No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Christina McLaughlin — PETITIONER
(Your Name) (Pro Se)

VS.

FIU et. Al. — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis.*

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Southern District of FC, 11th Circuit Court of Appeals

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____
_____, or

☐ a copy of the order of appointment is appended.

C. McLa

(Signature)

AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, Christina McLaughlin, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	**Average monthly amount during the past 12 months**		**Amount expected next month**	
	You	Spouse	You	Spouse
Employment	$ 0	$ N/A	$ 0	$ N/A
Self-employment	$ 0	$ N/A	$ 0	$ N/A
Income from real property (such as rental income)	$ 0	$ N/A	$ 0	$ N/A
Interest and dividends	$ 0	$ N/A	$ 0	$ N/A
Gifts	$ 0	$ N/A	$ 0	$ N/A
Alimony	$ 0	$ N/A	$ 0	$ N/A
Child Support	$ 0	$ N/A	$ 0	$ N/A
Retirement (such as social security, pensions, annuities, insurance)	$ 0	$ N/A	$ 0	$ N/A
Disability (such as social security, insurance payments)	$ 0	$ N/A	$ 0	$ N/A
Unemployment payments	$ 0	$ N/A	$ 0	$ N/A
Public-assistance (such as welfare)	$ 0	$ N/A	$ 0	$ N/A
Other (specify): _____	$ 0	$ N/A	$ 0	$ N/A
Total monthly income:	$ 0	$ N/A	$ 0	$ N/A

	You	Your spouse
Transportation (not including motor vehicle payments)	$ 0	$ N/A
Recreation, entertainment, newspapers, magazines, etc.	$ 0	$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	$ 0	$ N/A
Life	$ 0	$ N/A
Health	$ 0	$ N/A
Motor Vehicle	$ 0	$ N/A
Other: _____	$ 0	$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	$ 0	$ N/A
Installment payments		
Motor Vehicle	$ 0	$ N/A
Credit card(s)	$ 0	$ N/A
Department store(s)	$ 0	$ N/A
Other: _____	$ 0	$ N/A
Alimony, maintenance, and support paid to others	$ 0	$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	$ 0	$ N/A
Other (specify): _____	$ 0	$ N/A
Total monthly expenses:	$ 0	$ N/A

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
N/A	$ N/A	$ N/A
N/A	$ N/A	$ N/A
N/A	$ N/A	$ N/A

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
N/A	N/A	N/A
N/A	N/A	N/A
N/A	N/A	N/A

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home) Are real estate taxes included? ☐ Yes ☐ No Is property insurance included? ☐ Yes ☐ No	$ 0	$ N/A
Utilities (electricity, heating fuel, water, sewer, and telephone)	$ 0	$ N/A
Home maintenance (repairs and upkeep)	$ 0	$ N/A
Food	$ 0	$ N/A
Clothing	$ 0	$ N/A
Laundry and dry-cleaning	$ 0	$ N/A
Medical and dental expenses	$ 0	$ N/A

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? N/A

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? N/A

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 09/08, 2022

BEFORE ME IN COLLIER COUNTY, FLORIDA

(Signature)

Notary Public State of Florida
Frederic J Shore
My Commission HH 052972
Expires 11/18/2024

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Christina M. McLaughlin — PETITIONER
(Your Name)

vs.

FL Int'l Univ. et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

11th Cir. Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Christina McLaughlin
(Your Name)

10661 Airport Pulling Rd. Suite 9
(Address)

Naples, FL 34109
(City, State, Zip Code)

(239) 896-4139
(Phone Number)

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

Christina McLaughlin *Plaintiff/Petitioner*	)	
v.	)	Civil Action No. 1:20cv22942
FL International University Et. Al. *Defendant/Respondent*	)	

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: _____. If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:
Unemployed

My gross pay or wages are: $ 0.00, and my take-home pay or wages are: $ 0.00 per *(specify pay period)* N/A.

3. *Other Income.* In the past 12 months, I have received income from the following sources *(check all that apply)*:

(a) Business, profession, or other self-employment	☐ Yes	☑ No
(b) Rent payments, interest, or dividends	☐ Yes	☑ No
(c) Pension, annuity, or life insurance payments	☐ Yes	☑ No
(d) Disability, or worker's compensation payments	☐ Yes	☑ No
(e) Gifts, or inheritances	☑ Yes	☐ No
(f) Any other sources	☐ Yes	☑ No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.
In the past I received $5000 check for graduation.
I do not expect any future gifts or sources of money at this time.

4. Amount of money that I have in cash or in a checking or savings account: $ 415.00 .

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:
Honda Accord 2015: $8000

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:
None

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:
None

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:
Student Loan Debts of more than $100,000. Payment begins January 2021.

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: 10/14/2020

C. McLaughlin
Applicant's signature

Christy McLaughlin
Printed name

Motion for Permission to

Appeal In Forma Pauperis and Affidavit

United States Court of Appeals for the Eleventh Circuit

Christina McLaughlin

v.

Florida International University, et al

Court of Appeals No. _____

District Court No. 1:20cv22942

Instructions: Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Date: 04/28/2021 Signed: C. McLaughlin

1. ***My issues on appeal are:*** The Omnibus Order, D.E. #64, entered by Chief Judge K Michael Moore on April 12, 2021 granting Defendants' Motion to Dismiss amended complaint with prejudice, Omnibus Order is final and dispositive, appeal is a matter of right.

Rev.: 6/18

2. *For both you and your spouse, estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income Source	**Average monthly amount during the past 12 months**		**Amount expected next month**	
	You	Spouse	You	Spouse
Employment	$ 0	$ N/A	$ 0	$ N/A
Self-employment	$ 300	$ N/A	$ 0	$ N/A
Income from real property (such as rental income)	$ 0	$ N/A	$ 0	$ N/A
Interests and dividends	$ 0	$ N/A	$ 0	$ N/A
Gifts	$ 0	$ N/A	$ 0	$ N/A
Alimony	$ 0	$ N/A	$ 0	$ N/A
Child support	$ 0	$ N/A	$ 0	$ N/A
Retirement (such as Social Security, pensions, annuities, insurance)	$ 0	$ N/A	$ 0	$ N/A
Disability (such as Social Security, insurance payments)	$ 0	$ N/A	$ 0	$ N/A
Unemployment payments	$ 0	$ N/A	$ 0	$ N/A
Public-assistance (such as welfare)	$ 0	$ N/A	$ 0	$ N/A
Other (specify): _____	$ 0	$ N/A	$ 0	$ N/A
Total monthly income:	$ 0	$ N/A	$ 0	$ N/A

3. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	**Address**	**Dates of Employment**	**Gross Monthly Pay**
Congressman Mario Diaz-Balart	Canon Building, Washington DC Office 404	June 2019 to July 2019	1400.00

4. *List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

N/A			

5. *How much cash do you and your spouse have?* $ 100

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
Suncoast Credit Union	Checking/Savings	$1054.84	$N/A
		$	$
		$	$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

6. *List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.*

Home (Value)	Other Real Estate (Value)	Motor Vehicle #1 (Value)
		Make & Year: Honda 2011
		Model: Accord
		Registration #: 1HGCP3f83BA026484

Other Assets (Value)	Other Assets (Value)	Motor Vehicle #2 (Value)
		Make & Year
		Model:
		Registration #:

7. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse

8. *State the persons who rely on you or your spouse for support.*

Name [or, if under 18, initials only]	**Relationship**	**Age**

9. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	**Your Spouse**
For home-mortgage payment (include lot rented for mobile home)	$ 0	$ N/A
Are real-estate taxes included? ☐ Yes ■ No	$ 0	$ N/A
Is property insurance included? ☐ Yes ☐ No	$ 0	$ N/A
Utilities (electricity, heating fuel, water, sewer, and telephone)	$ 0	$ N/A
Home maintenance (repairs and upkeep)	$ 0	$ N/A
Food	$ 200	$ N/A
Clothing	$ 50	$ N/A
Laundry and dry-cleaning	$ 0	$ N/A
Medical and dental expenses	$ 0	$ N/A
Transportation (not including motor vehicle payments)	$ 50	$ N/A
Recreation, entertainment, newspapers, magazines, etc.	$ 0	$ N/A
Insurance (not deducted from wages or included in mortgage payments)	$ 0	$ N/A
Homeowner's or renter's	$ 0	$ N/A
Life	$ 0	$ N/A
Health	$ 0	$ N/A
Motor Vehicle	$ 0	$ N/A
Other: _____	$ 0	$ N/A
Taxes (not deducted from wages or included in mortgage payments) (specify): _____	$ 0	$ N/A
Installment payments	$ 0	$ N/A
Motor Vehicle	$ 0	$ N/A
Credit card (name): _____	$ 0	$ N/A
Department store (name): _____	$ 0	$ N/A
Other: _____	$ 0	$ N/A

Alimony, maintenance, and support paid to others	$ 0	$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	$ 0	$ N/A
Other (specify): _____	$ 0	$ N/A
Total monthly expenses	$ 300.00	$ N/A

10. *Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?*

☐ Yes ■ No If yes, describe on an attached sheet.

11. *Have you spent – or will you be spending – any money for expenses or attorney fees in connection with this lawsuit?*

☐ Yes ■ No If yes, how much: $ _____

12. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

I owe more than $150,000 in student loan debt that monthly payments are soon to be required.

13. *State the city and state of your legal residence.* Naples, Florida

Your daytime phone number: (239) 896-4139

Your age: 25 Your years of schooling: 4 years Bachelors; 3 years law school

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Christina M. McLaughlin — PETITIONER
(Your Name)

VS.

FL. Int'l Univ. et al — RESPONDENT(S)

PROOF OF SERVICE

I, Christina McLaughlin, do swear or declare that on this date, September 09, 2022, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

PLEASE REFER TO SERVICE LIST ON PETITION
U.S. ATTORNEY'S OFFICE SOUTHERN DISTRICT OF FLORIDA
MARRERO AND WYDICK, 2600 DOUGLAS ROAD PH 4
CORAL GABLES, FL 33134

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 09, 2022

C. McLaughlin
(Signature)

SUPREME COURT OF THE UNITED STATES

Christina M. McLaughlin
Petitioner
vs.
FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES;
CLAUDIA PUIG, Chair of FIU Board of Trustees, In her official capacity;
MARK B. ROSENBERG, President of Florida International University- In his official capacity;
R. ALEX ACOSTA, Dean of the FIU College of Law 2009-2017, In his official capacity;
TAWIA BAIDOE ANSAH, Interim Dean FIU Law 2017, In his official capacity;
JOYCELYN BROWN, FIU Adjunct Professor of Law 2016-2017, In her official capacity;
HOWARD WASSERMAN, FIU Professor of Law, In his official capacity and personally;
ROSARIO L. SCHRIER aka Lozada, FIU Professor of Law, In her official capacity;
THOMAS E. BAKER, FIU Professor of Law, In his official capacity;
SCOTT F. NORBERG, FIU Professor of Law, In his official capacity;
NOAH WEISBORD; FIU Associate Professor of Law 2016-2017, In his official capacity;
MARCY ROSENTHAL, Assistant Dean of Academic Affairs, In her official capacity;
THE BOARD OF GOVERNORS FOR THE STATE UNIVERSITY SYSTEM OF FLORIDA;
NED C. LAUDENBACH, Chair of Florida Board of Governors of State University System, In his official capacity;
IRIS ELIJAH, Assistant Counsel Florida Board of Governor, In her official capacity;
UNITED STATES DEPARTMENT OF EDUCATION;
ELIZABETH D. DEVOS, Secretary U.S. Dept. of Education, In her official capacity;
Respondents

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

I. Questions Presented

1. Where Florida International University (FIU) has admitted that it has provided no pre-deprivation notice or process to the Petitioner, an academically dismissed law student and codified that lack of process into the school's regulations and the Court of Appeals has completely ignored such flagrant contempt for the well-settled *Ewing/Horowitz* standard, is this instant case so far departed from justice that this Court is required to exercise its supervisory powers?

2. As a matter of great public importance, the 11th Circuit has conflicting holdings concerning whether college students have a legitimate claim of entitlement to continued enrollment, in this case is the Court required to settle whether the Petitioner has any protection against governmental arbitrary deprivation under the U.S. Constitution?

3. Where the Petitioner, a law student has pled sufficient, detailed, verified, sworn allegations that a state law school and its governing board have politically targeted her by using non-academic standards, fraudulent grades, and a constitutional deficient dismissal in an effort to infringe the exercise of her conservative disfavored political participation and quash her career opportunity as a conservative lawyer, can the courts continue to protect colleges and universities with that "special niche" of academic discretion?

4. Does it shock the courts' conscience that the U.S. Department of Education (DOE) defies FERPA's legislative intent and invents policies without authority to maliciously withhold a findings letter for more than four years because the DOE weaponized FERPA to discriminate against the Petitioner's conservative First Amendment protected political viewpoint; collude with the college in a political retaliation; and protect that same radical leftist law school from bad publicity?

II. Table of Contents

III. Table of Authorities

Cases

Statutes

Other Authorities

IV. Petition for Writ of Certiorari

Christina McLaughlin, Petitioner, now appears Pro Se and in forma pauperis, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

V. Opinions Below

The opinion of the U.S Court of Appeals is unpublished No. 21-11453, affirming United States District Court- Southern District Omnibus Order 533 F.Supp.3d. 1149 (U.S. Dist. Ct., S.D. FL. 2021) granting the Respondents First Motion to Dismiss with Prejudice.

VI. Jurisdiction

The final judgment of the court of appeals was entered on June 14, 2022. The Court of Appeal's opinion was issued on April 22, 2022. The judgment form was ordered, adjudged and decreed final on June 14, 2022. The judgment form states that the April 22, 2022 opinion is the date of issuance not the entry date. Appx. C. The 11th Circuit Court of Appeals backdated the entry date to the opinion issuance date in error. The Petition for Writ of Certiorari is timely and properly filed under SCOTUS Rule 13 (Review on Certiorari: Time for Petitioning), within 90 days of entry of the final order and not the date of the opinion issuance. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

VII. Constitutional Provisions Provided

The First Amendment to the United States Constitution recognized the "right to free speech" and that "Congress shall make no law . . . abridging the freedom of speech." The Fourteenth Amendment states, that "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." My free speech liberty interests were abridged by the state of Florida through FIU Law and the Florida Board of Governors. This case centers on violations of my constitutional right to free speech from my state and the DOE galvanizing the actions of the state of Florida.

VIII. Statement of the Case

During the 2016-2017 academic year, FIU College of Law was a political madrassah masquerading as a law school. FIU Law's classroom time was routinely and zealously used for anti-Trump political indoctrination. Prof. Baker (Constitutional Law) starred in a skit portraying Trump supporters as mentally "retarded" and Nazi sympathizers. Prof. Weisbord (International Law) frequently claimed that President Trump's "Muslim Ban" is justified cause for his arrest and trial by an International tribunal for crimes against humanity. Prof. Schrier (Legal Research and Writing I) routinely campaigned for Hillary Clinton before the election and bashed President Trump post-election. Prof. Wasserman (Civil Procedure) used his class to undermine all of Trump's policies by reading his political blogs out-loud.

Constant anti-Trump demonstrations and discussions went on throughout my 1L year reaching a feverish pitch by May 2017. FIU Law employed a form of legal Lysenkoism, in which legal principles were distorted and manipulated to reach the pre-determined political objective that President Trump was evil and his policies unlawful.

