

No. 17-7522

**IN THE
SUPREME COURT OF THE UNITED STATES**

Katherine S. Johnson, Petitioner

vs.

Loyola University New Orleans-Respondent

On Petition for A Writ of Certiorari to the
Supreme Court of the United States

On Appeal from the Ruling of the Louisiana Supreme Court
Proceedings No. 2017-C-0776
On Appeal from the Ruling of the Fourth Circuit, Parish of Orleans
Proceedings No. 2016-CA-0881
On appeal from the Ruling of Civil District Court for the
Parish of Orleans, State of Louisiana,
Proceedings No. 2009-06133 "G-11"

PETITION FOR A REHEARING

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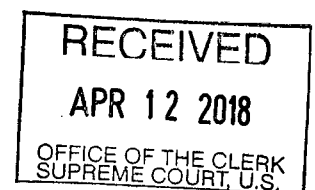


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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, petitioner respectfully petitions this Court for rehearing of its March 19, 2018, order dismissing the writ of certiorari in this case. This petition for rehearing is presented in good faith and not for delay to present circumstances not previously presented, namely, the settlement agreement between the Petitioner and the Respondent. Louisiana Courts never reviewed the settlement agreement between the Petitioner and the Respondent created by the Houston Volunteer Lawyers Program in 2006 regarding the graduation of this student which reads in part, "enclosed is check number 7089 in the amount of \$1,901.30 made payable to Loyola University." By cashing this check Loyola University of New Orleans (hereinafter "LUNO") agreed that this matter is settled and that Petitioner would be allowed to return the University to enroll in classes and graduate upon meeting the graduation requirements¹.

Petitioner has always maintained the following: (1) LUNO knowingly made false claims during the federal mediation to the Honorable Clare Jupiter, Elnora Stokes (a federal investigator), and the Petitioner, all in violation of the federal False Claims Act; (2) LUNO engaged in unfair trade practices in violation of LSA-R.S. § 51:1401, *et seq*; (3) Petitioner does not qualify for and did not receive an education

¹ Settlement agreement between Petitioner and Respondent

degree from the Respondent, and the degree in question does not qualify as an education degree in the State of Louisiana; (4) Petitioner demanded a refund from the Respondent, and Respondent refused to return Petitioner's tuition and fees; (5) Plaintiff's official graduate school transcript has never been allowed into any proceeding in any Louisiana court; and (6) Petitioner suffered damages by actions of the Respondent, and said damages are ongoing. It is respectfully submitted that the decision as to who is telling the truth can only be determined by the trier of fact at trial in this matter.

As the Court has recognized on several occasions, [n]avigating the appellate process without a lawyer's assistance is a perilous endeavor for a layperson." *Halbert v. Michigan*, 545 U. S. 605, 621 (2005). See also, e.g., *Erickson v. Pardus*, 551 U. S. 89, 94 (2007) (emphasizing that "[a] document filed pro se is "to be liberally construed"); *Estelle v. Gamble*, 429 U. S. 97, 106 (1976) (same); *Haines v Kerner* 404 U. S. 519, 520-521 (1972) (same). That is no less true of the process before this Court. There is no reason not to reinstate this case and every reason to do so. Convincing this Court to review a case is no mean feat for any petitioner, let alone for a petitioner proceeding pro se. It would be both unfortunate and inequitable to deny one of the few petitioners who managed to do so the rare opportunity to have her case heard by the Supreme Court of the United States.

FACTUAL AND PROCEDURAL BACKGROUND

It all started when the Respondent rescinded Petitioner's tuition waiver in the fall of 2004. Petitioner was employed by LUNO for a period of three years, and she

received a tuition waiver based on her employment. In late fall of 2004, Petitioner resigned to accept a job as an office manager, and her supervisor asked that she leave LUNO by October 19, 2004, because they needed her assistance to coordinate a prayer breakfast for Fr. Kevin Wildes and the Young Jesuits. Sometime around mid-November, Petitioner received a bill for the fall tuition. Petitioner did not have the money to pay LUNO for the class because she could not borrow money after she had passed the course with an "A." Therefore, she contacted Jack L. Guinn, Executive Director of the State of Louisiana Office of Student Financial Assistance. He informed her that this agency has no jurisdiction over the circumstances she described with the recession of a tuition waiver after a student completes a course. He advised her to contact the Louisiana Attorney General's Office, Consumer Protection Division, the Better Business Bureau, or a private attorney². Petitioner contacted Charles Foti, former Louisiana Attorney General. Former Attorney General Charles Foti's Office contacted LUNO about this matter, and apparently LUNO was upset by being contacted and that the Petitioner did not repay the tuition waiver³.

