

In the
Supreme Court of the United States

GENAY L. AMERSON,

Petitioner,

v.

NEVADA EDUCATION CORPORATION D/B/A
LAS VEGAS COLLEGE, ET AL.,

Respondents.

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

**BRIEF IN OPPOSITION OF RESPONDENTS
NEVADA EDUCATION CORPORATION,
MIKHAIL EDUCATION CORPORATION,
AND PETER MIKHAIL**

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QUESTION PRESENTED

Whether the dismissal of Petitioner’s appeal by the Ninth Circuit, occurring “[a]fter considering the response to the Court’s March 5, 2026, order and the opening brief,” was a proper exercise of discretion or an unconstitutional barrier to access justice.

LIST OF PARTIES

Petitioner

- Genay L. Amerson

Respondents on this Brief

- Nevada Career Education d/b/a Las Vegas College
- Mikhail Education Corporation
- Peter Mikhail, President of Mikhail Education Corporation

Note: Nevada Education Corporation does not exist but is the result of a captioning error submitted by Petitioner at the District Court level. Nevada Career Education is the proper corporation doing business as Las Vegas College

CORPORATE DISCLOSURE STATEMENT

Mikhail Education Corporation is a private company with the wholly owned subsidiary Nevada Career Education. No publicly owned corporation owns 10% or more of either entities' stock. There are no publicly traded parties.

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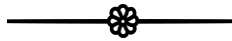
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INTRODUCTION

The Ninth Circuit properly found Petitioner's appeal was frivolous. Before doing so, the Ninth Circuit reviewed her opening brief and provided an opportunity to challenge the concerns raised by the opening brief suggesting the appeal may be frivolous. After considering the facts before them, the Ninth Circuit dismissed her appeal as frivolous. The Ninth Circuit took appropriate action as Petitioner's appeal failed to address the underlying district court decision for her appeal, a dismissal as a sanction for repeated violations of the District Court's order. Pursuant to Rule 15.1, Respondents appear in opposition to ensure Petitioner's misstatements of facts and procedural history bearing on this petition are not waived.

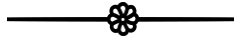


OPINIONS BELOW

At the District Court level, Nevada Judge Richard F. Boulware III, dismissed Petitioner's case as a sanction for conduct abusing the judicial process. Bio.App.102a, 103a. The District Court found Petitioner repeatedly violated its order directing Petitioner to cease improper *ex parte* communications with the Court. *Ibid*.

At the Ninth Circuit, Petitioner filed her opening brief. Bio.App.112a. Following a review of the opening brief, the Court raised concerns the appeal may be frivolous and sought additional briefing regarding the appeal. Bio.App.117a. Petitioner and Respondents filed their respective briefs. Bio.App.123a-132a. Following a review of

the opening brief and the subsequent briefing, Circuit Judges Owens, Miller, and Bumatay, found unanimously the appeal was frivolous and dismissed the appeal. Bio.App.135a.



JURISDICTION

Jurisdiction is proper under 28 U.S.C. § 1254(1).



BACKGROUND

Respondents operate a private college, Las Vegas College, in Las Vegas, Nevada, which receives federal funds via student loans. As a result of receiving federal funds, Las Vegas College is required by the Safe and Drug-free Schools and Communities Act to adopt anti-drug use policies. 20 U.S.C. § 7101 et seq. Las Vegas College adopted a policy prohibiting the use of illegal drugs. Petitioner was aware of the policy and passed her enrollment drug screen.

Petitioner has a medical condition and sought an ADA accommodation. Her request was partially granted. Her request did not include a request for an accommodation to utilize medical marijuana. In preparation for a practical externship wherein Petitioner would interact with patients at a local hospital, she was required to take another drug screen. She failed the drug screen, being found positive for marijuana. In response, she submitted a California medical marijuana

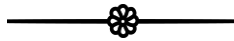
prescription. Petitioner did not register with the State of Nevada as a medicinal marijuana user. Registration is required by the State of Nevada before additional protections are provided. Nevada Revised Statutes, Chapter 687C & § 687C.850. At the time, marijuana remained a Schedule 1 drug under the federal Controlled Substances Act. 21 U.S.C. § 812(b)(1). While recreational and medical use of marijuana are legal at the state level, marijuana remained illegal at the federal level. This remains relevant because federal funds were linked to prohibiting the use of illegal drugs.

The hospital at which Petitioner was to receive practical experience prohibited all workers in safety sensitive roles — defined as patient treatment roles — from utilizing illegal drugs by policy. The hospital refused to permit Petitioner to work at their hospital based on a positive drug screen. After review by the school, Petitioner was terminated from the nursing program based on her positive drug test.

Following her dismissal, Petitioner sought relief from the Department of Education, Office of Civil Rights. The Department thoroughly reviewed Petitioner's complaint and found no disability discrimination occurred. Petitioner has subsequently alleged the Department is in a conspiracy with the school to deny her rights.