FIU's educational environment was hostile to my political beliefs. As a politically active, conservative 1L student, I personally, felt oppressed and intimidated on-campus. I never expressed my conservative political viewpoint anywhere on the campus or classroom for fear of discrimination and retaliation. FIU's unrelenting vitriol against conservative political ideology had a suppressive and chilling effect on my political viewpoint expression including wardrobe decisions such as inhibiting my desire to wear a Trump campaign T-shirt. However, off-campus, I was openly and actively campaigning for and supporting Trump and several other Republicans. I published extensively on my social media. I believe that FIU Law targeted me not simply because I was a conservative Republican but because I was an active participant in the political process and they singled me out as responsible, in part, for Trump defeating Clinton. As a student, I was the easy and available political victim to vent their anger.

Furthermore, standard law school grading is blind and neutral. I confidently believed that my off-campus political activity was personal and should have no effect on my law school career. Therefore, any off-campus disfavored political campaigning should not have any impact on grades. That was my assumption until, spring

semester 2017, when Prof. Joycelyn Brown (Legal Research and Writing II) made a personal, random, unprovoked attack and confronting my support of President Trump. She stated that my support of President Trump was "immoral." This shocking statement was made during an assignment grade review session at which time she told me that she had not applied the assignment rubric, but scored every category low because she didn't "like my style." Clearly, Prof. Brown (likely other FIU faculty) had stalked my social media and was aware of my conservative political beliefs because I had never expressed any political viewpoint to Prof. Brown or anywhere on FIU campus. Prof. Brown admitted to me directly that her grading is not based on objective grading but was colored by her disapproval of my political viewpoint. Her raising my political beliefs during an assignment grading review was a strong inference that she was biased against me and that she retaliated against me by using impermissible non-academic standards.

After Prof. Brown called me out as "immoral," other FIU actions became suspect for bias. FIU Law had refused to allow me to sign up for fall classes before final exams were even administered. FIU Law refused to give me assistance in obtaining a summer clerkship. I acquired an internship on my own, and FIU Law, administrators, staff and faculty, would not respond to emails, voicemail messages or in person questions on how I could receive credit over the summer for my internship. FIU faculty would not recognize any attempts at in class participation. FIU, universally, froze me out, i.e. I was cancelled before "Cancel Culture" became a well-

known retaliation tactic. All of FIU's actions support the inference that I was no longer welcome at FIU long before final exams was administered.

There will be no dispute that **I WAS IN GOOD ACADEMIC STANDING UNTIL THE MOMENT I RECEIVED A FINAL ACADEMIC DISMISSAL.** I never failed a class. I received credit for all my courses for the entire 1L year. I was never on academic probation or remediation. A G.P.A of 2.2 was recorded on my transcript at the end of the 1L Fall semester. According to the FIU College of Law Academic Policies and Regulations (FIU Regulations) students with GPA below 2.0 at the end of the Fall semester were placed in remediation. In the spring semester of 2017 approximately 45 students were placed in remediation. I was not. The remedial students were placed on notice of poor academic performance and possible academic expulsion. Remedial students received tutoring; one less substantive class; one class graded Pass/Fail and have their GPAs segregated from the rest of the 1Ls; giving them an intentional advantage to raise their GPAs and avoid academic dismissals. FIU Regulations do not permit any discretion to include students with GPAs ABOVE 2.0 for remediation. However, at the end of the spring semester, I discovered that FIU Law permitted several students with GPAs above 2.0 to receive all the advantages of remediation and cut off that benefit at my ranking. I allege that FIU cut off the benefit of remediation at my ranking to place me at higher risk for possible academic dismissal. That deviation from the written FIU Regulation is not trivial academic discretion. I was treated disparately and intentionally disfavored from the students with GPAs above 2.0. I allege that FIU law professors manufactured my

fall semester GPA to purposely disadvantage me. I believe that disparate treatment was one of the many political discriminatory actions FIU took to ensure a "bad faith" academic dismissal. These clearly pled facts form the basis of a Fourteenth Amendment Equal Protection violation because FIU intentionally placed me at the highest-risk for dismissal to suppress my conservative political ideology as a member of the lawyer community.

Additionally, FIU Law bumped down the final Contracts grade one-half letter grade without notice or explanation. FIU Law may have intentionally not recorded proper credit for the completion of Casebook Plus assignments or at least have made a clerical error or mis-recording of the educational records. That half-letter grade bump down alone, was the difference between a 1.98 GPA or 2.00 GPA or more importantly, the difference between an academic dismissal or promotion to the 2L year. FIU failed to respond to my email requests that my CaseBook Plus Assignment had been properly recorded. FIU Law, at least, showed careless disregard to properly monitor and record completed assignments. Or, FIU, intentionally mis-recorded the Casebook Plus assignment to manufacture a fraudulent dismissal. I have properly pled that FIU Law dismissal was based on non-academic standards. FIU, likely coordinated by Prof. Wasserman (acting head of faculty) un-blinded final exam results for both Fall and Spring semesters and then mis-recorded or intentionally tampered with final exam grading. FIU intended to prevent me from ever becoming a lawyer that would effectively challenge their leftist, Neo-Marxist political policies.

pre-deprivation decision-making. Appx. E. p.124a. A favorable decision for readmission can only result in repeating the 1L year. Appx. E p.124a. FIU Regulations state that the standard for readmission as "a **strong presumption against readmission** and the Committee shall not grant readmission except under the most compelling and extraordinary circumstances." Appx. E .p. 124a. Therefore, the ***Post***-deprivation process is constitutionally inadequate because it cannot remedy the dismissal.

FIU admits and does not dispute that Prof. Wasserman chaired my readmission application and subsequently denied it. Again, I allege that Prof. Wasserman is one of the principal architects of my unlawful, bad faith dismissal. My petition for readmission included a concern that Prof. Brown's grade may have been based on non-academic standards. Prof. Wasserman stated that a grade review is "not my jurisdiction." He would not entertain any discussion that the GPA may not be accurate. The Academic Review Committee did not present or discuss any measures of academic performance. I was denied access to my educational records and denied the assistance of counsel for the only opportunity to contest the academic dismissal and potentially gain readmission. FIU never provided any guidance or information concerning grade reviews or any other appeals process for a final academic dismissal. After one 25 minute adversarial, contentious meeting, with no opportunity to review my educational records, no possible manner in which to meet the elevated burden of "compelling and extraordinary circumstances" and the very unlikely possibility of overcoming a "strong presumption against readmission" my career at FIU Law was

over. On June 2, 2017, I was denied readmission to FIU. All my 1L credits were extinguished. There was no possibility of transferring any credits to another law school and entering as a 2L. My only recourse was to gain acceptance to another law school as a 1L again which only happens in the rarest of circumstances. I was branded a failed law student that was deemed unable to successfully complete law school.[1]

As of June 2, 2017, I was no longer a matriculated student with no other recourse to appeal the academic dismissal. Given the disparate treatment I received by FIU law, I was determined to investigate whether my academic dismissal was accurate and merited. Although, FIU failed to provide FERPA notice that is reasonably likely to inform FIU Law students of their rights violating 34 CFR 99.7, I requested my educational records through my attorney on June 16, 2017. FIU then failed to provide access to my educational records within 45 (forty-five) days in violation of 34 CFR 99.10(b). I notified FIU that I believed my educational records i.e. transcript were misleading and inaccurate. FIU failed to provide a FERPA hearing pursuant to 34 CFR 99.20(c), requiring a neutral hearing if the student believes that her educational records are inaccurate or misleading. FIU refused to investigate my concerns. And therefore, FIU failed to allow me to place a statement on my educational record pursuant to 34 CFR 99.21. FIU denied me the assistance of counsel violating Florida's FERPA Stat. 1002.225. I allege that FIU never had any intention of

[1] Because, of my extreme determination to study law and the grace of God, I was accepted to another law school as a 1L and repeated all the credits that I had passed before.

