

Nondiscrimination on the Basis of Disability in State and Local Government Services, 28 C.F.R. §§ 35.101-35.190. Appellant pleads for the remedies of either destruction of the transcript at the discriminating entity so that Appellant may have greater opportunity to attend law school elsewhere and/or partial refund of tuition paid to the discriminating entity, the pleaded for amount of \$22,385.09, so that he may finance law school education elsewhere. Civil Cover Sheet at 1, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 2. This approximate amount was also pleaded for in the original case. Defendant's Exhibit A at 2, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 6-2. The entire amount plus interest was plead for in the DeKalb County Court in the State of Illinois. Defendant's Exhibit G at 1, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 6-8. The Appellees and courts say there has been due process, *res judicata*, in Illinois and lower Federal courts, but during all the years of delay and dismissals without adjudication on the merits, the facts in this matter, never has there been a hearing for this case, no real day in court, a requirement of due process. The argument by the State of Illinois is that the case cannot be tried because of the statute of limitations and

res judicata. Appellant's argument is that this is not "on the merits" *per se*, as the *res judicata* case upon which the State rests refused him a hearing, and did not rule on a motion for stay there. That first forum, the Illinois Court of Claims, decided without a hearing, ignoring all of Appellant's pleadings without explanation, and Appellant does not understand why their decision has been upheld in all subsequent state forums, including the Federal Northern District of Illinois, Eastern Division. U.S. Const. amend. V, cl. 4 and Ill. Const. art. I, § 2 (due process). Appellees have also argued Appellant is litigious, but this is no crime. All people have a right to petition the Government for a redress of grievances. U.S. Const. amend. I, cl. 3 and Ill. Const. art. I, § 12. Appellant's grievance has not been redressed.

2. Appellant is deprived of due process as a result of the proceeding in the Western Division, Northern District of Illinois. There, there is evidence of nepotism and bias. Two involved judges could have recused. The Honorable Judge Iain D. Johnston shares the same last name as an attorney of record representing the State of Illinois, and the Honorable Magistrate Judge Lisa A. Jensen was solicited by Appellant when she was a lawyer, when Appellant sought counsel for his case.

Judge Jensen chose to not represent him. Attorney Appearance Form, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 9; Plaintiff's Motion to Recuse, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 25; Motion for Change of Venue at 2, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 38. Appellant states this argument as it is evidence of a miscarriage of justice, and the proper remedy is change of venue to the Western Division of Wisconsin.

3. Appellant was deprived of due process by the Eastern Division, Northern District of Illinois, when the judge there held a highly partial *ex parte* proceeding, not even requiring the appearance of defense counsel. Lush v. Mandell, No. 1:10-cv-04711 (December 14, 2010). That honorable judge wantonly decided to apply the statute of limitations without carefully considering the doctrine of equitable tolling, which should have been used based on Appellant's inability to litigate the case and disability. The judge there refused even a basic psychiatric examination to evaluate its possibility. Plaintiff's Amended Complaint, Lush v. Mandell, No. 1:10-cv-04711 (December 14, 2010), ECF No. 16.

4. Appellant is deprived of due process by the court by it not granting his motion for appointment of counsel. Plaintiff's Motion for

Appointment of Counsel, Lush v. Bd. Trs. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 20. Appellant is disabled and indigent, so he needs counsel. To elaborate, (although Appellant intends no appeal to pity):

Appellant receives Social Security Disability, Department of Veterans Affairs disability, food stamp benefits, Medicare, has been granted a release from public student loans for the mental disability, and lives in Federally funded public subsidized housing provided by his city. He also suffers from schizophrenia, degenerative disc disease, manifesting as arthritis throughout his spine, major depression, tendonitis in both wrists, torn tendon in a knee, occasional peripheral neuropathy due to a pinched nerve in his neck, and some loss of hearing in his left ear. In all this, he is also self-employed, attempting to work full-time, and the devotion of his talents to both this case and a demanding job, given he has been granted *in forma pauperis* status (Application at 1, Lush v. Bd. Trus. N. Ill. Univ., No. 3:20-cv-50421, ECF No. 3) and waiver of PACER fees (Request for Waiver of PACER Fees, Lush v. Bd. Trus. N. Ill. Univ, No. 21-1394 (7th Cir. April 11, 2022), ECF No.

16), gives a strong possibility he may not receive justice without counsel.

He has sought counsel, and none would represent him. One attorney in Wisconsin considered the case, and would not represent him. Also, it is a well-known maxim that one who represents himself in court has a fool for a client.