In the fall of 2005, Petitioner moved to Houston, TX and obtained a job as a member of the Houston Long Term Recovery Team managing cases in Texas and Louisiana.

In 2006, Petitioner expressed an interest in completing her master's degree, and her employer in Houston agreed to let her travel back and forth from Houston to New

² Letter from Jack L. Guinn to Respondent

³ Notes from Louisiana's AG Department of Justice

Orleans to complete her degree. Petitioner contacted LUNO in 2006, and LUNO remembered they rescinded her tuition waiver in 2004. Petitioner remembered the advice Mr. Guinn gave her and contacted the Houston Volunteer Lawyers Program for guidance. Lawyers with the Houston Volunteer Lawyers Program predicted the following: 1) LUNO would retaliate against her if she returned to school for reporting them to former Louisiana Attorney General Charles Foti; 2) the retaliation would be that they would not let her graduate; and 3) she needed a settlement agreement to protect herself in the future. Therefore, they set-up a settlement agreement. The Louisiana Courts never reviewed the settlement agreement between the Petitioner and the Respondent. The Respondent was required to and documented this transaction on Form 1098-T with the Internal Revenue Service as payment made in the previous year⁴.

In the spring of 2007, petitioner enrolled in LUNO flying back and forth from Houston, Texas. In the summer of 2007, Petitioner was dismissed from the counseling program for failing to sign a Southwest Texas University evaluation form dated 1996 and presented to her on August 14, 2007, by Professor Rheta LeAnne Steen (hereinafter "Steen") more than two weeks after the practicum course ended⁵ because Professor Steen stated the Petitioner was a remedial student.

Petitioner's graduate school GPA was 3.67 prior to enrolling in this practicum course. When Petitioner complained about Steen's unprofessional behavior to Assistant Dean Angela Brocato, Steen changed Petitioner's grade from "T" to "F" on

⁴⁴ Internal Revenue Service Form 1098

⁵ Southwest Texas Evaluation Form

August 22, 2007 at the beginning of the fall semester⁶. Steen gave all the students an “T” for the course because her class was running on the LUNO summer school schedule. Petitioner knows when Steen changed her grade because the Respondent’s computer system “LORA” e-mailed the Petitioner and told when her grade was changed. Petitioner was not a student at LUNO when her grade was changed by Steen.

The dismissal came in spite of the fact that the Petitioner had over a decade of experience working with homeless, runaway and exploited teenagers prior to enrolling in this practicum course. Professor Steen and her practicum supervisor, Roseanna DiChiro, had little to no experience with the population of homeless, runaway and exploited teens⁷.

On December 12, 2007, Petitioner filed a discrimination complaint with the OCR, alleging age, race and other violations of law by LUNO and its employee, Steen. OCR arranged a federal mediation of the civil rights complaint under Title VI of the Civil Rights Act of 1964, (Title VI), 42 U.S.C. §2000 *et seq.* and its implementing regulation found at 34 C.F.R. Part 100 (2008) as well as the Age Discrimination Act of 1975 (Age Act), 42 U. S. C. § 6101, *et seq.* and its implementing regulation found at 24 C. F. R. Part 110 (2008) in the delivery of services.

Mr. John Harris (hereinafter “Harris”), who was federal mediator, stated to the Petitioner and the Respondent that the case was not appropriate for federal

⁶ LORA Notification on August 22, 2007 (Fall Semester)

⁷ E-mail from Professor Steen to Plaintiff/Petitioner

mediation because Petitioner was not a student at LUNO. The federal mediation proceeded, however.

During the federal mediation of the case, the Petitioner offered to resolve the issue by retaking the practicum course; however, LUNO refused to allow Petitioner to retake the practicum course⁸. Attorney Brooke Duncan (hereinafter “Duncan”) and Roger White, Provost (hereinafter “White”) asked Harris to contact OCR to request an extension of time to make Petitioner an offer to settle her civil rights complaint. Harris advised Petitioner not to speak with the Respondent during the mediation.

The resulting agreement was as follows: “Masters in Education with a Major in Counseling Degree that would provide immediate employment in the State of Louisiana”; greater earnings; and, Petitioner could also earn a Ph. D⁹. White stated to Stokes that Petitioner was receiving a certified education degree from LUNO, and anyone who contacted LUNO would be told that Petitioner received a certified education degree.

