



22-678

IN THE
SUPREME COURT OF THE UNITED STATES

KEMING LU

Petitioner,

v.

NORTHERN UTAH HEALTHCARE
CORPORATION D.B.A.
ST. MARK'S HOSPITAL

Respondent.

*On Petition For Writ of Certiorari
to the Utah Supreme Court*

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- 1). Was it a violation of Petitioner's constitutional rights guaranteed by the 5th and 7th amendments when Petitioner's petition for a trial of de novo to testify for herself was denied after Respondent's sudden change of testimony on the accused event offered by Respondent to justify Petitioner's termination?
- 2). When Petitioner's constitutional rights granted by the 5th and 7th amendments to testify for herself were deprived after Respondent changed its testimony, was it a violation of due process guaranteed by the 14th amendment to deny Petitioner's rights to be heard on the only purported event used by Respondent to support her termination?

LIST OF PROCEEDINGS

Utah Labor Commission

No.8090160

Keming Lu v. St. Mark's Hospital

Final Judgment: January 19, 2022

Utah Court of Appeals

No. 20220188-CA

*Keming Lu v. Utah Labor Commission, and Northern
Utah Healthcare Corporation D.B.A.
St. Mark's Hospital*

Judgement entered: April 5, 2022

Utah Court of Appeals

No. 20220188-CA

*Keming Lu v. Utah Labor Commission, and Northern
Utah Healthcare Corporation D.B.A.
St. Mark's Hospital*

Final Judgment: May 10, 2022

Utah Supreme Court

No. 20220539-SC

*Keming Lu v. Utah Labor Commission, and Northern
Utah Healthcare Corporation D.B.A.
St. Mark's Hospital*

Final Judgment: August 15, 2022

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PETITION FOR WRIT OF CERTIORARI

Keming Lu petitions the Court for a writ of certiorari to review the judgment of Utah Supreme Court.

OPINIONS BELOW

There were no published opinions by the Utah Supreme Court and the Utah Court of Appeals. The Utah Supreme Court's ORDER on August 15, 2022 attached as App.1a. The Utah Court of Appeals's ORDER on May 10, 2022 attached as App. 2a.

JURISDICTION

The Utah Supreme Court entered judgment on August 15, 2022. (App.1a) This petition is timely filed pursuant to Supreme Court Rule 13.1. This Court has jurisdiction under 28 U. S. C. § 1257(a).

CONSTITUTIONAL PROVISIONS AND STATUES

i). US Constitution, 5th Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual

service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ii). US Constitution, 7th Amendment

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

iii). US Constitution, 14th Amendment (Section 1.)

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

iv). 42 United States Code Section 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, 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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

1. INTRODUCTION

Petitioner, Keming Lu, an Asian Chinese, worked as an Ultrasound Technologist at St. Mark's Hospital for 21 years and was wrongfully terminated on August 30, 2018 for so-alleged sleeping while on duty on August 17, 2018. Petitioner filed a complaint alleging unlawful

discrimination based on her race and national origin along with harassment and retaliation with Utah Labor Commission in February 2019 pursuant to Title VII of Civil Rights of Act of 1964 and The Utah Anti-discrimination Act of 1965, since Petitioner formally raised the issue of racial discrimination with Human Resources on August 10, 2018 and reported it to the hospital COO Mr. McKinley on August 23, 2018, then termination of the employment ensued a week later for an alleged incident on August 17, 2018. An evidentiary hearing was held on April 29- 30 2021. At hearing Respondent suddenly changed Its original account of so-called sleeping incident which was answered by Respondent in Interrogatory into a totally different account of that event. In Response to Interrogatory No 2, It stated:

“On August 17, 2018, in the early afternoon, Ms. Pitre attempted to enter the ultrasound control room to retrieve documents, when she discovered that the two doors to the room were locked. After confirming that there were no patients in the rooms, Ms. Pitre unlocked the doors and found Petitioner sitting in the corner of the room, asleep, with her arms crossed and her head bowed. As Ms. Pitre entered the room, Petitioner awoke and stared at Ms. Pitre. Ms. Pitre told Petitioner that she was not allowed to keep the doors locked. Petitioner responded that she had been

taking naps on the job for years and no one ever said anything. At that point, Ms. Pitre retrieved the documents she needed and left the control room.”