The DOE claims that the complaint is still "under investigation." The DOE has not stated one fact that would support that statement. I have successfully argued that excuse is a complete sham with no possible basis in fact given the specifics of the FERPA violations. Furthermore, the DOE has not made a single communication concerning this complaint or communicated any additional efforts towards completing any investigation for the past four years. I have properly pled that the DOE has purposely buried and stifled my legitimate FERPA complaints to discriminate and retaliate against me. Those reasons include but are not limited to the intent to damage a conservative, Trump-supporting student's good name and reputation; the intent to damage my future employment and career opportunities as a conservative lawyer; the intent to cover-up an educational institution's abuse of power by disregarding procedural due process rights; the intent to infringe my freedom of political speech which exposes the educational institution and DOE's successful weaponization of FERPA against political opponents.

The DOE has flagrantly disregarded its statutory mandate that the agency "***shall***" take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter . . ." *See* 20 U.S.C. § 1232g(f)(emphasis added). It is egregious that the DOE maliciously breaches their duty toward certain students and the student has no right to relief. The agency disregarded its own Inspector General Report that stated that delays of more than six months cause material harm to students. Inspector General Report in 2018. Complaint Exhibit 51. The agency has ignored the FPCO Director's "Good Practices" policy statement that

39866 which clearly states that "It is intended only that there be procedures to challenge the accuracy of institutional records which record the grade which was actually given. Thus, the parents or student could seek to correct an improperly recorded grade." The DOE ignored *See Tarka v. Cunningham*, 917 F.2d 890, 892 (5th Cir. 1990)(FERPA permits students to contest ministerial or mathematical grading errors). DOE OIG Report states that FERPA enforcement does indeed include incorrect or mis-recorded ***grades***. *See* DE #10 (Exhibit #52).

The DOE admits that "FERPA prohibits federal funding of educational agencies or institutions that have a **policy of denying**, or which **effectively prevent**. . . students in attendance at the educational institutions the right to inspect and review education records. . . *See* 20 U.S.C. § 1232g(a)(1)(A)." F.A. Br. at 2. FIU effectively prevented Ms. McLaughlin from inspecting and reviewing her records that she may determine if they were accurate within the statutory time-limit and still have not provided access to the material educational records which would support a records correction. The DOE also admits that "FERPA also prohibits federal funding under programs administered by the DOE unless the educational agency or institution provides an opportunity for a hearing where the parents or eligible student may challenge the content of the student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein[.]" 20 U.S.C. § 1232g(a)(2)." (F.A.Br. at 3). FIU has admitted that they exceeded the 45 day

limit to allow review of her educational records. There can be no dispute that FIU denied Ms. McLaughlin the opportunity for a FERPA hearing and denied her the opportunity to correct her records. The DOE omitted from this court that the agency ***"shall"*** take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter . . ." *See* 20 U.S.C. § 1232g(f)(emphasis added). *See Sabow v. US*, 93 F.3d 1445, 1452-53(9th Cir. 1996) (legislative directive is determined by terms such as "shall"). The DOE has kept this information from the student and the public for four years. The DOE disregards the ***"shall"*** language to take appropriate action to enforce FERPA because it has taken no action. *See Vickers v. U.S.*, 228 F.3d 944 (9th Cir. 2000)(The discretionary function exception protects agency decisions concerning the scope and manner in which it conducts an investigation so long as the agency does not violate a mandatory directive.) The Appellant argues that issuing a finding letter is a "mandatory directive" and that the DOE conducted its investigation in 2018 and having found it unfavorable to FIU, buried the finding letter for the past four years. With no other recourse, I sought relief in federal court.

IX. REASONS FOR GRANTING THE WRIT

Introduction:

This Court has "presumed without deciding" that academically dismissed college students have a state created substantive property right that is protected by the procedural due process clause of the Fourteenth Amendment. *Regents of the Univ.*

of Mich. v. Ewing, 474 U.S. 214, 225 (1985). In the absence of clearly deciding whether a student has a legitimate claim of entitlement to continued enrollment, the Court has created the possibility of the legal travesty where I, a 2016 Florida law student, in good academic standing, was academically dismissed without receiving any pre-deprivation notice or process at all. FIU plainly admits to the 11th Circuit court that I am not **"entitled to no more process than "notice via academic regulations"**. .Appx. D. p. 91a. FIU does not dispute that I never received any communication at all of poor academic performance. FIU does not dispute that I was never placed in remediation or academic probation and never given a pre-deprivation opportunity to dispute or object. FIU claims that a post-deprivation meeting called a "Petition-for-**Readmission**" that maintain the academic dismissal as final, permanent and without any chance of reversing as a meeting that satisfies the well-settled standard under Ewing/Horowitz. This clearly constitutionally deficient academic dismissal is codified in FIU Law's "Academic Policy and Regulations" has been maintained and sanctioned by FIU and their law experts for decades.

The court of appeals erred, as a matter of law, by affirming the district court's decision that I have ***NO*** legitimate claim of entitlement to continued college enrollment and thereby, have no right to procedural due process for the following reasons:

A. **The court of appeals' blindness to FIU's admission denying the petitioner any pre-deprivation notice or process in an academic dismissal is so far departed from justice that it requires this Court to exercise its supervisory powers.**

FIU plainly and brazenly admits that no pre-deprivation notice or any pre-deprivation process was provided in my final academic dismissal from law school. FIU plainly states that I was "entitled to no more process than "notice via academic regulations". . . Appx. C. p. 21 (emphasis added). It is well established that an academically dismissed state college student must at least receive pre-deprivation notice of unsatisfactory academic performance and a pre-deprivation process that is careful and deliberate. *Bd. of Curators of Univ. of Mo. v. Horowitz,* 435 U.S. 78, 86 (1978); *Ewing* at 225 n. 11. FIU does not dispute that I received no pre-deprivation communication of unsatisfactory academic performance. FIU does not dispute that I never received any pre-deprivation informal hearing or meeting before receiving a final academic dismissal. FIU states that I am not "**entitled**" to any pre-deprivation notice nor any process at all except to read the school handbook.

FIU Law Regulations state that students with poor academic performance are placed in a remedial program after the first semester. FIU never placed me in any remedial program. I never failed a class. I never had a GPA below 2.0. Therefore, FIU's "academic regulations" placed me on notice of ***satisfactory*** academic performance without peril of dismissal throughout my 1L year until the moment I received a final academic dismissal. Even if the *Ewing/Horowitz* standard is taken in a light most favorable to FIU and the court applies the most generous interpretation that allows a law school to academically dismiss a student by notice using only a policies handbook, FIU Regulations placed me on notice of satisfactory performance. Therefore, FIU's claim that I am on notice of academic dismissal and

had any kind of a pre-deprivation process "via academic regulations" is soundly defeated.

FIU, then, states that a post-deprivation meeting called "Petition for Readmission," which does not permit any possibility of promotion or reversing the dismissal satisfies a constitutionally adequate process. Appx. E. p. 124a. The "Petition for Readmission" meeting does not include any grade discussion or educational records review. Appx. D. p. 18. The "Petition for Readmission" meeting has "a **strong presumption against readmission** and the Committee shall not grant readmission except under the most compelling and extraordinary circumstances." *Id.* "The existence of post-termination procedures is relevant to the necessary scope of pretermination procedures." *See Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 547 & n.12 (1985) (indicating that the availability of post-deprivation process is relevant to determine how much pre-deprivation process is required). However, the existence of a post-termination process does not negate the requirement for some pre-deprivation process that allows the student the opportunity to respond. *See Lambert v. Bd. of Trustees Univ. of Alabama*, 793 F.Appx. 938 (11th Cir 2019). The "Petition for Readmission" is a sham post-deprivation process and completely constitutionally deficient.

