION**

For the foregoing reasons, this petition for a writ of certiorari should be granted.

A handwritten signature in black ink, appearing to read "Leean Cain". The signature is fluid and cursive, with a large, open loop on the left side.