Yet at hearing Ms. Pitre testified that the first time she came to ultrasound, the doors were locked. Ms. Pitre unlocked the door and told Petitioner the door need remain unlocked and grabbed the payroll book and left. There was no conversation. The second time she come back, the door was not locked. She found Petitioner sleeping, and she put the payroll book back to the wall holder to make a noise to wake Petitioner up.(App.4a.) This sudden change of account of the event caught Petitioner off guard. Not only Petitioner's prepared testimony could not be given but also she couldn't remember what Respondent was referring to at hearing since the incident was two years and eight months ago at the time of hearing. So Petitioner could not give her testimony on the suddenly changed version of the incident presented by Respondent at that moment in hearing but recalled later. So Petitioner first requested, then filed a Motion with Utah Court of Appeals to transfer the case to district court for a trial of de novo, so Petitioner could give her testimony on that event which was the only event for her termination on August 30, 2018. (App. 5a.) But Petitioner's request and motion were not granted. Petitioner then filed Petition for Writ of

Certiorari with the Utah Supreme Court, which was denied on August 15, 2022 without any reason given (App. 1a)

2. INCIDENTS AT ST. MARK'S HOSPITAL

Before August 30, 2018, Respondent blamed Petitioner for two incidents happened with department of Labor & Delivery (it will be referred as L&D hereafter), which were not faults of Petitioner. In May 2018 the manager of the radiology department, Ms. Jillian Pitre, and Ultrasound Coordinator, Ms. Natosha Davis, called Petitioner to the radiology conference room to ask Petitioner if Petitioner had told an L&D patient that the night shift Ultrasound Technologist would take her back to her room while parking the patient in the hallway after ultrasound. Petitioner was kind of shocked at the same time feeling strange about the question. Yet Petitioner answered the question “ no, no body in ultrasound would say that. I would not say that even in my dream ”. Because If L&D was busy and had no person available to take their patients back, we as Ultrasound Technologists would. Then Ms. Pitre said that she would discard the complaint. Because L&D had complained that the patient was wheeled back by her husband and met an L&D personnel who was on her way to pick the patient up half way. The fact was

that when Petitioner was parking the patient in the hallway after ultrasound, Petitioner told the patient “ I will call them to take you back”, because it was L&D that brought the patient to ultrasound as a daily practice. Then Petitioner called L&D and told them that the patient was ready to go back as usual.

In July 27, 2018, Mr. Pitre and Ms. Davis asked Petitioner to meet in radiology conference room again saying that there was an L&D patient who didn’t get done on time. Ms. Davis presented the timeline she had found in the computer from Petitioner’s work, blaming Petitioner had about twenty minutes to do the patient but did nothing in that twenty minutes. Petitioner told them “ I was not that kind of a person who knew there was an exam ordered but would not do the exam by just sitting there and doing nothing, heaven watches. I could be on the phone with a nurse on the floor asking how to order ultrasound. Anything was possible. I didn’t remember what I did in that twenty minutes since that was a week ago”. I said that I would update them when I found out what was going on. Petitioner also told them in the meeting that Petitioner had an ER (Emergency Room) patient ordered when Petitioner was about to do the L&D patient, then called L&D. L&D gave Petitioner okay to do the ER patient first and agreed to let the night shift person do their patient. Ms. Pitre said “I will not take (or believe) all excuses that you are telling me here

any more, I am going to put the previous complaint back". Later she said it again "I won't take (or believe) all the craps any more, I am going to put it back." meaning the previously discarded complaint from L&D in May back into Petitioner's file. Petitioner told them that they could not do that because it was discarded. But nothing could stop Ms. Pitre from what she was going to do. Petitioner felt humiliated and helpless. In Petitioner's entire life, that was the first time that Petitioner tasted what was like when you didn't have the basic right to protect yourself and the other party had all the power and rights to do whatever they wanted. Petitioner's mouth was completely dry and shaking inside. Petitioner walked out of the conference room feeling very bad and dehumanized.