The *Ewing/Horowitz* Court requires that an academic dismissal be careful and conscientiously determined. *Ewing*, 474 at 223; *Horowitz*, 435 U.S. at 84-85 (1978). FIU was so careless that my dismissal email had two students name on it. The final academic dismissal was sent before the final grades were posted. I was denied access

to my educational records and denied the assistance of counsel. FIU's undisputed actions in this academic dismissal are "beyond the pale of reasoned academic decisionmaking." *Ewing*, 474 U.S. at 227-228. The district court showed no curiosity or interest in the nexus of facts that originated the complaint clearly pleading that my procedural due process rights were violated.

FIU Law Regulations intentionally codifies an academic dismissal process that permits an academic dismissal with no notice and without a careful and conscientious review of that decision with the student. Appx. D. FIU shows complete disregard for the risk of erroneous deprivation. FIU's flagrant disregard for any notion of procedural due process cannot be an accident. FIU Law Regulations have been in effect for more than two decades. The regulations were written, designed, and maintained by expert law professors including a former assistant attorney general for civil rights, Dean R. Alex Acosta. There is no possibility that FIU Law faculty is not knowledgeable on *Ewing/Horowitz* holdings. FIU intentionally codified an unconstitutional academic dismissal process to create a loophole through which disfavored law students are removed from FIU's student body for some bad faith, ill-will or impermissible reason i.e. In my case, politically engineer the graduating class into a more uniformly leftist ideology.

"The right to procedural due process is `absolute' in the sense that it does not depend upon the merits of a claimant's substantive assertions, and because of the importance to organized society that procedural due process be observed, we believe that the denial of procedural due process should be actionable for nominal damages

without proof of actual injury." *Carey v. Piphus*, 435 U.S. 247, 265-266 (1978). FIU admits and codifies an academic dismissal process that does not even remotely comply with the well-settled *Ewing/Horowitz* standard. It doesn't take a law degree to discern that the academic dismissal process I suffered is inherently unfair. Does the *Ewing/Horowitz* standard have any force of law? The lower courts' complete blindness to FIU's disdain of the *Ewing/Horowitz* well-established standard is so far departed from justice that it requires this Court to intervene in the interest of justice and fairness.

B. The courts' erred by determining that I definitively have no substantive property or liberty due process rights in continued college enrollment because that issue remains unsettled.

1. Since 2008, Florida law gives college students a constitutionally protected property interest in continued enrollment in a state college.

"The right to attend a public school is a state-created, rather than a fundamental, right for the purposes of substantive due process."). *See McKinney v. Pate*, 20 F.3d 1550, 1556 (11th Cir. 1994). The court erred by not applying Florida law holding that Florida state college students have a protectable property interest in their continued enrollment. *See Lankheim v. Fl. Atl. Univ. Bd. of Trustees*, 992 So.2d 828, 834 (4th DCA 2008). Although, the *Lankheim* case concerns a disciplinary dismissal, the *Lankheim* court made no distinction between academically or disciplinarily dismissed students. *Id.* The district court never mentioned or took *Lankheim* into consideration. However, in this case, the courts' failure to apply Florida law in *Lankheim* creating

a property right in continued enrollment without restrictions as to the type of dismissal is an abuse of discretion.

2. **The court of appeal's conflicting decisions concerning a legitimate claim of entitlement of continued enrollment creates confusion for college students throughout the circuit.**

In 2012, the 11th Circuit court held that state college students dismissed for disciplinary reasons **have** a "legitimate claim of entitlement to remain enrolled" based on the policy manual and written code of conduct. *Barnes v. Zaccari*, 669 F.3d 1295, 1304 (11th Cir. 2012). The *Zaccari* decision determined that the policy manuals and expectations created under color of Georgia law created a fundamental property interest that is subject to procedural due process. *Id.* In 2018, the 11th Circuit court reversed the *Zaccari* court holding and decided that Florida college students have no right to college continued enrollment and thus, no procedural due process protection. *Doe v. Valencia Coll.*, 903 F.3d 1220, 1235 (11th Cir. 2018). Both cases involved disciplinary actions and reliance on public university regulations and codes of conduct. *Id.* The *Valencia Coll.* decision did not give any rationale for the reversal nor did the court even mention the *Zaccari* decision. *Id.* In sum, Georgian students have a legitimate claim of entitlement to continued state college enrollment, but Florida students do not even though the case was determined in Federal Courts and is precedent for the entire circuit.

The Omnibus order cherry-picked *Valencia Coll.* as authority and dismisses the Circuit court's decision in *Zaccari*. Appx. B. p. 35. The Omnibus order dismisses *Zaccari* as authority because it concerns a disciplinary dismissal and failed to provide

any explanation that *Valencia Coll.* is also a disciplinary case. Appx. B. p. 36. Additionally, the court erred because the 11h Circuit court has presumed a property interest for academically dismissed students that is protected by the procedural due process clause. Since 1986, the 11th Circuit has presumed a property interest in a graduate school education in academic dismissal cases when analyzing procedural due process claims. *See Haberle v. Univ. of Ala.,* 803 F.2d 1536, 1539 (11th Cir. 1986); *Rollins v. Bd. of Trustees of Univ. of Alabama*, No. 14-14882 Footnote #1 (11th Cir 2016); *See Page v. Hicks*, No. 18-10963, 11th Cir. May 10, 2019; *Lambert v. Bd. of Trustees Univ. of Alabama*, No. 19-1062, 11th Cir. November 25, 2019. In *Page v. Hicks*, the court declined to extend a legitimate claim of entitlement to academically dismissed students but continued to presume that procedural due process right exists. *Page v. Hicks* No. 19-10621. In all of the above cases, the court relied on the university's policies and regulations to presume a property interest. Similarly, in this case, FIU is relying on its "academic regulations" to defend the constitutionality of its process.

In this case, the courts erred by applying a legal antilogy. The Circuit court's review de novo completely ignores all constitutional questions. And District court's reliance on *Valencia Coll.* (disciplinary dismissal), and rejecting *Zaccari* (disciplinary dismissal) and ignoring *Lankheim*, holding Florida state college students do have substantive due process rights, and ignoring all previous precedent presuming a property interest in continued enrollment cannot be reconciled. How are students in Florida, Georgia and Alabama to know whether the thousands of tuition dollars and

the years of investment of time and enterprise are protected from arbitrary state action through the use of nonacademic standards given the courts legal reasoning in this case?

3. **The court of appeal erred in when affirming the district court's determination that I have no right to post-secondary education, when the issue is whether state college students have a "legitimate claim of entitlement to continued enrollment" is a matter of great public importance.**

There were 19.7 million students enrolled in secondary education as of 2020. College loans total more than $1.56 trillion to more than 44.7 million borrowers. The issue of whether college students have a substantive due process right to continued enrollment that is protected by Fourteenth Amendment is a matter of great public importance. This Court's has left unsettled whether a college student has a legitimate claim of entitlement to continued enrollment. That unsettled jurisprudence left open the shocking possibility that courts would uphold and sanction an academic dismissal that clearly defies the *Ewing/Horowitz* well-settled standards. It is time that the Court settles this jurisprudence vacuum that permits the kind of unjust outcome in this case.

