

Regarding No. D046471
In the Court of Appeal of the State of California
Fourth Appellate District, Division One

Pat Washington, Plaintiff and Appellant,
Vs
Trustees of the California State University and Colleges

Defendant and Respondent

Dear Justices:

I am writing on behalf of the Lambda Letters Project to support the Petition for Reconsideration in Washington v. CSU Board of Trustees. Our interest in this case stems from our organization's recognition that faculty of color, particularly women of color are often subjected to subtle forms of racial discrimination in the academy that results in discriminatory evaluation of their work performance, contributions to the university and often unconscious as well as conscious efforts to ignore their legitimate complaints about such treatment. We believe that Dr. Washington's case is clearly one in which the Equal Employment Opportunity Commission's recommendation that there is "reasonable cause" to believe that Dr. Washington was discriminated against on the basis of race/sex combined and subjected to retaliation for complaining about the mistreatment she experienced should be supported by the judiciary. Absent the remedies the EEOC proscribes, Dr. Washington deserves to have the particulars of her case heard by a jury of her peers.

We believe the Appellate Court is taking an unfortunate stance in upholding Judge Bloom's summary judgment motion against Dr. Washington and we urge you to reconsider your decision. Dr. Washington was subjected to three different sets of increasingly subjective criteria for tenure and promotion during her time in the Women's Studies Department. Given the commonsense understanding that faculty who are "already in the pipeline" when a department changes its criteria for promotion and tenure are "grandfathered" in, that in and of itself was evidence that something was amiss in how her colleagues would ultimately evaluate her performance for tenure and promotion.

Nonetheless, Dr. Washington more than ably performed the job she was hired to do. She exceeded the terms and conditions of employment spelled out in the contract she signed at the time of hire. She met the new requirements imposed a year later, and we believe she also met the conditions imposed six months before her tenure and promotion application was reviewed. For example, Dr. Washington was voted "Teacher of the Year" three times in less than six years. None of her colleagues in Women's Studies can legitimately make that claim. Dr. Washington frequently met or exceeded the departmental average for teaching effectiveness, followed the recommendations for improving her teaching and research that she was given each year despite an increasingly

hostile work environment, and she sought nonlegal avenues for addressing the issues she felt were impediments to her career at San Diego State University whenever she could.

Dr. Washington was the first and only African American tenure- track professor in the history of the Women's Study Department. By all accounts, her Women's Studies colleagues like her just fine, unless she complained about and sought relief from, discrimination and retaliation she witnessed or experienced within the Women's Studies Department. Nonetheless, the court is setting a dangerous benchmark for workers everywhere when it accepts the notion that it is okay to fire an employee because her co-workers don't like her. By upholding Judge Bloom's summary judgment against Dr. Washington, the Appellate Court is in effect, also accusing Dr. Washington of not being a team player because she did not acquiesce to racial discrimination and retaliation. It is tantamount to openly sanctioning racial discrimination and retaliation, sending a chilling message to all university employees; employees of color as well as their White allies who strive to promote racial equality and freedom from retaliation within the academy.

The American Association of University Professors and the California Faculty Association as well as others have long recognized that the insistence that one is a "team player" and strict standards of "collegiality" that are often only applied to faculty of color are often little more than veiled attempts to mask various forms of discrimination that are legally forbidden.

In reviewing the timeline of when Dr. Washington executed her rights as a university employee to pursue administrative remedies for various actions taken against her and the precipitous decline or reversal of previously positive evaluations of her teaching and research performance, it is clear to the willing observer that she was punished time and time again for speaking up against inappropriate treatment and behaviors.

Dr. Washington had a right to be treated with the decency that the law requires. She had a legal right to take steps to be treated and evaluated fairly. And, Dr. Washington, as well as all employees, has to be able to seek legal relief when normal administrative channels fail.

Please reverse your earlier ruling that upheld the summary judgment motion in the Case of Washington v. the CSU Board of Trustees. Our society cannot allow employers to believe they have a right to terminate any competent employee on the basis of expressed dislike.

Sincerely,

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