After the meeting, Petitioner went back to ultrasound and checked the pictures that she took and found out that Ms. Davis had gotten the time wrong. The patient's exam ending time Ms. Davis presented was actually the exam starting time. That twenty minutes Ms. Davis claimed that Petitioner could have done that L&D patient was actually the time when Petitioner was scanning a patient. Petitioner called Ms. Davis immediately and asked her to check the pictures Petitioner took by herself. At the same time Petitioner asked to meet both of them again to tell them what Petitioner had found, so both of them would not have any confusion about the

fact. Petitioner followed up by sending a text to Ms. Davis on August 3, 2018, which was a Friday, to check what time the three of us could meet again. Ms. Davis texted back saying that she was not at the hospital on that day and would text Ms. Pitre to keep a space open for us next Friday.

On August 10, 2018, which was next Friday, Petitioner met with Ms. Valerie Swartz of HR and Ms. Pitre and Ms. Davis at Human Resources arranged by Respondent instead of just meeting Ms. Pitre and Ms. Davis at radiology department as Petitioner requested. Petitioner went to the meeting because Petitioner had been waiting for about two weeks to meet Ms. Pitre again since the meeting of July 27, 2018. In the meeting, Petitioner presented the findings and further explained the reasons and situations. But three of them didn't take anything from what Petitioner had said, insisting that it was Petitioner's fault. Ms. Pitre told Petitioner that she had already filed a write-up with Human Resources. Petitioner was surprised, because Petitioner had not met her again to tell Petitioner's finding yet. Ms. Swartz told Petitioner "it's been done, it's been done, nothing is going to change, if it makes you to feel better to talk about it, you can keep talking about it, but nothing is going to change." Petitioner said "it is not making me feel better; it's about my job safety, next time you will say 'this is the third complaint, you're terminated'."

Petitioner saw what they had done to her prior and the things they were saying to her at the meeting, Petitioner formally raised the issue to them, saying “ this is a racial harassment and discrimination, I will report this to a higher authority.” Then Ms. Valerie Swartz said “ go ahead, if you want to contact a lawyer or whatever, you do it”. When Petitioner barely walked out of the room, Petitioner expressed a good wish by saying “ I hope we can have a peaceful relationship while I am doing this.”

On August 15, 2018, Petitioner requested the filed write-up from Ms. Pitre to see what she had written, which Ms. Pitre emailed it to Petitioner on the same day. To Petitioner’s surprise, Ms. Pitre illegally marked an “X” in the box on the form for Petitioner without Petitioner’s acknowledgment, permission or awareness, indicating that Petitioner had chosen not to sign the form which Petitioner didn’t know and see at all. There was no hand-written date or words or signature of any person on the form.

On August 16, 2018, Petitioner went to Mr. Jon Hancock’s office in Human Resources to check if Ms. Pitre had filed other write-ups on Petitioner without Petitioner’s awareness. At that time, Petitioner briefly told Mr. Hancock what had happened to Petitioner regarding that two incidents of L&D. He emailed Petitioner on August 20, 2018 saying that we don’t leave

patients alone but to remain with the patients, which was not the case with the whole radiology department at all. Every Radiology Technologist and every Ultrasound Technologist every day left patients alone in the hallway waiting for transports to take them back to their rooms, but this could not be done by Petitioner. This was a black and white different treatment from Caucasian technologists in the radiology department and ultrasound division by Respondent. There was no mentioning of the second incident with L&D by Mr. Jon Hancock.

Petitioner reported the racial harassment and discrimination to the hospital COO Mr. Brian McKinley on August 23, 2018. Then Petitioner was fired on August 30, 2018 for so-called sleeping while on duty on August 17, 2018, which was a week after Petitioner reported the racial harassment and discrimination to the hospital COO.

In the termination meeting on August 30, 2018, Petitioner was only told one thing which was the so-called sleeping. Respondent did not mention any of the two incidents with L&D, so Petitioner asked if the sleeping was the only reason for the termination, and Mr. Hancock of Human Resources answered yes. Petitioner further confirmed by stating that there was nothing to do

with the two prior incidents. Mr. Jon Hancock again answered no. (App. 5a.)

3. PROCEDURAL HISTORY

1). Litigation With Utah Labor Commission

In February of 2019, Petitioner filed a complaint of unlawful discrimination based on her race and national origin along with harassment and retaliation with Utah Labor Commission pursuant to Title VII of Civil Rights of Act of 1964 and The Utah Anti-discrimination Act of 1965. After Petitioner's filing, Respondent responded with a list of wrongdoing by Petitioner, which Respondent alleged leading to the termination. A lot of the allegations Petitioner never knew or heard about. Some of them even brought chills to Petitioner when she was reading it the very first time.