The Court has long held that universities occupy a "special niche" of protection. *See Sweezy v. New Hampshire*, 354 U.S. 234 (1957); *Grutter v. Bollinger*, 539 U.S. 306 (2003). The 65 year tradition that holds universities in a "special niche" has resulted in the courts' reluctance to hold schools accountable for their abuse of power when cloaked by a layer of academic discretion. The arrogance with which FIU admits to failing to provide any notice and failing to provide any pre-deprivation

process is based on their operant belief that colleges and universities have a ***right*** to academic freedom and complete autonomy in academic decisions which erects a bar against granting relief, even on Fourteenth Amendment claims. The concept of "academic freedom" and the wide protection of "educational discretion from judicial review" is nowhere stated in the constitution. Nevertheless, the strong tradition of "judicial deference" has placed the educational industrial complex beyond the reach of many student plaintiffs and has had a chilling effect on students' exercising their constitutional rights.

The wide protection afforded to colleges because of their "academic freedom" is not an absolute bar. *Id.* at 329. And the federal courts should owe no deference to universities when considering whether a public university has exceeded constitutional constraints. *Hastings Coll. of the Law v. Martinez,* 130 S. Ct. 2971, 2988 (2010). To find a favorable decision for the educational establishment, the district courts upheld FIU's admission that they intentionally provided no procedural due process because I have no right to a post-secondary education by relying on *Plyler v. Doe*, 457 U.S. 202, 221 (1982). Appx. B, p. 35. The district court was completely blind to the constitutional claims. Additionally, the Omnibus order neglected to acknowledge that "[t]he substantive component of the Due Process Clause protects those rights that are fundamental, that is, rights that are implicit in the concept of ordered liberty." *McKinney v. Pate,* 20 F.3d 1550, 1556 (11th Cir. 1994) (en banc) (internal quotation marks and citation omitted). Liberty and property interest may include specific benefits and reliance created by state college regulations and

policies that support a claim of entitlement. *See Board of Regents of State Colleges et. al. v. Roth,* 408 U.S. 564, 577 (1972); *See also Perry v. Sinderman*, 408 U.S. 593 (1972). Neither the district nor circuit court even mentioned the *Ewing/Horowitz* standards. The *Ewing/Horowitz* holdings proved are too frail to correct the imbalance of power exerted by the educational institution over students. If the Court is reluctant to expand substantive due process to college students' claim of continued enrollment then the Court should re-evaluate the "special niche" universities occupy in judicial tradition and add additional process standards that would restrain the educational establishment from freely committing the abuses routinely perpetrated by colleges with impunity.

4. **FIU's constitutionally deficient codified regulations, Florida Board of Governor's failure to investigate allegations of hostile educational environment, political discrimination and retaliation; and the DOE plain defiance of FERPA's clear legislative intent should have shocked the courts' conscience such that it rises to the level of violating substantive due process rights under the U.S. Constitution.**

This petition is about official federal and state government affirmative acts so egregious and outrageous that it should shock the conscience of the courts. The threshold conscience-shock inquiry is whether the government actions constitute an arbitrary and capricious deprivation that rises to level of a substantive due process violation. *See County of Sacramento v. Lewis*, 523 U.S. 833, 847 (1978).

I have meticulously pled, with verified, sworn exhibits, that I am the victim of discrimination and retaliation because I am a conservative, politically active law

student and the liberal educational establishment is in a proxy "war" against Trump. The following pled facts should have shocked the courts' conscience:

a. FIU's admission of defying the well-settled Ewing/Horowitz standards.

b. FIU's refusal to investigate allegations on the use of non-academic norms to determine an academic dismissal.

c. Florida BOG allowing a non-attorney to make legal constitutional determinations.

d. Florida BOG failure to investigate a student complaint concerning political discrimination and retaliation in an unlawful academic dismissal.

e. The DOE's admission of withholding a final determination letter for more than four years without explanation except a dismissive excuse of "continuing investigation."

f. The DOE's open repudiation of FERPA legislative intent in the Buckley/Pell Amendment that FERPA may be used to determine whether grades are mis-recorded or inaccurate.

Clearly, my pled facts, taken as true should have shocked the courts' conscience sufficiently to rise to a substantive due process violation and to survive a motion to dismiss.

C. Sovereign immunity is not a defense against an infringement of the fundamental right of freedom of speech and the violation due process.

It is well settled that colleges and universities cannot discriminate against a student because it holds the power to confer a degree. *Hazelwood School District v.*

Kuhlmeier, 484 U.S. 260 (1988). Additionally, *Hazelwood* does not allow retaliation against disfavored speech that occurs outside the classroom. *Id.* at 287. The Circuit court has never held that *Hazelwood* permits a public university to punish a student's expressions of opinion when the speech is not school-sponsored or does not suggest the school's approval. *Keeton v. Anderson-Wiley,* 664 F.3d 864 (11th Cir. 2011). Federal courts should interfere when limiting speech is for impermissible motives such as punishing students for political persuasion. *Id.* "Discrimination against speech because of its message is presumed to be unconstitutional." *Rosenberger v. Rector and Visitors of University of Virginia,* 515 U.S. 819, 828 (1995).

A constitutionally proper Section 1983 claim for an inadequate due process requires three elements: (1) deprivation of a constitutionally-protected liberty or property interest; (2) government action; and (3) constitutionally-inadequate process." *Cook v. Randolph County,* 573 F.3d 1143, 1148-49 (11th Cir. 2009) (quoting *Grayden v. Rhodes,* 345 F.3d 1225, 1232 (11th Cir. 2003)). I have clearly pled that FIU was a hostile educational environment that infringed my freedom of expression within the classroom. I have clearly pled that FIU, Florida BOG, and the DOE have all participated in the same effort to obstruct my career goal to become a conservative, politically-active lawyer who will oppose the leftist/Marxist agenda. The DOE's burying of my FERPA complaint was meant to cover up FIU's unlawful deprivation of my conservative political speech and make me irrelevant. The court erred by denying me the opportunity for discovery prior to dismissing for lack of subject matter jurisdiction and failure to make a claim. I argue that discovery

would negate any immunity defenses and would demonstrate First Amendment viewpoint discrimination.

D. The unlawful academic dismissal substantially and materially deprived the Petitioner of an on-going liberty interest in her good name and reputation and impaired career opportunities. Impaired

I have properly pled that FIU's unlawful academic dismissal and subsequent F.E.R.P.A. violations and the DOE's discrimination based on my political affiliation has and will have a lasting negative impact on my personal life, career, employment opportunities and good name and reputation. FIU deprived me of my liberty interest in my career opportunities without sufficient process. FIU accepted a year's worth of my tuition and deprived me of the credits that were earned and recorded for all classes. I now experience the ongoing harm of interest owed for that first-years' worth of debt. I continue to suffer the public stigma of being a failed law student that was dismissed from FIU Law. I have properly requested prospective equitable relief that would remedy the on-going harm.

The courts erred dismissing my claims under *Ex parte Young* because the courts failed to make a straightforward inquiry whether I properly allege an on-going violation of federal law and sought prospective relief enough to survive a motion to dismiss. *See Verizon Md., Inc. v. Pub. Serv. Comm'n of Md.*, 535 U.S. 635, 645 (2002). All issues concerning qualified and sovereign immunity rest on issues of fact. *See Pennhurst v. Halderman*, 465 U.S. 89, 106-09 (1983). This case pled sufficient facts that the academic dismissal and DOE's bad faith acts were not objectively

reasonable therefore, the qualified immunity fails on a motion to dismiss. *See Cummins v. Campbell*, 44 F.3d 847, 850 (10th Cir. 1994).

E. The court of appeals erred because the judgment was based on a reading comprehension error in that the Petitioner waived leave to amend when the district court denied any leave to amend and dismissed all claims against all defendants on a first motion to dismiss with prejudice.

The court of appeals decision was incorrect because it based its decision, material and substantial, on a false premise: that is I waived my opportunity to amend. This basis is a clear falsehood. The district court dismissed all 11 counts against all 17 defendants on the ***first*** **motion to dismiss** ***with prejudice.*** I was never given an opportunity to amend the complaint except for one defendant, Prof. Wasserman, individually. The district court dismissed all counts against Wasserman except for state tort counts and then declined to exercise supplemental jurisdiction. I did waive my right to amend the complaint against Wasserman, ***only***, in state court because I believe the district court's decision was a malicious judicial ploy to delay, misdirect and foreclose my right to appeal.