As of Petitioner's filing with the Supreme Court, the alleged conspiracy to deprive Petitioner of her rights now includes: the Social Security Administration, United Parcel Service, the North Las Vegas Police Department, her former contractor Kia Smith, Kia Motors, Smith's Grocery Stores, In-N-Out Burgers, a hairstylist, the

North Las Vegas Library District, District Court of Nevada Magistrate Judge Elayna Youchah, chambers staff for District Court of Nevada Judge Boulware, Clerks of Court for the Nevada District Court, an unnamed Ninth Circuit Court Judge, the Federal Bureau of Investigations — Las Vegas Field Office, the United States Air Force, and Respondents.



STATEMENT OF THE CASE

On January 21, 2025, Petitioner filed her Second Amended Complaint. Bio.App.1a [Exhibits Omitted].

On September 9, 2025, the District Court of Nevada issued an Order directing Petitioner to cease improper ex parte communications with chambers staff. The District Court warned of sanctions, including case-dispositive sanctions, if Petitioner did not comply. Bio.App.27a.

On September 30, 2025, the District Court issued an order regarding a variety of open motions, permitting a portion of the Second Amended Complaint to continue, denying Petitioner's motion for summary judgment, dismissing Mr. Peter Mikhail, and denying other motions. Bio.App.28a.

On October 31, 2025, the District Court granted the motion to strike, striking the Third Amended Complaint from the record. Bio.App.47a.

On November 17, 2025, Petitioner filed an errata to her stricken Third Amended Complaint. Bio.App.48a [Exhibits Omitted].

On February 9, 2026, the District Court of Nevada issued an Order dismissing the case with prejudice for Plaintiff's failure to abide by the District Court's September 9, 2025, Order. Bio.App.97a-102a.

On February 20, 2026, Petitioner filed an appeal with the Ninth Circuit. Bio.App.103a-111a.

On March 3, 2026, Petitioner filed an Opening Brief with the Ninth Circuit. Bio.App.112a.

On March 3, 2026, the Clerk of the Ninth Circuit placed a docket notice that the Opening Brief had been filed. Bio.App.116a.

On March 5, 2026, the Clerk of the Ninth Circuit issued an Order indicating the appeal appeared to be frivolous. Bio.App.117a. The Order sought voluntary dismissal or a statement indicating why the appeal was not frivolous and provided 35 days for Petitioner to craft her response.

On March 5, 2026, Petitioner filed her response to the Order. Bio.App.123a.

On March 9, 2026, Respondent filed its response to the Order. Bio.App.132a.

On March 23, 2026, the Ninth Circuit dismissed the appeal as frivolous. Bio.App.135a.



CORRECTING PETITIONER'S MISSTATEMENTS OF FACT

To aid the Court in its denial, and to avoid waiver pursuant to Supreme Court Rule 15.2, Respondents seek to correct Petitioner's misstatements of fact related to the dismissal of her appeal. Petitioner asserts her appeal was "generally meritorious (facially valid)" and that her appeal was dismissed upon docketing an IFP motion. Petition, p. 4. She believes the Court dismissed her case "without a singular fact-based cursory review of facial validity of an IFP Pro Se appeal." Petition, p. 6. This misrepresents the facts in the Ninth Circuit and at the District Court level.

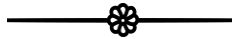
In its Order dismissing the appeal as frivolous, the Order expressly relied upon the Opening Brief and additional briefing subsequent to the Court's March 5, 2026, order. Bio.App.135a.

Petitioner fails to provide the Court with her filed opening appellate brief, nor the argument presented in response to the Court's March 5, 2026, order. Respondents provide them here for the Court's review. Bio.App.112a-115a, Bio.App.123a-134a.

Petitioner cites "law of the circuit doctrine" as the basis for the Ninth Circuit dismissing her case as frivolous. Petitioner provides no basis for suggesting the Ninth Circuit dismissed on this basis, nor does the data cited support her conclusions. No case is cited to support any such doctrine nor does the Order make reference to applying such a doctrine.

Petitioner attached an invalid Third Amended Complaint to her petition. There is no operative Third Amended Complaint as it was stricken by the District Court

shortly after filing. Bio.App.47a. Although the document provided was on file, the version given to the Supreme Court is an incomplete copy of her filing which demonstrates it was an erratum to a stricken document. Bio.App.48a [Exhibits omitted].



REASONS FOR DENYING THE PETITION

I. THIS CASE DOES NOT IMPLICATE ANY CIRCUIT SPLIT

Petitioner does not assert this ruling by the Ninth Circuit is in any manner different than a similar ruling in a different circuit.

II. THE NINTH CIRCUIT’S DECISION IS CORRECT

Petitioner argues the Ninth Circuit should not have dismissed her appeal as frivolous because she was denied a meaningful hearing below. This materially misstates the actions of the District Court. As discussed in more detail below, Petitioner’s focus on dismissal of frivolous *in forma pauperis* (“IFP”) pro se cases at the District Court level is not supported by her sources.

Petitioner’s case did not arrive at the Ninth Circuit after a summary dismissal based on Petitioner being an IFP pro se plaintiff. Petitioner was permitted to amend her complaint twice and the District Court ruled against her on a summary judgment motion and a preliminary injunction motion. Bio.App.28a. Petitioner failed to seek leave to amend and as a result her Third Amended Complaint was stricken. Bio.App.47a.

