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NCLA Wins Appeal: Second Cir. Rejects Cornell’s Effort to Strip Due Process Rights from Faculty in Title IX Hearing

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

Washington, DC (June 2, 2022) – The U.S. Court of Appeals for the Second Circuit today [vacated](#) the dismissal of the Title IX and defamation claims in *Dr. Mukund Vengalattore v. Cornell University and the U.S. Department of Education*. It held that university discrimination against faculty on the basis of sex is subject to suit under Title IX. The majority and concurring opinions expressed shock at the lack of due process and general treatment of Dr. Mukund Vengalattore by Cornell University. Judge José Cabranes, in his concurrence, noted that Cornell’s actions (if proved at trial) represent “deeply troubling aspects of contemporary university procedures to adjudicate complaints under Title IX” and “signal a retreat from the foundational principle of due process.”

In its [appeal](#), the New Civil Liberties Alliance argued that the district court erred in concluding that the Title IX cause of action does not extend to employees. The 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. The Second Circuit agreed. Denying Dr. Vengalattore a private right of action for sex discrimination is inconsistent with Title IX’s statutory language.

Dr. Vengalattore was a tenure-track physics professor at Cornell University. In 2014, a former grad student who had left the school for academic reasons falsely accused him of sexual misconduct. Dr. Vengalattore has consistently and persuasively denied this accusation. Cornell, under the influence of the Department of Education’s Title IX guidance, found him guilty in a proceeding that deprived him of the most basic due process.

Judge Amalya Kearse, writing for the majority, described Cornell’s procedures in dealing with the allegations as “fundamentally skewed.” Judge Kearse noted that “The accuracy of the investigators’ recommended finding that Vengalattore had a sexual relationship with [Jane] Roe ... is plausibly called into question not only in light of the investigators’ rejection of Vengalattore’s requests to pursue evidence that could have supported his denial of a sexual relationship with Roe, but also in light of rationales proffered by the investigators for certain conclusions.”

Cornell’s investigators dismissed all exculpatory witnesses as irrelevant to the investigation or outright refused to listen to them. The investigators also ignored inconsistencies in Roe’s statements and refused to tell Dr. Vengalattore what charges he was facing yet required him to prove his innocence. Cornell denied Dr. Vengalattore a hearing, denied him the right to cross-examine witnesses, and denied him the right to present his own live witnesses. Notably, Judge Cabranes, in the concurrence, stated, “insulated from review, it is no wonder that, in some cases, these procedures have been compared unfavorably to those of the infamous English Star Chamber.” NCLA applauds the Second Circuit for strongly condemning the threats to due process and academic freedom embodied by Title IX Kangaroo Courts in higher education.

NCLA released the following statements:

"The appeals court recognized that the facts NCLA allege make out a compelling case of sex discrimination against a distinguished physics professor who was denied any semblance of a fair hearing. We look forward to proving our case at trial."

— **Rich Samp, Senior Litigation Counsel, NCLA**

"NCLA is thrilled with the thorough and insightful opinion from the Second Circuit today. By reviving our client's Title IX claim and his state defamation claim against Cornell University, Dr. Vengalattore will have the opportunity to expose the extreme lack of due process he suffered at Cornell's hands."

— **Mark Chenoweth, President and General Counsel, NCLA**

For more information visit the case page [here](#) and watch the case video [here](#).

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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