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Media Inquiries: [Judy Pino](mailto:judy.pino@ncla.org), 202-869-5218

NCLA Appeals NDNY Ruling that Ignored Ex-Cornell Prof's Claim for Due Process in Title IX Hearing

Dr. Mukund Vengalattore v. Cornell University and the U.S. Department of Education

Washington, DC (August 21, 2020) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed its [opening brief](#) today in the U.S. Court of Appeals for the Second Circuit in the case of *Dr. Mukund Vengalattore v. Cornell University and the U.S. Department of Education*. NCLA represents Dr. Vengalattore, one of the nation's leading experts in atomic, molecular, and optical physics and a former professor at Cornell University in Ithaca, NY. He was on track for tenure when a graduate student who was dismissed from Dr. Vengalattore's lab for academic reasons retaliated by falsely accusing him of inappropriate sexual activity that simply never occurred. NCLA's brief seeks to reverse the decision of the U.S. District Court for the Northern District of New York granting the university's and the government's motions to dismiss the case without ruling on the substance of Dr. Vengalattore's claims.

In the appeal, NCLA argues that the district court erred in concluding that the Title IX cause of action does not extend to victims of employment discrimination. The great majority of federal appellate courts that have addressed the issue have concluded that victims of employment discrimination are entitled to seek relief under Title IX of the Education Amendments of 1972, and federal regulations explicitly recognize that right. Consequently, denying Dr. Vengalattore a private right of action for sex discrimination would be inconsistent with Title IX's broad statutory language and with the majority judicial view.

NCLA also maintains that the trial court applied the wrong pleading standard in dismissing Dr. Vengalattore's Title VI claim that Cornell discriminated against him on the basis of race, color, and national origin. The amended complaint relates numerous instances in which university officials conducted their investigation in an unjust manner not authorized by Cornell's procedural rules. And those deviations hindered Dr. Vengalattore's ability to defend himself against an unfounded allegation. Faculty members who reviewed Dr. Vengalattore's employee file also made racist comments about Dr. Vengalattore and his students in official documents that were reviewed by the dean of the college without any rebuke. This evidence should have sufficed to withstand a motion to dismiss.

The vendetta against Dr. Vengalattore was directly enabled by the Department of Education's (ED) Title IX "guidance" that unlawfully coerced Cornell into removing critical due process protections. It is not mere "speculation" that Cornell adopted Policy 6.4 regarding sexual misconduct in response to ED's 2011 "Dear Colleague" letter. Cornell officials who sponsored adoption of the new policies expressly stated that the change was necessary to bring Cornell into compliance with the letter.

The Second Circuit should reinstate Dr. Vengalattore's claims against Cornell and ED and address the problems associated with university-led investigations of alleged sexual misconduct, including the serious lack of due process in these hearings that leads to terrible reputational injuries.

Read case background [here](#).

NCLA released the following statements:

“Dr. Vengalattore was the victim of a years-long effort by a disgruntled graduate student who had vowed to do whatever she could to make sure he never got tenure after the student was forced to leave his program for subpar academic performance. Using a rigged and one-sided system, Cornell investigators ignored multiple witnesses who highlighted the student’s history of making false allegations, as well as racially and sexually inappropriate comments in the lab, so it could reach an outcome designed solely to find people responsible for misconduct.”

— **Caleb Kruckenberg, Litigation Counsel, NCLA**

“The Title IX proceedings that destroyed Dr. Vengalattore’s career as a rising star in his field of physics are an all-too-familiar story of what ensued after the Department of Education’s infamous “Dear Colleague” letter forced colleges across the country to jettison constitutional safeguards. Many federal courts are conscientiously recognizing that due process must be restored for defendants on campus. NCLA is confident that the Second Circuit will join them and reverse this erroneous and unjust dismissal.”

— **Peggy Little, Senior Litigation Counsel, NCLA**

ABOUT NCLA

NCLA is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar Philip Hamburger to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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