When discussing federal defendants, the court of appeals states that "she [McLaughlin] rejected the district court's invitation to amend her pleadings when she elected to appeal." Appx. A, p. 9a. That statement is a clear falsehood. As to state defendants, the Circuit court states that "McLaughlin further states in her opening brief that she can "cure all pleading deficiencies" identified by the district court in an amended complaint. But that time has passed. The district court, in its dismissal order, invited McLaughlin to cure any pleading deficiencies by filing an amended

dismiss. The complaint was amended once as a matter of course pursuant to Fed. R. Civ. P. Rule 15(a)(1)(A) before defendants answer. Second, the defendants and the courts were able to discern all the claims with sufficient specificity to dismiss them on the merits. The *Weiland* decision supports the preposition that a plaintiff's complaint is dismissed on the first motion to dismiss because of "shotgun pleading" Rule 8(a) violations without giving the opportunity to amend. *Weiland*, at 1326. The court erred by not freely giving leave to amend when justice so requires. *Foman v. Davis*, 371 U.S. 178, 182 (1962). The courts have used every procedural ploy to suppress and obstruct the facts from being adjudicated on the merits.

X. CONCLUSION

In 1960's Cuba, my great-grandfather was placed on trial for the crime of not being politically supportive of Fidel Castro. My great-grandfather was never politically active but he would not swear a loyalty oath to Castro's despotic regime. My family suffered and struggled for the opportunity to live in America, free from political oppression. And to live in a system which adheres to due process and equal protection. My legal immigrant family had the audacity of hope that a nation birthed by a Declaration of Independence which listed grievances of a government's abuse of individual liberties would primarily protect the individual from such arbitrary governmental action. Ironically, 60 years later, the great-grandchild is now the victim of political persecution at the hands of an abusive executive branch, big educational establishment, and a condoning judicial system.

Today, I stand my ground and urge the last bastion of judicial fairness and guardians of the Constitution to protect my individual liberty and finally place some constraints on universities' unbridled abuse of students and the DOE's sham, pre-textual, weaponization of FERPA enforcement for impermissible motives. I am shining a spot-light on decades of colleges' abuse of power for the purpose of political and social engineering. The college and university system is the vanguard of the leftist/Neo-Marxist foundational transformation of this nation. And the accomplice judicial system has entrenched and deepened the moat of protection surrounding the educational industrial complex.

This petition is first and foremost about righting an injustice I have suffered at the hands of an abusive university, an overreaching federal agency and enforcing my constitutional rights as an American citizen. However, the facts in this case present a special opportunity for this Court to finally decide whether college students have a constitutionally protected property or liberty interest in continued enrollment in public secondary educational institutions. The *Ewing/Horowitz* standard has proven frail and a gift to the educational establishment to exploit students with impunity. A complete review of all *Ewing/Horowitz* progeny for the past 40 years will not reveal a single case in which a university provided no process at all in an academic dismissal. This is a sentinel case whose facts crystallize one of the great public issues that defines our time: Will the Court continue to permit the educational establishment to abuse students' constitutional rights protected by the cloak of academic discretion? I pray that the Court will apply the principle that "North is

North, and Right is Right." Justice Clarence Thomas, Heritage Foundation, May 16, 2022. For the reasons delineated above, the petition for a writ of certiorari should be granted.

PROOF OF SERVICE

I HEREBY CERTIFY that on this 9th day of September, 2022, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

Respectfully submitted,

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XI. APPENDIX

[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 21-11453

Non-Argument Calendar

CHRISTINA MCLAUGHLIN,

Plaintiff-Appellant,

versus

FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES,
CHAIR OF FIU BOARD OF TRUSTEES,
Claudia Puig,
PRESIDENT OF FLORIDA INTERNATIONAL UNIVERSITY,
Mark B. Rosenberg,
DEAN OF THE FIU COLLEGE OF LAW 2009-2017,
R. Alex Acosta,
INTERIM DEAN FIU LAW 2017,

the state defendants and Professor Wasserman in his individual capacity on shotgun pleading grounds. After review, we affirm.

I.

Christina McLaughlin was enrolled as a first-year law student at Florida International University College of Law during the 2016-2017 academic year. During that year, she was a vocal supporter of the Republican party on social media. Not long after the school year was under way, it was "evident to all the surrounding classmates that [Plaintiff] was a Donald Trump supporter." McLaughlin "noted an almost immediate difference in attitude and behavior from classmates, professors, and FIU administration" and alleges that "FIU Law began an intentional hostile, discriminatory and retaliatory campaign" against her. She "felt threatened and stifled to voice any comments in support of President Trump for fear of further retaliatory action especially concerning grades." McLaughlin "felt unsafe to show any expression of her political allegiance such as wearing a 'Trump/Pence' shirt or hat because of the vitriol expressed by the law professors."

At the end of her spring semester at FIU Law, McLaughlin received notice that her GPA had fallen below 2.0, and that, consequently, she had been dismissed from FIU Law. McLaughlin petitioned the law school for readmission, arguing that her dismissal was procedurally unfair because she had not been given advance warning of her expulsion, and that at least one of her professors had used non-academic standards for grading. After she was denied

readmission, she petitioned FIU, contacting the University's general counsel and president, the Florida state university system's Board of Governors, and the federal Department of Education. Unable to obtain relief, McLaughlin filed suit in federal district court.

McLaughlin's amended complaint contains claims against seventeen named defendants, which fall into roughly three classes: the federal defendants, including the federal Department of Education and Secretary of Education; the state defendants, including various educational officials affiliated with FIU and the Board of Governors for the state's university system; and Professor Howard Wasserman who, unlike the other defendants, was sued in both his official *and individual* capacities. All other defendants were sued in their official capacities only.

McLaughlin's amended complaint contains a smattering of overlapping constitutional, statutory, and state law tort claims against the defendants. She alleges that defendants violated her First Amendment right to freedom of speech and political expression (Count I); violated her Fourteenth Amendment and Florida constitutional rights to due process (Count II); violated her Fourteenth Amendment and Florida constitutional rights to equal protection of the law (Count III); breached their legal obligation to properly enforce a student complaint under the Family Educational Rights and Privacy Act (Count IV) ; violated her rights under FERPA and Florida's Student and Parental Rights and Educational Choices Act (Count V); denied her right to assistance of counsel under federal law (Count VI); engaged in fraud (Count VII);

McLaughlin's constitutional claims against them (Counts I and III) failed on sovereign immunity grounds. And it held that McLaughlin's tort claims against them (Counts IV, VII, VIII, IX, and X) failed because the Department of Education and Secretary of Education were not proper parties, and because McLaughlin failed to exhaust administrative remedies under the FTCA. Though unnecessary, the court explained that the tort claims against the federal defendants failed for additional reasons. McLaughlin's fraud and civil conspiracy claims (Counts VII and VIII) failed because they fell into the intentional tort exception to the government's waiver of sovereign immunity under the FTCA. And it dismissed McLaughlin's breach of duty, breach of fiduciary duty, and negligence claims (Counts IV, IX, and X) because they were rooted in the Department's failure to resolve a FERPA complaint, and FERPA provides no provide right of action.

We need not address the district court's dismissal on sovereign immunity and exhaustion grounds, or on any other alternative ground, for this reason: McLaughlin has abandoned any argument on appeal that the district court erred in dismissing her claims against the federal defendants.

