Nos. 18-6102 / 18-6165

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

RACHEL TUDOR,

Plaintiff-Appellant/Cross-Appellee,

v.

SOUTHEASTERN OKLAHOMA STATE UNIVERSITY *and the* REGIONAL UNIVERSITY SYSTEM OF OKLAHOMA,

Defendants-Appellees/Cross-Appellants.

On appeal from the United States District Court for the Western District of Oklahoma The Hon. Robin J. Cauthron No. 5:15-CV-00324-C

SUPPLEMENTAL APPENDIX for DEFENDANTS-APPELLEES/CROSS-APPELLANTS

REVISED VOLUME 12 (FILED UNDER SEAL)

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		Richard Ogden (filed under seal)	2802-2813

Exhibit 13

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA UNITED STATES OF AMERICA, Plaintiff, RACHEL TUDOR, Plaintiff Intervenor,) No. 5:15-CV-00324-C -VS-SOUTHEASTERN OKLAHOMA STATE) UNIVERSITY, and THE REGIONAL UNIVERSITY SYSTEM OF OKLAHOMA, Defendant. DEPOSITION OF THE HONORABLE JUDGE RICHARD OGDEN TAKEN ON BEHALF OF THE PLAINTIFF INTERVENOR IN OKLAHOMA CITY, OKLAHOMA ON AUGUST 26, 2016 REPORTED BY: JENNI L. GUNTER, CSR DEPOS@DODSONREPORTING.NET WWW.DODSONREPORTING.NET

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			60
	1	Q (By Mr. Young) Were there any policies	
	2	or practices in place at the time that required	
	3	notification of the board by someone at	
	4	Southeastern of such claims?	
03:06PM	5	A That, I don't know. I don't I just	
	6	I don't know.	
	7	Q At some point did RUSO take steps to	
	8	investigate Dr. Tudor's complaints?	
	9	A When you talk about RUSO, what do you	
03:07PM	10	mean?	
	11	Q Say, the board.	
	12	A Okay. I would say the board took steps	
	13	to gather information, but not to conduct an	
	14	investigation.	
03:07PM	15	Q Can you explain to me how you're	
	16	differentiating gathering information as opposed	
	17	to conducting an investigation?	
	18	A Yes.	
	19	Q So please explain. A Well, I believe that investigation is	
03:07PM	20 21	A Well, I believe that investigation is very comprehensive. It is a in terms of	
	22	employment discrimination issues, it has its own	
	22	term of art. And I don't believe that what the	
	24	board did was conduct an investigation within the	
03:07PM	25	confines of that definition. Rather I believe	

	1	that the board did its job, in terms of trying to	
	2	gather information in order for us to do our job.	
	3	Q Okay. To your recollection, when did the	
	4	RUSO board start gathering information?	
03:08PM	5	A Very soon after the reports in the media.	
	6	Q I believe you previously testified that	
	7	you believe those reports emerged sometime towards	
	8	the end of the 2010/2011 school year?	
	9	A I believe it was sometime in April of	
03:08PM	10	2011, but I just am not totally certain. It could	
	11	have been I know it was before the end of the	
	12	academic year.	
	13	Q And who at RUSO was involved in gathering	
	14	information?	
03:08PM	15	A I believe that would have been initially	
	16	myself, Charlie Babb, Sheridan McCaffree, and to a	
	17		
	18	Q And who is Connie Reilly?	
	19	A She was the chair of the board at the	
03:09PM	20	time.	
	21	Q To your recollection, what was Mr. Babb's	
	22	involvement?	
	23	A Mr. Babb's involvement would have been	
	24	to my recollection and my knowledge, he probably	
03:09PM	25	had some independent information gathering going	

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magistrate position? 1 Α Yes. 2 And I presume you did not get that 3 Q position? 4 5 Α That's correct. 05:35PM Do you have any understanding as to why Ο 6 7 you didn't get that position? 8 Α No. 9 Ο Do you recall ever hearing any rumors about why you didn't receive that position? 05:35PM 10 Α 11 No. After the magistrate position, were there 12 0 any other judgeships that you sought before the 13 current one that you have now? 14 05:36PM 15 Α No. 0 Okay. Do you know a Robert Henry? 16 17 Α Yes. 18 0 Who is Robert Henry? He is the former attorney general for the 19 A 20 State of Oklahoma, former dean of the OCU --05:36PM Oklahoma City University College of Law, former 21 22 Tenth Circuit Judge and now president of Oklahoma 23 City University, and friend. And a friend. Okay. I'd like to focus 24 0 05:37PM 25 on the time that Judge Henry was serving on the