On April 29-30, 2022, an Evidentiary Hearing was held. Respondent's testimony in hearing on Petitioner's sleeping while on duty was suddenly changed to a totally different account than the answer given on Interrogatory as Petitioner described in Introduction. Petitioner then couldn't remember what Respondent was referring to in hearing but Petitioner did prove that Respondent had given false testimonies under oath in Affidavit and in hearing and lied in many occasions with

supporting documents and testimony. Petitioner also proved in hearing that no written warning was issued to Petitioner on August 3, 2018 by Ms. Pitre together with Ms. Davis as Ms. Pitre testified since Ms. Davis was not at the hospital on that day, with the text message sent to Petitioner by Ms. Davis on August 3, 2018 stating “im not back until next week n then im working overnights. at this point we r waiting for jill.” (meaning Ms.Jill Pitre). Labor Commission prejudicially sided with Respondent to let Ms. Petri go free of giving false testimony under oath by changing the fact that it was Ms. St. Thomas who issued Petitioner a written warning on August 3, 2018, (1), even though Ms. Pitre herself testified otherwise (App. 6a) and the latter added signature on the form which was produced after Petitioner had filed the complaint with Utah Labor Commission in February 2019 was Ms. Pitre’s signature. Such unfairness demonstrated by Utah Labor Commission was shocking to Petitioner and not

(1). Findings of Fact, Conclusions of Law and Order Keming Lu vs. St. Mark’s Hospital. Page 6 “Ms. St. Thomas issued to Petitioner a Disciplinary/Corrective Action Form which included the following language: “Over the past three months, Keming received multiple complaints from patients as well as departments in the hospital. These complaints have demonstrated a pattern of poor communication that has caused delays in needed patient care being provided.”

acceptable. This had detrimental effect on the case outcome. Because Ms. Petri's credibility of the changed testimony on the so-called sleeping incident was not undermined by Petitioner's argument, just the opposite, her changed testimony on the very sleeping incident was adopted by the court.

The Utah Labor Commission not only changed this fact but also changed other facts. Respondent originally alleged that Petitioner met with Ms. Pitre, Ms. St.Thomas and Human Resources on August 18, 2017 regarding weekend shift. Petitioner stated that she didn't work on that day at all since it was Petitioner's birthday. Then judge Newman changed it to Aug 17, 2017 to still give all the weight on the fact to Respondent. (2). After Petitioner pointed out this change, the Appeals Board of the Utah Labor Commission falsely created a new event stating that Petitioner had met with Ms. Pitre, Ms. St Thomas, and a Human Resources representative in August 2017 regarding complaints from Petitioner's coworkers about

(2). Findings of Fact, Conclusions of Law and Order Keming Lu vs. St. Mark's Hospital Page 5. On August 17, 2017, Petitioner met with Ms. Pitre, human resources and Ms. St. Thomas to discuss Petitioner's schedule.

her behavior (3), which never happened and which Respondent didn't allege as Utah Labor Commission did.

The Utah Labor Commission wrongfully concluded the radiologist's dictation of an ultrasound report on a patient whom Petitioner did a scan on in June 2017. It was the radiologist who wrongfully dictated that the patient had a normal gallbladder even though Petitioner had correctly documented that the patient's gallbladder had been removed, which was the case.

The Utah Labor Commission completely ignored the fact that the decision to terminate Petitioner's employment by Mr. Hancock and Ms. St.Thomas on August 28, 2018 after they had discussed the sleeping incident of August 17, 2018 came first, and Ms. Pitre was asked by Ms. St.Thomas to document the incident on August 28, 2018 came second as Respondent testified. This retrospective order of action happened a week after Petitioner had reported to the hospital COO, Mr. McKinley on August 23, 2018. This causal link and backward action were entirely disregarded by the Utah

(3). ORDER AFFIRMING ALJ'S DECISION KEMING LU PAGE 2 OF 9, FINDINGS OF FACT. In August 2017, Ms. Lu met with Ms. Pitre, Ms. St. Thomas, and a human resources representative regarding complaints from Ms. Lu's coworkers about her behavior.

Labor Commission, which showed the motive of retaliation and using the so-called sleeping incident as a pretext by Respondent after Petitioner reported to the higher authority of the hospital.

