

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Feng Tao v. University of Kansas, et al.

Tao · No. 25-2005-JWB · Decided January 29, 2026

SUMMARY

The United States District Court for the District of Kansas considers Defendants’ motions to dismiss claims brought by Feng Tao, a former tenured University of Kansas professor. The court dismisses the hostile-work-environment and most procedural due process theories, but allows Tao’s Title VII wrongful-termination claim to proceed. The court also denies Tao’s motion for a preliminary injunction because the underlying basis for relief was dismissed.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	John W. Broomes
JURISDICTION	United States District Court for the District of Kansas
DECIDED	January 29, 2026
DOCKET	25-2005-JWB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought Title VII, 42 U.S.C. §§ 1981 and 1983, procedural due process, and equal protection claims arising from his termination by the University of Kansas. Defendants moved to dismiss under Rule 12(b)(6), and Plaintiff moved for a preliminary injunction.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the complaint must contain sufficient factual allegations to state a facially plausible claim for relief. The court accepts well-pleaded facts and reasonable inferences as true and views them in the light most favorable to the plaintiff, but disregards conclusory allegations.
PRECEDENTIAL VALUE	Unknown
PARTIES	Feng Tao, also known as Franklin Tao v. University of Kansas, Douglas Girod, Barbara Bichelmeyer

TOPICS

- motions to dismiss
- procedural due process
- title vii
- employment discrimination
- equal protection

PRACTICE AREAS

civil procedure

employment law

civil rights

constitutional law

remedies

QUESTIONS PRESENTED

1. Whether Tao exhausted administrative remedies for his Title VII hostile-work-environment and continuing-discrimination allegations.
2. Whether Tao plausibly pleaded a Title VII wrongful-termination claim without alleging detailed comparator facts.
3. Whether Tao stated an official-capacity procedural due process claim based on termination without a pretermination hearing.
4. Whether refusal to reinstate Tao or to constitute the Faculty Rights Board in the contractually specified manner stated a procedural due process claim.
5. Whether Tao's individual-capacity procedural due process claim was barred by qualified immunity.
6. Whether Tao plausibly pleaded official-capacity equal protection claims under 42 U.S.C. §§ 1981 and 1983.

HOLDINGS

1. A Title VII charge that alleges only discriminatory termination and contains no facts concerning a hostile work environment does not exhaust a hostile-work-environment claim merely because the claimant checked a continuing-action box.
2. At the motion-to-dismiss stage, a Title VII plaintiff need not plead detailed comparator facts or conclusively establish a prima facie case; the complaint need only plausibly allege an adverse employment action under circumstances giving rise to an inference of discrimination.
3. Tao plausibly stated a procedural due process claim based on termination without a pretermination hearing, and the parties' agreement did not foreclose that claim at the motion-to-dismiss stage because Tao was ultimately acquitted.
4. A refusal to reinstate an employee is not itself a denial of procedural process, and the Fourteenth Amendment does not require officials to constitute an internal employment review board in a particular contractual manner.
5. The alleged lack of an internal appeal or posttermination hearing did not state a federal procedural due process claim where Kansas law provided an adequate judicial review remedy for tenured professors.
6. The individual-capacity procedural due process claim was dismissed because the asserted right to await completion of all criminal appellate proceedings before termination, despite the parties' written agreement, was not clearly established.
7. Tao plausibly pleaded official-capacity racial discrimination claims under §§ 1981 and 1983 because the pleading standard and discrimination analysis were materially the same as under Title VII, and his allegations were sufficient to survive dismissal.

KEY QUOTATIONS

“A procedural due process claim contests the denial of process regarding the deprivation of an underlying liberty or property interest.” (Section III.C)

“Qualified immunity protects government officials from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” (Section III.D)

FACTUAL BACKGROUND

Feng Tao was a tenured University of Kansas professor who was investigated and prosecuted in connection with alleged undisclosed ties to a Chinese university. KU dismissed him while the federal criminal case was pending, and the parties entered an agreement addressing the effect of a conviction on his right to appeal the termination. After Tao's wire-fraud convictions were vacated and his remaining false-statement conviction was reversed on appeal, KU refused to reinstate him and difficulties arose concerning the composition of the Faculty Rights Board. Tao alleged that KU discriminated against him because of his race, ethnicity, and national origin and denied him procedural due process.

PROCEDURAL HISTORY

Plaintiff filed the action in January 2025 and later filed a second amended complaint. Defendants moved to dismiss all claims. The court granted the motions in part and denied them in part, denied Plaintiff's motion for a preliminary injunction, dismissed the hostile-work-environment claim, dismissed most procedural due process theories, dismissed the individual-capacity due process claim on qualified-immunity grounds, and allowed the Title VII termination, official-capacity pretermination due process, and official-capacity equal protection claims to proceed.

