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NCLA to Appeal NDNY Ruling that Stymies Ex-Cornell Prof's Fight for Due Process in Title IX Hearings

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

Washington, DC (June 16, 2020) – Dr. Mukund Vengalattore was a well-liked and well-regarded young physics professor at Cornell University in Ithaca, NY. He spent all his time running a bustling lab full of graduate students and attracting steady streams of federal funding when his Title IX nightmare began. In 2014, a former grad student whom Cornell dismissed for academic reasons accused him of sexual misconduct. She had sworn publicly when leaving campus that she would make sure Dr. Vengalattore never got tenure, and she followed through with a Title IX complaint filed on the cusp of his tenure decision. Cornell's ensuing Title IX disciplinary process was not only biased, discriminatory and fundamentally unfair, it also lacked due process.

Cornell structured its Title IX hearings based on U.S. Department of Education (ED) guidance designed to enhance the likelihood that accused parties would face discipline—whether or not they were guilty. At ED's direction in a series of "guidance" documents, Cornell revamped its disciplinary system to guarantee that Dr. Vengalattore never had a full and fair opportunity to challenge the validity of the charges against him. For starters, investigators refused to tell Dr. Vengalattore what charges he was facing, yet they applied a presumption of guilt and demanded that he prove his innocence. They invented accusations of a year-long consensual relationship which neither party alleged. Although male and female professors and students supported Dr. Vengalattore's testimony, the investigators refused to interview defense witnesses. Instead, they credited testimony of the charging party despite very good indications that she was filing the charge to settle a score. The investigators even helped the charging party modify her accusations when they failed to line up with the evidence. In the end, with ED's blessing, the charging party was allowed to weaponize Title IX even though she was no longer a student at Cornell.

The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group announced today that it will appeal this case to the U.S. Court of Appeals for the Second Circuit. NCLA filed a [complaint](#) against Cornell and ED in 2018 to right this wrong. Last month, District Judge Gary Sharpe [granted](#) the defendants' motions to dismiss the case, without ruling on the substance of Dr. Vengalattore's claims that the university and the government subjected Dr. Vengalattore to a biased process.

NCLA's [filings](#) asked the Court to declare that ED's Title IX guidance, much of which the Department has since withdrawn, is unlawful and unenforceable. But Judge Sharpe said he could not see a connection between the guidance ED sent Cornell and the disciplinary findings. Yet the Court denied any opportunity to develop these facts in discovery or at trial.

Further, the judge took the unusual view that Title IX, which bans discrimination on the basis of sex in education, does not apply to faculty, even though the statute does not distinguish between students and faculty. The court also concluded that even though Dr. Vengalattore never had a full and fair opportunity to challenge the validity of the charges against him in the disciplinary proceeding used by Cornell, the Constitution's Due Process Clause does not provide him with relief in federal court because Cornell is a partially private institution. The court reached this conclusion even though ED had coerced Cornell to change its policies with a threat of eliminating all federal funding to the college—and even though federal funds partly paid for Dr. Vengalattore's physics lab and salary.

Cornell's flawed disciplinary findings continue to interfere with Dr. Vengalattore's ability to get another tenure-track position, but he is deeply committed to clearing his name and making sure Cornell's unfair process cannot be used again on anyone else.

NCLA released the following statements:

“The judge never questioned NCLA's point that the Department of Education's Title IX ‘guidance’ unlawfully coerced colleges into removing critical due process protections. Nor did he dispute that Dr. Vengalattore was subjected to a biased and unfair disciplinary process. Instead, he made the untenable decision that federal law provides no remedy for those harms. NCLA looks forward to vindicating our client at the Court of Appeals.”

—**Caleb Kruckenberg, NCLA Litigation Counsel**

“NCLA hears many horror stories about abusive Title IX cases, but the vendetta against Dr. Vengalattore is one of the very worst. We are disappointed that the judge has dismissed this complaint before discovery could even occur. The Department of Education has mostly repealed the flawed mandatory ‘guidance’ Cornell relied on to prosecute Dr. Vengalattore. But Cornell is still using the flawed process that treated him so unjustly. We are grateful that Dr. Vengalattore is willing to fight the weaponization of Title IX proceedings and seek to abolish the process that harmed him. We fully expect that the Second Circuit will put this case back on track.”

—**Mark Chenoweth, NCLA Executive Director and General Counsel**

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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