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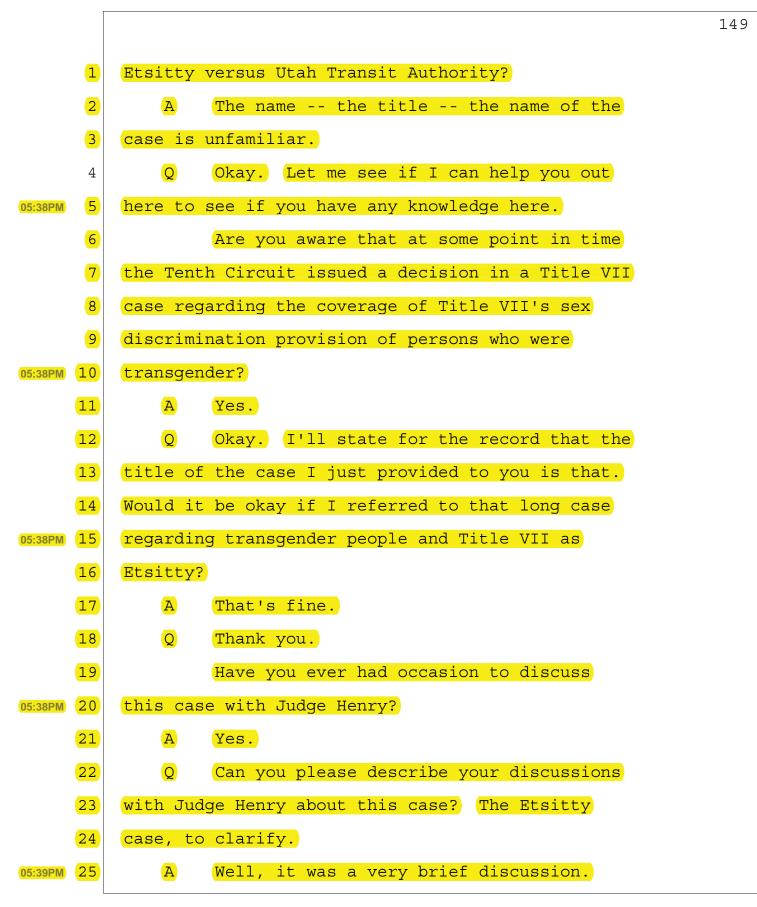
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	1	Tenth Circuit.	
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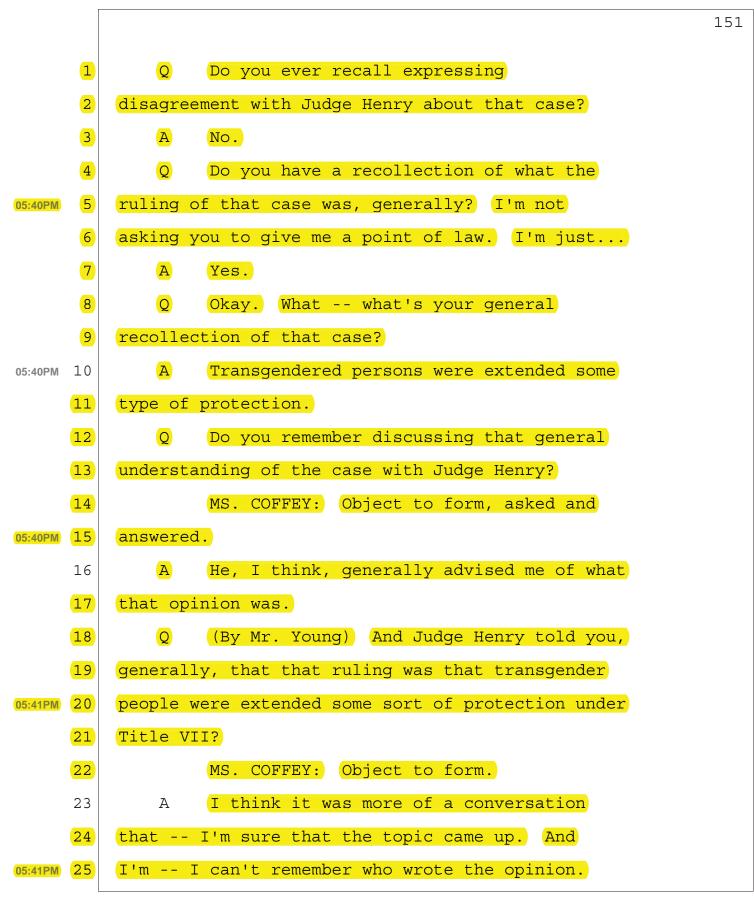