DISPOSITION

other

CASES CITED

- Robbins v. Oklahoma, 519 F.3d 1242, 1247 (10th Cir. 2008)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007)
- Archuleta v. Wagner, 523 F.3d 1278, 1283 (10th Cir. 2008)
- Shero v. City of Grove, Okla., 510 F.3d 1196, 1200 (10th Cir. 2007)
- McNellis v. Douglas Cnty. School Dist., 116 F.4th 1122, 1139 (10th Cir. 2024)
- Bennett v. Windstream Commc'ns, Inc., 792 F.3d 1261, 1266 (10th Cir. 2015)
- Oncale v. Sundowner Offshore Servs., Inc., 523 U.S. 75, 78 (1998)
- Aramburu v. Boeing Co., 112 F.3d 1398, 1409 (10th Cir. 1997)
- Brown v. Hartshorne Pub. School Dist. #1, 864 F.2d 680, 682 (10th Cir. 1988)
- Edwards v. Creoks Mental Health Serv., Inc., 505 F. Supp. 2d 1080, 1092 (N.D. Okla. 2007)

- *Deravin v. Kerik*, 335 F.3d 195, 200-01 (2d Cir. 2003)
- *Smith v. Cheyenne Retirement Investors L.P.*, 904 F.3d 1159, 1164 (10th Cir. 2018)
- *Jones v. U.P.S., Inc.*, 502 F.3d 1176, 1186 (10th Cir. 2007)
- *Mackley v. TW Telecom Holdings, Inc.*, 296 F.R.D. 655, 669 (D. Kan. 2014)
- *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 122 (2002)
- *Utah Gospel Mission v. Salt Lake City Corp.*, 425 F.3d 1249, 1253-54 (10th Cir. 2005)
- *Khalik v. United Air Lines*, 671 F.3d 1188, 1192 (10th Cir. 2012)
- *White v. Schafer*, 738 F. Supp. 2d 1121, 1134 (D. Colo. 2010)
- *Robinson v. Cavalry Portfolio Serv., L.L.C.*, 365 F. App'x 104, 114 (10th Cir. 2010)
- *Smith v. McDonough*, No. 22-6131, 2023 WL 2765898, at *4 (10th Cir. Apr. 4, 2023)
- *Luster v. Vilsack*, 667 F.3d 1089, 1095 (10th Cir. 2011)
- *Ross v. Pentair Flow Technologies, Inc.*, No. 19-CV-2690, 2020 WL 1028304, at *4 (D. Kan. Mar. 3, 2020)
- *Bekkem v. Wilkie*, 915 F.3d 1258, 1274-75 (10th Cir. 2019)
- *Perry v. Sinderman*, 408 U.S. 593, 600-02 (1972)
- *Mathews v. Eldridge*, 424 U.S. 319, 332, 334, 348 (1976)
- *Collvins v. Hennebold*, 585 F. App'x 951, 954 (10th Cir. 2014)
- *Cafeteria Workers v. McElroy*, 367 U.S. 886, 895 (1961)
- *Gaskill v. Fort Hays State Univ.*, 70 P.3d 693, 694-95 (Kan. Ct. App. 2003)
- *Pinder v. Mitchell*, 658 F. App'x 451, 453 (10th Cir. 2016)
- *Griffith v. Kentucky*, 479 U.S. 314, 321 n.6 (1987)
- *Graham v. City of Philadelphia*, 402 F.3d 139, 146 (3d Cir. 2005)
- *Callahan v. Unified Government of Wyandotte Cnty.*, 806 F.3d 1022, 1026 (10th Cir. 2015)
- *Pearson v. Callahan*, 555 U.S. 223, 231 (2009)
- *Ziglar v. Abbasi*, 582 U.S. 120, 150-51 (2017)
- *District of Columbia v. Wesby*, 583 U.S. 48, 62-63 (2018)
- *Mullenix v. Luna*, 577 U.S. 7, 11-12 (2015)
- *Ashcroft v. al-Kidd*, 563 U.S. 731, 742 (2011)
- *Ullery v. Bradley*, 949 F.3d 1282, 1289, 1291-92 (10th Cir. 2020)
- *Kisela v. Hughes*, 584 U.S. 100, 104 (2018)
- *Drake v. City of Fort Collins*, 927 F.2d 1156, 1162 (10th Cir. 1991)
- *Gairola v. Virginia Dep't of Gen. Servs.*, 753 F.2d 1281, 1285-86 (4th Cir. 1985)
- *McAlester v. United Air Lines, Inc.*, 851 F.2d 1249, 1260 (10th Cir. 1988)