An appellant's brief must include "appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies." Fed. R. App. P. 28(a)(8)(A). We deem abandoned "a legal claim or argument that has not been briefed before the court." *Access Now, Inc. v. S.W. Airlines*, Co., 385 F.3d 1324, 1330 (11th Cir. 2004). It is not enough

to make "passing references" to a district court's holdings, "without advancing any arguments or citing any authorities to establish that they were error." *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014). *See also United States v. Jernigan*, 341 F.3d 1273, 1283 n.8 (11th Cir. 2003) ("[A] party seeking to raise a claim or issue on appeal must plainly and prominently so indicate" and "must devote a discrete, substantial portion of his argumentation to that issue."). We have held that "[t]o obtain reversal of a district court judgment that is based on multiple, independent grounds, an appellant must convince [this Court] that every stated ground for the judgment against him is incorrect." *Sapuppo*, 739 F.3d at 680.

Though McLaughlin's brief McLaughlin restates her allegations against the Department of Education in the section titled "Statement of the Facts," it makes no substantive argument that the district court's order dismissing the federal defendants was error. *See Greenbriar, Ltd. v. City of Alabaster*, 881 F.2d 1570, 1573 n.6 (11th Cir. 1989) (an appellant's reference to an issue "in its Statement of the Case in its initial brief," without elaborating any argument on the merits, was insufficient to raise the issue on appeal).

McLaughlin's brief contains no argument challenging the district court's holding that sovereign immunity bars McLaughlin's constitutional claims against the federal defendants. She argues that the district court erred in holding that several Florida state defendants were shielded by sovereign immunity. As to the federal defendants' sovereign immunity defense, McLaughlin makes only

two points, neither of which are relevant: (1) she discusses the "discretionary function" exception to the FTCA, which was not the basis for the court's ruling, and (2) she cites the standard for *qualified* immunity, which is not relevant to the federal defendants.

Nor does McLaughlin dispute the district court's dismissal of her fraud and civil conspiracy claims against the federal defendants for the reason that they fall into the intentional tort exception to the government's waiver of sovereign immunity. Though McLaughlin challenges the district court's alternative ruling that she failed to exhaust her administrative remedies under the FTCA, that was just one of multiple alternative grounds for dismissal, and it was not why the district court dismissed Counts VII and VIII with prejudice. Because McLaughlin failed to challenge each alternative ground on which the district court based its dismissal, she has abandoned any challenge to the district court's dismissal of her fraud and civil conspiracy claims against the federal defendants.

Finally, McLaughlin does not challenge the district court's dismissal of her FERPA-based tort claims against the federal defendants (breach of duty, breach of fiduciary duty, and negligence). She states in a conclusory manner that the court "err[ed] by not allowing [her] to amend her complaint to more precisely claim her right under Fla. Stat. [§] 1002.225(3)." But she does not advance any arguments or cite any authorities showing that the district court's ruling was erroneous. *See Sapuppo*, 739 F.3d at 681. And she rejected the district court's invitation to amend her pleadings when she elected to appeal. In any case, McLaughlin's FERPA-based tort

claims clearly fail because FERPA does not create a private right of action. *See Martes v. Chief Exec. Officer of S. Broward Hosp. Dist.*, 683 F.3d 1323, 1326 n.4 (11th Cir. 2012) (citing *Gonzaga Univ. v. Doe*, 536 U.S. 273, 290 (2002)).

Because McLaughlin failed to adequately raise arguments challenging the district court's dismissal of her claims against the federal defendants, we affirm the district court's dismissal of those claims.

B.

The district court dismissed McLaughlin's claims against the state defendants, including Wasserman, on several grounds. First, the court held that McLaughlin's amended complaint was an impermissible shotgun pleading and failed to present a "short and plain statement" of her claims, in reference to Rule 8. On that basis, the court dismissed the amended complaint "in its entirety" and without prejudice. Second, it concluded that, even if the court considered them, each of McLaughlin's claims against the state defendants nevertheless failed. It held that McLaughlin's claims against all state defendants except Wasserman failed on the merits and dismissed them with prejudice. As to Wasserman, it held that McLaughlin's federal claims against him failed on qualified immunity grounds. Then, with the federal claims dismissed, it declined to exercise supplemental jurisdiction over the remaining state law claims against him. The court then dismissed each of McLaughlin's claims against Wasserman without prejudice.

which acts or omissions, or which of the defendants the claim is brought against." *Id.*

As it relates to the state defendants and Wasserman, McLaughlin's amended complaint—clocking in at 115 pages and 1,064 paragraphs—is a shotgun pleading. This is so for several reasons. First, the amended complaint contains eleven distinct "CAUSE[S] OF ACTION." But each cause of action expressly adopts the first 757 paragraphs of the complaint, which contain numerous, unrelated factual allegations supporting multiple unrelated claims against each and every defendant.

Second, the amended complaint repeats the same allegations multiple times. For example: McLaughlin alleged the same purported failure to review her grades ten times, with each instance incorporated into all eleven counts. Third, the amended complaint contains free-floating factual allegations that are not connected to a particular claim at all. For example, McLaughlin alleges that on multiple occasions, law professors had sexual affairs with students; that the dean and several FIU law professors signed a letter protesting Brett Kavanaugh's nomination to the United States Supreme Court; and that FIU negligently hired a law professor who went on to receive poor student reviews.

Finally, several of the counts McLaughlin asserts contain multiple claims or theories, against multiple defendants, without specifying which defendants the claim is brought against. For example, her first cause of action: incorporates all factual allegations contained in paragraphs one through 757, plus several additional

paragraphs of factual allegations; is predicated on the Florida Constitution and the First and Fourteenth Amendments of the U.S. Constitution; alleges a general violation of free-speech rights but fails to specify whether it was grounded in a retaliation theory or some other free speech theory; fails to specify exactly who the claim is brought against; and further alleges a private cause of action under Florida law for FERPA violations.

By pleading her claims in such fashion, McLaughlin's amended complaint bears each of the four hallmarks that we use to identify a shotgun pleading.

In her opening brief, McLaughlin argues that the district court erred in dismissing her complaint as a shotgun pleading even though it was able, after some effort, to recognize and address her claims against the federal defendants, state defendants, and Wasserman. McLaughlin also notes that the defendants were able to ascertain the claims against them well enough to draft their respective motions to dismiss. This argument lacks merit. Just because the district court and the defendants were able, after considerable time and effort, to ascertain McLaughlin's claims at the pleadings stage does not automatically mean that she has satisfied Rule 8. *See Jackson v. Bank of Am., N.A.*, 898 F.3d 1348, 1356–57 (11th Cir. 2018) (even though the district court spent "fifty-four pages and untold hours" analyzing the sufficiency of the plaintiff's individual claims under Rule 12(b)(6), the Court of Appeals affirmed dismissal on shotgun pleading grounds). Here, the district court noted that it was "unreasonably difficult to ascertain which causes of action

apply to which Defendants, and specifically on what basis." It nevertheless sifted through McLaughlin's vague and repetitive allegations, discerned the basis for each of the eleven causes of action, and identified the defendants to which they applied—but it should not have been required to expend such effort. *Cramer v. Florida*, 117 F.3d 1258, 1263 (11th Cir. 1997) ("Shotgun pleadings . . . impose unwarranted expense on the litigants, the court and the court's parajudicial personnel and resources.")

McLaughlin further states in her opening brief that she can "cure all pleading deficiencies" identified by the district court in an amended complaint. But that time has passed. The district court, in its dismissal order, invited McLaughlin to cure any pleading deficiencies by filing an amended complaint within twenty-one days. McLaughlin instead appealed. By appealing, McLaughlin waived her right to amend, rendering the district court's Rule 8 dismissal final. Having reviewed her pleadings and the district court's dismissal order, we conclude that the district court did not abuse its discretion in dismissing the amended complaint as a shotgun pleading. Accordingly, we affirm the district court's order dismissing McLaughlin's claims against the state defendants and Wasserman.

AFFIRMED.