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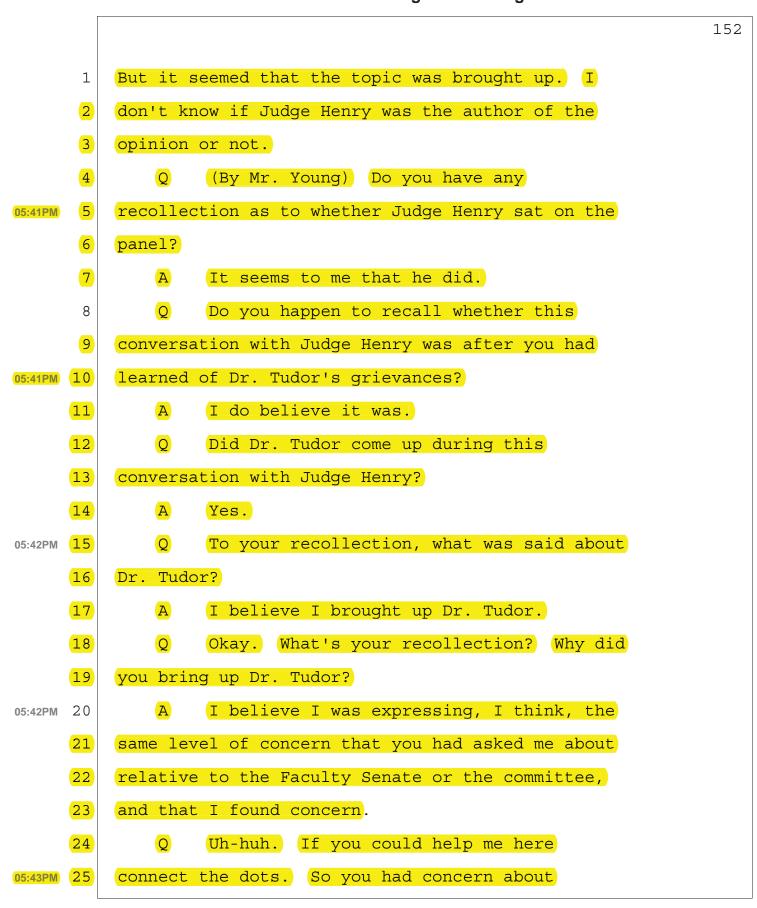
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150 1 And Judge Henry was no longer on the Tenth 2 Circuit. 3 0 And what was the substance of that 4 conversation? 5 I was at his home and we were getting 05:39PM A 6 ready to go to dinner. And I believe he had 7 mentioned his ruling on this case. It was a fairly brief conversation. 8 9 Q Do you recall saying anything to 05:39PM 10 Judge Henry? About the case? 11 Α 12 0 Yeah. 13 Α Whether I agreed with his ruling or not 14 agreed with his ruling? 05:40PM 15 Q Anything. Let's start with anything and work from that. 16 17 A Okay. I mean, I don't recall 18 specifically what I said, but I'm sure it was --19 I'm sure I said something. I'm sure it wasn't without word. 20 05:40PM 21 0 Why are you sure that you said something? 22 A Well, only because that's the way conversations usually work. If he had brought it 23 24 up, I don't think I would have just been silent. 05:40PM 25 I just don't recall what I said.

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	1	Dr. Tudor. So you discussed this decision with	
	2	Judge Henry, this Etsitty decision.	
	3	A Well, not	
	4	MS. COFFEY: Object to form, misstates	
05:43PM	5	his testimony.	
U5:43PM			
	6	A President Henry brought up this case.	
	7	Q (By Mr. Young) What did he say about	
	8	this case?	
	9	A Just something to the effect that that	
05:43PM	10	he I think whether he authored it or whether or	
	11	not he was on the panel, but that something	
	12	that he wanted to share.	
	13	Q Is there anything else that you recall	
	14	about this conversation you had with Judge Henry?	
05:44PM	15	A Well, it was in terms of the pertinent	
	16	part being Dr. Tudor or this case, then not too	
	17	much more, no. But it was I mean, I was at his	
	18	house, we went to dinner, so a lot of conversation	
	19	took place.	
05:44PM	20	Q To clarify, there was unrelated	
	21	conversation?	
	22	A Much, yes.	
	23	Q Okay. Thank you.	
	24	Sitting here today, do you personally	
05:44PM	25	believe that President Minks acted appropriately	

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157 1 just that it was not -- not -- not the place of 2 the regents. 3 Do you believe that it is the place of 0 the regents to ensure that discrimination does not 4 5 happen on RUSO member school campuses? 05:50PM 6 Α Absolutely. 7 0 To your understanding, did Southeastern have policies prohibiting transgender 8 9 discrimination? 05:50PM 10 I don't know if transgender was a part or A enumerated classification. 11 12 0 To your understanding, if transgender 13 discrimination happened on Southeastern's campus during this time period, was that something that 14 05:50PM 15 was prohibited by policy? 16 I don't know that being prohibited by A 17 policy. 18 0 To your understanding, if transgender discrimination happened on Southeastern's campus 19 20 during this time period, would it have been 05:51PM 21 prohibited by law? 22 MS. COFFEY: Objection, calls for a legal conclusion. 23 Well, whether or not it would be 24 Α prohibited by case law or regulation, it wouldn't 25 05:51PM

CERTIFICATE OF COMPLIANCE

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/s/ Zach West

CERTIFICATE OF SERVICE

I certify that on March 11, 2019, I filed the foregoing with this Court and served a copy on all parties via the Court's CM/ECF filing system. A single hard copy of the foregoing, which is an exact copy of the document filed electronically, will be dispatched via commercial carrier to the Clerk of the Court for receipt within 2 business days.

/s/ Zach West

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