The Utah Labor Commission put all the weight on all Respondent's claims and presentations and testimonies and no weight on evidence or testimonies presented by Petitioner due to its prejudice and unfairness, even though Petitioner didn't have any inconsistency yet Respondent had many inconsistencies and proven false testimonies in hearing and in Affidavits.

The Utah Labor Commission disregarded the arguments by Petitioner on different accounts of the sleeping incident given by Ms. Pitre and the credibility of Ms. Pitre with Petitioner's proof that Ms. Pitre had given false testimony under oath. The Appeals Board of the Utah Labor Commission ruled in Respondent's favor to dismiss the case on January 19, 2022.

2). Appeal to Utah Court of Appeals

Acting upon the Notice of Appeal Rights given by Utah Labor Commission on Order Affirming ALJ'S Decision dated on January 19, 2022, which stated "any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court". Petitioner

pursued to Utah Court of Appeals on February 17, 2022 to petition for reviewing the case by listing all the errors and unfairness by Utah Labor Commission or transferring the case to the district court for a new trial where Petitioner could give her testimony on the accused sleeping incident, because Petitioner just then recalled the so-called sleeping incident testified by Respondent in hearing on the way to appeal to the Utah Court of Appeals (around the end of January to the beginning of February in 2022). On April 5, 2022, the Utah Court of Appeals ruled “ this court declines to disturb the Board’s January 19, 2022 decision”. (App.6a) It stated the reasons why the court didn’t do the judicial review, but it didn’t give reason why the case was not transferred to the district court for testimony in a new trial as Petitioner requested. Then Petitioner filed Motion for Transferring the Case to District Court with Utah Court of Appeals on April 20, 2022, since the court record indicated that the case won’t be closed until May 16, 2022. Respondent filed Appellee’s Response to Appellant’s Motion for Transferring the Case to District Court on May 4, 2022. Yet Utah Court of Appeals ruled on May 10, 2022 “There is no provision in the Utah Rules of Appellate Procedure contemplating the relief that Petitioner seeks in transferring her completed administrative appeal to the district court for testimony.” (App. 2a). Then the REMITTITUR was issued on May 20, 2022 stating: Decision Issued: April 5, 2022.

3). Petition With Utah Supreme Court

Petitioner then filed Petition for Writ of Certiorari with Utah Supreme Court on June 8, 2022, reasoning that the Utah Court of Appeals had erred on the time the case was closed on April 5, 2022 and Petitioner still had legal right to file Rehearing or Motion after April 5, 2022 with Utah Court of Appeals. Respondent filed Respondent's Response to Petitioner's Petition for Writ of Certiorari on July 14, 2022, arguing that Petition for Writ of Certiorari was not filed timely and listed again all unfounded allegations. Petitioner argued in reply that the Petition for Writ of Certiorari was filed on time since 1). Utah Rule of Appellate Procedure 48(a). time for petitioning supported Petitioner's timely filing. Petitioner's filing on June 8, 2022 was consistent with the 30 days after the Utah Court of Appeals' final decision which was the ORDER on May 10, 2022 denying Petitioner's Motion for Transferring the Case to District Court. 2). The Utah Court of Appeals original record indicated that the case won't be closed until May 16, 2022. The original court's record cannot be changed any time with free will, otherwise the court itself has no law. 3). Respondent lawfully replied to Petitioner's Motion on May 4, 2022, which proves Respondent knew and agreed then the case was not closed on April 5, 2022 as Petitioner did. Regarding all the unfounded false allegations again by

Respondent, Petitioner argued back on each one reasonably and truthfully by factual statements and supporting documents. Not even one allegation by Respondent was true. But Utah Supreme Court ruled on August 15, 2022 to deny the Petition for Writ of Certiorari without any reason being given. (App.1a)

4). Wrongfully Petitioned With the United States District Court for the District of Utah

Petitioner filed Petition for Writ of Certiorari with the United States District Court for the District of Utah on September 14, 2022 in person and by email, but was told on the spot at the filing that the court didn't have jurisdiction over Utah Supreme Court for the Petition.

So, Petitioner Pursued to this Court, the Supreme Court of the United States with the Petition.