Unfortunately, Respondent made false statements in violation of the False Claims Act (FCA), 31 U.S.C. §§ 3729 - 3733 to Jupiter and Stokes regarding this education degree during federal mediation.¹⁰ Court records in *Doyle vs. Loyola University* (07-3300), *Melancon vs. Loyola University* (07-3300) and *Dermdoy vs. Loyola University* (07-3305) show that LUNO’s education department closed in 2006, and they entered into an articulation agreement to certify only some education

⁸ Appellant’s Offer to Respondent

⁹ E-mail from Duncan to Jupiter

¹⁰ E-mail between Stokes and White

degrees. Therefore, the offer submitted in federal mediation was invalid because it is not legally enforceable. Petitioner is not subject to the “release” and both parties are subject to the settlement agreement that was never examined by the Courts in Louisiana.

The Petitioner does not qualify for and has never received an education degree from the Respondent. Petitioner received only a Xerox copy of a diploma which is filed in a Ziploc sandwich bag under seal in Civil District Court but never an actual diploma or transcript for this “education degree”¹¹. Petitioner received a Xerox copy of the transcript of this degree when it was submitted as evidence in court¹². Petitioner was unable to pick up this diploma or transcript from the Respondent’s Registrars’ Office.

Petitioner contacted the Texas Board of Higher Education and Texas Attorney General’s Office who informed her that this must be a substandard, fictitious or fraudulent college degree and is prohibited by law in Texas and other states¹³. Respondent is not an accredited provider of Masters in Education degrees and has no legal authority to issue this “education degree”¹⁴. Civil District Court records show that after the Respondent’s education department closed, they entered into an articulation agreement with Our Lady of Holy Cross College to certify only some

¹¹ Letter from Duncan stating to Mr. Courtney Wilson this is a copy of the diploma and give it to the Appellant.

¹² Transcript

¹³ Texas Penal Code

¹⁴ Letter from Stephen to Respondent

education degrees. Respondent did not reveal that its education department was closed for a couple of years during the federal mediation of the Civil Rights complaint.

A. Civil District Court Proceedings

On June 15, 2009, Petitioner filed a Petition for Specific Performance and Damages against LUNO seeking to enforce the Release for failure to issue a timely degree and for trying to confer on Petitioner a substandard, fictitious, fraudulent degree in exchange for thousands of dollars in tuition and fees.

Petitioner demanded and paid for a trial by jury and on all issues and claims set forth in her Complaint pursuant to the Seventh Amendment of the United States Constitution and Federal Rule of Civil Procedure 38 (b). Judge Giarrusso, failed to disclose that her husband was employed by the Respondent as an adjunct law professor. Despite this case being under seal, students from the Loyola Law School attended the Rule to Show Hearing.

Petitioner requested and filed a motion for continuance to obtain legal counsel and was denied. Judge Giarrusso informed the Petitioner that her only right in Orleans Parish Civil District Court is to be served by the Orleans Parish Civil Sheriff.

Where one or more parties to a matter is unrepresented in a complex case where there is no law to issue a ruling, a judge has heightened responsibility to ensure the proceedings are fair. Whenever appropriate, judges should explain the proceedings in simple terms and consider granting a continuance to allow the unrepresented party time and opportunity to obtain counsel.

There were no trial-level fact findings in this case, therefore, Petitioner should get the benefit of all reasonable factual inferences in challenging the summary-judgment decisions entered against her. The preponderance of the evidence was filed by the Petitioner. Judge Giarrusso reversed the order of the cases during the first Rule to Show Cause Hearing and awarded the Respondent a summary judgment.

The summary judgment did not contain any decretal language setting forth with particularity the relief being granted, nor does the judgment “decree the dismissal of Petitioner’s lawsuit with prejudice.”

The Petitioner was not able to file a motion for a new hearing because Judge Giarrusso denied Petitioner access to the file stating that “it was under seal.” Petitioner appealed to the Fourth Circuit Court of Appeals affirmed in part and reversed in part (*Johnson I*). Judge Giarrusso kept this case lingering in her courtroom for several years.

On November 15, 2015, Respondent filed for a second summary judgment. Judge Giarrusso granted this motion for a second summary judgment. During the second Rule to Show Case Hearing, Respondent’s witness, Mr. Ranzy Montent, failed to appear in Court and to tell the truth in court after being subpoenaed by the Orleans Parish Sheriff’s Office. Barbara Gadue, Deputy Clerk, verified that he was not employed by the University of New Orleans at the time under question by the Court.