5. One appellee is the State of Illinois, so Appellant is more than rightfully justified in a request for a change of venue to the Western District of Wisconsin, to avoid any state-by-state bias. Motion for Change of Venue, *Lush v. Bd. Trs. N. Ill. Univ.*, Case No. 21-1394 (7th Cir. April 11, 2022), ECF No. 38. This motion for change of venue has been denied without reasoning, although this would have cured the hostility met in the Northern District of Illinois. The unfairness in the Land of Lincoln is grossly abundant. Appellant's complaint has never been considered in the best light, i.e. assuming the facts as true. His motions, filings and calls for a hearing were repeatedly ignored in *Lush v. N. Ill. Univ. Col. L.*, Case No. 07CC0032 (Ill. Ct. Cl. May 20, 2010) (Jann, J.). Plaintiff's Exhibit B, *Lush v. Bd. Trs. N. Ill. Univ.*, Case No. 3:20-cv-50421, ECF Nos. 15-3; Plaintiff's Exhibit E at 3-4, *Lush v. Bd.*

Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 15-6; Plaintiff's Exhibit F, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 15-7. The aggrieved party lives in Wisconsin, so change of venue is still available to the Seventh Circuit in lieu of stay. 28 U.S.C. § 1404.

6. There is ongoing discrimination, because Appellant is still deprived of property and liberty for discriminatory behavior by the Board of Trustees of Northern Illinois University toward Appellee, under color of state law. 42 U.S.C. § 1983. There is no statute of limitations according to a case in the Tenth Circuit, therefore this is still an active case. *See Hamer v. City of Trinidad*, 924 F.3d 1093, 59 NDLR P 79 (10th Cir. 2019) (Carson, J.), *cert. denied*, *City of Trinidad v. Hamer*, 140 S.Ct. 644, 205 L.Ed.2d 386 (2019) (continuing violation doctrine). The Appellant has not received remedy, therefore there is a continuing violation of the Americans with Disabilities Act and Equal Protection Clause, Appellees' argument of mootness is without merit. Complaint, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 1; Plaintiff's Amended Complaint, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 16. Board of Trustees of Northern Illinois University denies readmission, which it may, and that itself is

not now contested, but it also maintains Appellant not in good standing on Appellant's academic transcript, thus he is forever penalized in applications for admission to other law schools, then bar associations. Defendant's Exhibit at 34, *Lush v. Mandell*, No. 1:10-cv-04711 (December 14, 2010), ECF No. 1-4. Appellant avers there is no right to be an attorney, just as no person has a right to any job, however it is a respectable profession, which all should be welcome to have a chance to enter, regardless of disability, and thus it would be just to give Appellant liberty to freely apply elsewhere. ". . .Life, Liberty, and the pursuit of Happiness." Thomas Jefferson, *Declaration of Independence*, <https://www.archives.gov/founding-docs/declaration-transcript>, para. 2.

7. The Seventh Circuit's opinion is based on the undisputed fact that Appellant dismissed his own case. Opinion, *Lush v. Bd. Trus. N. Ill. Univ*, No. 21-1394 (7th Cir. April 11, 2022), ECF No. 43. This is true, but if it is indeed Appellant's case, then it begs the question, "Why cannot he undismis it?" The ink may be dry, the die cast, whatever the refutation, but it is still within the court's power to grant him representation and/or change the venue to the Western District of Wisconsin. Furthermore, if Appellant was appointed a lawyer by the

Northern District of Illinois, Western Division, after he sought for one substantially and repeatedly, and demonstrated such to the judge there, the dismissal would never have occurred – it would have saved him. Plaintiff's Exhibit at 22-26, 37-40, 66-71, Lush v. Mandell, No. 1:10-cv-04711, ECF No. 1-2.

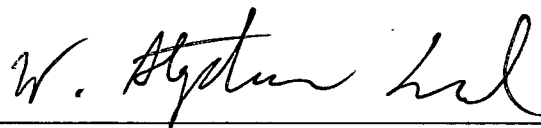
8. Noting all the above, no venue or any court in the land has given him a jury trial by his peers. Defendant's Exhibit G at 2, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 6-8. *See* U.S. Const. amend. VII and Ill. Const. art. I, § 12. It is inherently unjust that Appellant has never been granted a trial by a jury because the primary defendant is a law school. Judges are likely to favor a legal institution in any court proceeding because they benefit from the labor force of new court clerks, so a jury of people who are not associated with the law is the only way to guarantee a fair proceeding. This is evident in Appellant's pleadings with the Illinois Court of Claims, and all subsequent courts, none of which granted a jury trial, although such was demanded. Plaintiff's Amended Complaint at 8, Lush v. Bd. Trs. N. Ill. Univ., ECF No. 16; Civil Cover Sheet at 1, Lush v. Bd. Trs. N. Ill. Univ., Case No. 3:20-cv-50421, ECF No. 2; Complaint at 4, Lush v.

Mandell, Case No. 1:10-cv-04711, ECF No. 1; Civil Cover Sheet at 1,
Lush v. Mandell, Case No. 1:10-cv-04711, ECF No. 2.

For the above issues, Appellant asks the Seventh Circuit for stay pending appeal. Appellant makes this motion in accordance with U.S. Sup. Ct. R. 23(3). Based on the date of the judgment and mandate, appeal must be filed by June 27, 2022.

This motion complies with Fed. R. Civ. P. 27(d)(2), as it is only eleven pages.

Respectfully submitted.



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