REASONS FOR GRANTING THE WRIT

1. IT WAS RESPONDENT'S FAULT DUE TO ITS DISHONESTY AND INCONSISTENCY

Respondent's false and changing testimonies on the only incident which led to Petitioner's termination of employment caused that (A). Petitioner's prepared

testimony on the so-called sleeping incident on August 17, 2018 based on Respondent's previously alleged version could not be given; (B).Petitioner could not react to the suddenly changed version of the incident in a short time because Petitioner could not remember the incident which had happened two years and eight months ago at the time of hearing.

2. PETITIONER'S TESTIMONY ON THE ACCUSED SLEEPING INCIDENT WOULD ULTIMATELY CHANGE THE OUTCOME OF THE CASE

Petitioner's testimony on that event will have significant influence on this case's outcome, because what Ms. Pitre testified in hearing was not the case. This will steer away from Respondent's falsely manufactured inconsistent testimonies along this legal proceeding.

3. CONSTITUTION GUARANTEES PETITIONER'S RIGHTS

V Amendment, VII Amendment, XIV Amendment and 42 United States Code Section 1983, all guarantee Petitioner's rights to testify for herself and also guarantee the fair due process. These are fundamental constitutional rights which cannot be taken away by the

court system which is designated to execute the laws and protect people's rights.

4. THE FOLLOWING CASE LAWS ALL SUPPORT PETITIONER'S RIGHTS TO TESTIFY FOR HERSELF

(1). United States v. Gillenwater, 717 F. 3d 1070 (9th Cir. 2013)

The defendant was represented by counsel at competency hearing. The attorney refused to call him to the stand and the defendant complained — disruptively — and was removed from the courtroom. The Ninth Circuit holds that a defendant has the constitutional right to testify at his competency hearing, even over the advice of counsel.

(2). United States v. Vargas, 920 F. 2d 167 (2d Cir.1990)

Though declining the case on other grounds, the appellate court addressed the question of how a defendant should raise a claim that his attorney refused to call him to testify at trial. Without deciding the question, the court concludes that the defendant's failure to complain at trial does not amount to a waiver of this claim that he was denied to the constitutional right to testify.

(3). Nichols v. Butler, 953 F. 2d 1550 (11th Cir. 1992)

The defendant's attorney insisted that the defendant not testify in his own defense. The attorney threatened to withdraw if the client did testify. This violated the defendant's right to testify and required a new trial. The right to testify at trial cannot be forfeited by counsel, but only by a knowing , voluntary and intelligent waiver by the defendant himself. The right to testify in his own defense is a fundamental right. Rock v. Arkansas, 483 U.S.44 (1987). After hearing en banc, the decision was affirmed.

(4) Willner v. Committee on Character, 373 U.S.96 (1963).

This Court ruled that we hold that petitioner was denied procedural due process when he was denied admission to the Bar by the Appellate Division without a hearing on the charges filed against him before either the Committee or the Appellate Division.

5. THIS COURT HAS THE ULTIMATE AUTHORITY AND JURISDICTION TO GUARANTEE THE INTEGRITY OF THE CONSTITUTION AND DUE PROCESS AND PEOPLE'S RIGHTS

This Court has the ultimate authority and jurisdiction as to exert power and wisdom and justice to guarantee the integrity of the constitution and due process and people's rights, as Rule10 says, to exercise the supervisory power of this Court and settle an important question of federal law that has not been, but should be, settled by this Court. That is whether Petitioner has the right to testify for herself after Respondent changed its testimony to against her in hearing as she presents for this review.

6. THIS CASE HAS NATIONAL IMPORTANCE

If Petition for Writ of Certiorari is denied, it will set a poor precedence for future cases to follow in which plaintiffs' and defendants' constitutional rights to testify for themselves can be deprived as Petitioner's right is deprived. This should never and can never happen to this great nation that is the lighthouse of the human kind to liberty and human rights, where not only the government is of the people, by the people, for the people, but also the constitution and the justice are of the people, by the people and for the people.

CONCLUSION

This Petition is about fundamental human rights granted by the Constitution which should be protected and guaranteed by the same Constitution. Petitioner's constitutional right to due process and the right to be heard cannot be taken away as they should be guarded by the Constitution. So Petitioner humbly and sincerely prays this Court grant to Petition for Writ of Certiorari.

Respectfully submitted,

on the 12th day of January, 2023.


Petitioner
/s/ Keming Lu