

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Jun Yu v. Idaho State University

No. 20-35582, United States Court of Appeals for the Ninth Circuit (October 20, 2021)

SUMMARY

The Ninth Circuit affirmed a bench trial judgment for Idaho State University in a Title VI intentional discrimination suit brought by a Chinese international student dismissed from a clinical psychology doctoral program. The court held that the district court did not clearly err in finding that the university's actions were based on the student's poor clinical performance, not race or national origin, and that the district court permissibly gave limited weight to expert testimony on "aversive racism" (unconscious/implicit bias). The panel declined to decide whether implicit bias evidence can prove intentional discrimination under Title VI, but the concurrence opined that such expert testimony will rarely be admissible because it usurps the jury's credibility role, lacks scientific testing, and improperly treats a defendant's race-neutral explanations as evidence of bias.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Ronald M. Gould; Richard R. Clifton; Eric D. Miller
JURISDICTION	Federal
DECIDED	October 20, 2021
DOCKET	20-35582
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a bench trial judgment in favor of defendant. The district court found no intentional discrimination, and Yu appealed.
STANDARD OF REVIEW	Following a bench trial, the judge's findings of facts are reviewed for clear error. <i>Lentini v. Cal. Ctr. for the Arts</i> , 370 F.3d 837, 843 (9th Cir. 2004). Findings of fact must not be set aside unless clearly erroneous, and the reviewing court must give due regard to the trial court's opportunity to judge the witnesses' credibility. Fed. R. Civ. P. 52(a)(6). The district court's conclusions of law are reviewed de novo. <i>Lentini</i> , 370 F.3d at 843. The issue of intentional discrimination is a finding of fact reviewed for clear error. <i>Anderson v. Bessemer City</i> , 470 U.S. 564, 573 (1985).
PRECEDENTIAL VALUE	Published

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QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding that Yu failed to prove intentional discrimination under Title VI.

HOLDINGS

1. The district court did not clearly err because its finding is plausible in light of the record, and there is substantial evidence that Yu was dismissed due to his inability to demonstrate clinical competence rather than discrimination.

KEY QUOTATIONS

“The evidence presented in this case failed to persuade that Yu was dismissed for any reason other than his inability to gain, or to demonstrate, the degree of clinical competence expected of a fifth-year clinical psychology doctoral student.” (14)

“we hold that the district court did not clearly err in finding that Yu failed to show that ISU intentionally discriminated against him.” (13)

FACTUAL BACKGROUND

Jun Yu, a Chinese international student, enrolled in Idaho State University's doctoral program in clinical psychology in 2008. He completed coursework and dissertation but failed to complete the required professional internship. Supervisors repeatedly criticized his English fluency and clinical competence, and he was dismissed from an externship and later from the internship he arranged. ISU's Graduate Faculty voted to dismiss him from the program, citing lack of sufficient clinical skills. Yu sued under Title VI, alleging intentional discrimination based on race or national origin.

PROCEDURAL HISTORY

Yu filed a Title VI suit against ISU in the District of Idaho. The district court denied summary judgment on the disparate treatment claim and held a four-day bench trial. After trial, the district court entered judgment for ISU, finding that Yu failed to prove intentional discrimination. Yu appealed to the Ninth Circuit.

DISPOSITION

affirmed

CASES CITED

- Alexander v. Sandoval, 532 U.S. 275 (2001)
- Anderson v. Bessemer City, 470 U.S. 564 (1985)
- Brown v. United States, 329 F.3d 664 (9th Cir. 2003)
- Casillas v. U.S. Navy, 735 F.2d 338 (9th Cir. 1984)
- Easley v. Cromartie, 532 U.S. 234 (2001)
- Gonzales v. Police Dep't, City of San Jose, 901 F.2d 758 (9th Cir. 1990)
- Grutter v. Bollinger, 539 U.S. 306 (2003)
- Husain v. Olympic Airways, 316 F.3d 829 (9th Cir. 2002)
- In re Rodriguez, 487 F.3d 1001 (6th Cir. 2007)
- Lentini v. Cal. Ctr. for the Arts, 370 F.3d 837 (9th Cir. 2004)
- Martin v. F.E. Moran, Inc., No. 13 C 3526, 2018 WL 1565597 (N.D. Ill. Mar. 30, 2018)
- N. Queen Inc. v. Kinnear, 298 F.3d 1090 (9th Cir. 2002)
- Oakland Bulk & Oversized Terminal, LLC v. City of Oakland, 960 F.3d 603 (9th Cir. 2020)
- Pullman-Standard v. Swint, 456 U.S. 273 (1982)
- Regents of Univ. of Cal. v. Bakke, 438 U.S. 265 (1978)
- Regents of Univ. of Mich. v. Ewing, 474 U.S. 214 (1985)
- Tolan v. Cotton, 572 U.S. 650 (2014) (per curiam)
- U.S. Postal Serv. Bd. of Governors v. Aikens, 460 U.S. 711 (1983)
- United States v. Hinkson, 585 F.3d 1247 (9th Cir. 2009) (en banc)
- United States v. U.S. Gypsum Co., 333 U.S. 364 (1948)
- Washington v. Davis, 426 U.S. 229 (1976)
- Allen v. Iranon, 283 F.3d 1070 (9th Cir. 2002)
- United States v. Dorsey, 45 F.3d 809 (4th Cir. 1995)
- United States v. Hill, 749 F.3d 1250 (10th Cir. 2014)
- United States v. Rincon, 28 F.3d 921 (9th Cir. 1994)
- United States v. Halamek, 5 F.4th 1081 (9th Cir. 2021)
- United States v. Vallejo, 237 F.3d 1008 (9th Cir. 2001)
- United States v. Bighead, 128 F.3d 1329 (9th Cir. 1997) (per curiam)
- United States v. Antone, 981 F.2d 1059 (9th Cir. 1992)
- United States v. Fuentes-Cariaga, 209 F.3d 1140 (9th Cir. 2000)
- Nichols v. American National Insurance Co., 154 F.3d 875 (8th Cir. 1998)
- United States v. Binder, 769 F.2d 595 (9th Cir. 1985)
- Nimely v. City of New York, 414 F.3d 381 (2d Cir. 2005)

- *Stephens v. Union Pac. R.R. Co.*, 935 F.3d 852 (9th Cir. 2019)
- *Volk v. United States*, 57 F. Supp. 2d 888 (N.D. Cal. 1999)
- *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)
- *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999)
- *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973)
- *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133 (2000)
- *United States v. Morales*, 108 F.3d 1031 (9th Cir. 1997) (en banc)

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