At the District Court level, Petitioner's case was dismissed not as frivolous, but as a sanction for Petitioner's failure to comply with the District Court's order. Bio.App.97a-102a.

In her opening brief on appeal, Petitioner failed to squarely address the basis for the District Court's dismissal. Bio.App.112a. Petitioner argued a due process violation because motions were pending and the District Court's ruling was based on "non-evidenced assertion[s]." *Ibid.* As a result, Petitioner argued dismissal as a sanction was a constitutional violation of due process.

At the appellate level, having reviewed Petitioner's opening brief, the Ninth Circuit questioned if the appeal was frivolous and invited further briefing. Bio.App.117a. Petitioner submitted further briefing that effectively reiterated the position contained within her opening brief. Bio.App.123a. Respondents submitted further briefing noting Petitioner's failure to address the basis of the dismissal — a sanction for violating the District Court's order. Bio.App.132a.

The Ninth Circuit panel of three judges reviewed Petitioner's opening brief and subsequent briefing before finding the appeal was frivolous and dismissing the case. Bio.App.135a. The Ninth Circuit got it right. Petitioner failed to provide any evidence to support her allegation the sanction was based on false information or misleading statements of chambers staff.

III. PETITIONER'S DATA DOES NOT SUPPORT HER ARGUMENT

To assert IFP pro se litigants are denied equal access to judgment, Petitioner relies heavily on two sources: 1) a law review article from 1997 regarding summary

dismissals of IFP pro se litigant cases as frivolous in the Northern District of California¹ and 2) a 2025 Report² by the Court regarding appellate case activities. Bio.App.136a-183a.

IV. THE LAW REVIEW ARTICLE FOCUSED ON A DIFFERENT PROBLEM

The law review article does not focus on the activities at the appellate court level. Instead, it focuses on pro se litigants in the Northern District of California. To the extent Petitioner seeks to apply this logic to the Ninth Circuit, the contents contain no analysis of the Ninth Circuit and cannot be applied to the Ninth Circuit.

V. THE 2025 REPORT SHOWS AT MOST 23% OF ALL PRO SE LITIGANTS SUBJECT TO PROCEDURAL DISMISSAL BY A THREE JUDGE PANEL

As to the *2025 Judicial Business* report on the appellate courts, Petitioner misreads the report and its associated tables. Respondents were unable to find Petitioner's cited numbers within the report. Since this is a private civil dispute, Respondents focused on Other Private Civil matters when reviewing the Court's data regarding FY 2025 activity.

Of 11,755 Other Private Civil Appeals, 5,430 were filed by pro se litigants. Bio.App.183a [US Report, Table B-19]. The report contains no table in which it

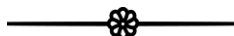
¹ Park, Spencer G, *Providing Equal Access to Equal Justice: A Statistical Study of Non-Prisoner Pro Se Litigation in the United States District Court for the Northern District of California in San Francisco*, UC HASTINGS LAW JOURNAL, Vol. 28, Issue 4, Art. 4 (1997)

² *U.S. Courts of Appeals – Judicial Business 2025*, available at <https://www.uscourts.gov/data-news/reports/statistical-reports/judicial-business-united-states-courts/judicial-business-2025/us-courts-appeals-judicial-business-2025>, last visited September 7, 2026.

reports the number or percent of pro se litigants proceeding IFP. *Ibid.* Without any reporting, Petitioners petition must fail.

Table B-5A reports the number of cases terminated on procedural grounds. Bio.App.182a [US Report, Table B-5A]. Petitioner asserts “These [IFP pro se] appeals were all dismissed as ‘frivolous’ without substantive reason . . .” Petition, p. 5. Even if all pro se parties were proceeding IFP, only 23% of those litigants were dismissed by a judge on procedural grounds.³ This is a far cry from the 98% argued by Petitioner. Petition, pp. 4-5. The data cited by Petitioner proves Petitioner’s claim to be incorrect.

Petitioner’s argument is based on invented numbers with details simply not within the alleged report further continues Petitioner’s habit of filing frivolous and wasteful legal briefs.



CONCLUSION

Petitioner arrives at the Supreme Court seeking the Court to overturn a dismissal of her appeal by the Ninth Circuit after finding it frivolous. Not only did the Ninth Circuit facially review her opening brief, it provided Petitioner the opportunity to explain why the Court’s concerns regarding frivolity were unfounded. Only after review of all arguments presented did the Court find her case to be frivolous.

³ 1,235 cases were dismissed by a judge on procedural grounds. Pro Se litigants had 4,676 cases terminate during the FY 2025 period reported. $1,235 / 4,676 = 23 \%$.

As to the underlying dismissal at the District Court, Petitioner's case was not dismissed as frivolous. Petitioner's case was dismissed because Petitioner failed to abide by the order of the District Court. As a sanction, Petitioner's case was dismissed. The dismissal was unrelated to her role as an IFP pro se litigant.

Petitioner's petition should be denied.

Respectfully submitted,

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