There was no hearing on Petitioner’s Motion to Strike exhibits from the Respondent’s Motion for Summary Judgment. The Respondent produced no documents in response to being twice subpoenaed by the Orleans Parish Sheriff’s

Office for the Request for the Production of Documents regarding this Master's in Education Degree¹⁵. Counsel for the Respondent, Mr. Richard McCormick, emailed the Petitioner stating that he was planning to hire a private processor to subpoena her because the Orleans Sheriff's Office told them in writing that they could not subpoena the Petitioner to attend the Rule to Show Cause Hearing. Petitioner told Mr. McCormick to serve the attorney being held by Judge Giarrusso under Louisiana law preventing him abandoning the Petitioner.¹⁶ Mr. Doug J. Sunseri, Petitioner's counsel, did not appear in Court. Judge Robin Giarrusso once again ruled against the Petitioner.

The judgment once again did not contain any decretal language setting forth with particularity the relief being granted, nor does the judgment "decree the dismissal of Petitioner's lawsuit with prejudice." Petitioner filed a motion for a rehearing because the Respondent did not produce any documents regarding the education degree. Petitioner's request for a rehearing was denied by Judge Giarrusso.

B. The Appellate Court Proceedings

On May 5, 2016, Petitioner filed a notice of appeal from Civil District Court New Orleans with 2 out of the 3 judges having graduated from the Loyola University Law School. In Petitioner's appeal she asked any Judge to recuse themselves from the case if they could not judge fairly.

¹⁵ Second Request for the Production of Documents served the Orleans Parish Sheriff's Office

¹⁶ Email from Mr. Cormick and Ms. Johnson

The Fourth Circuit Court of Appeal affirmed the lower Court ruling in effect denying the statements from the Slidell Police Force, Orleans Parish Sheriff's Office, U. S. Marshall and Terri Ricks, Executive Counsel for the Louisiana Department of Children and Family Services into Court to support the Petitioner's claims.

The Fourth Circuit issued an opinion affirming the decision of Civil District Court New Orleans. Petitioner appealed the Fourth Circuit for a new hearing. On April 4, 2017, the appeal for a new hearing was denied.

C. The Louisiana Supreme Court Proceedings

The Petitioner filed a Petition for Writ of Certiorari on May 17, 2017. On September 22, 2017, Petitioner's writ was denied. Justice Crichton in his concurring statements that went viral regarding "insulting and untrue" statements supposedly made "against Loyola University [New Orleans]" by the Petitioner are misplaced.

Jody Doe vs Loyola University New Orleans, Civil District Court Case No. 2006-03912, ended in a summary judgment for Jody Doe which was published in the Chronicle of Higher Education. Jody Doe's case was removed from the Civil District Court in New Orleans, and Doe's summary judgment was reversed by Justice G. Thomas Porteous, who was impeached and removed from the bench.

As Justice Crichton was making his concurring statements, the Respondent was in litigation at Division G of Civil District Court for Case No. 2015-04185 with another former student seeking damages.

Petitioner unequivocally denies making insulting and untrue statements about LUNO in her writ application as contended by Justice Crichton in his concurring reasons on the denial of Plaintiff's writ. Petitioner submits that Justice Crichton's release of these statements defames her character. Judge Crichton's concurring statements made against other appellant(s) have appeared in the American Bar Association Journal, the New Yorker, Times Picayune, other publications as well as radio.

REASONS FOR GRANTING THE PETITION

Review is warranted because the Louisiana Courts did not review the settlement agreement between the Petitioner and Respondent. The Respondent failed to produce any documents regarding the requirements of this education degree and did not disclose during the federal mediation of the civil rights complaint that their education was closed for a couple of years and that they were in litigation with the former tenured education professors for closing the education department at the time of the federal mediation.

The Fourth Circuit Court of Appeal and the Louisiana Supreme Court have departed from proper judicial proceedings in violation of the First, Fourteenth and Seventh Amendments to the Constitution sanctioning abuse by Civil District Court New Orleans against the Pro Se Petitioner, as to call for an exercise of this Court's supervisory authority.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for rehearing, vacate the order dismissing the writ of certiorari and restore this case to its merits docket to protect students from substandard, fictitious, fraudulent college degrees and irreparable harm. Particularly given the leniency typically afforded pro se litigants, that unfortunate series of events should not deprive petitioner of her day in this Court. Petitioner had to pay back debt to the creditors after losing everything in Hurricane Katrina, with no college degree.

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not delay.

Respectfully submitted:



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this petition for rehearing is presented in good faith and not for delay. This petition for rehearing has been mailed to Respondent c/o Richard McCormick, Irwin Fritchie Urquhart & Moore, LLC., 400 Poydras Street, Ste. 2700, New Orleans, LA 70130, by first class United States mail with proper postage affixed this 10th of day of April 2018.