

No. 19-6782

In the Supreme Court of the United States

ADRIENNE BROWN-MALLARD

Petitioner

v.

NEXT DAY TEMPS / MODEL HOME TEMPS,
ACCIDENT FUND GENERAL INSURANCE COMPANY, ET AL.

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES SUPREME COURT OF VIRGINIA
COURT OF APPEALS OF VIRGINIA
AND
THE VIRGINIA WORKERS COMPENSATION COMMISSION

PETITION FOR REHEARING

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February 21, 2020 / Refiled on March 4, 2020

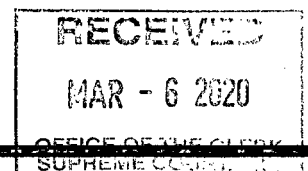


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MISCELLANEOUS

Legal Abuse https://en.wikipedia.org/wiki/Legal_abuse

JURISDICTION

The Supreme Court of the United States has jurisdiction over case 19-6782 according to the U. S. Constitution, Article III Sec. 1 and Sec. 2.

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44.1 of this Court, Adrienne Brown-Mallard respectfully petitions for rehearing of the Court's per curiam decision issued on January 27, 2020. Case docketed, in Cert-Pool and distributed for January 24, 2020 Conference with the Supreme Court Justices. I plea for this Court to grant this petition for rehearing and consider this case with merits briefing and oral argument en light of recent findings and direct conflicts with lower courts decisions. Petition for Rehearing is filed within 25 days of this Court's decision in accordance with Rule 44.1. I am presenting my petition in good faith and heart felt sincerity.

REASON FOR GRANTING THE PETITION

Rehearing is particularly warranted in case No. 19-6782. Without ruling from the U.S. Supreme Court Justices, fractured Rules needing clear and authoritative interpretation will remain nationwide. Open wound left by Respondents and Courts fractures on Workers' Compensation Act, Administrative Rules, State Rules, Americans with Disabilities Act, Civil Rights Act and the U. S. Constitution depriving me of due process of law, harming current/future injured workers nationally. Leaving me abused, without diagnosed medical treatment, paid benefits, rights violated, open to further abuse from Respondents and Virginia Workers Compensation Commission. Now Five-and-a-half Years affected by Legal Abuse and Retaliation. Only the Supreme Court of the United

States can stop abuse by removing Respondents and Virginia Workers' Compensation Commission entirely out and away from my life. I ask for "Equal Protection of the Laws."

Further research reveals additional substantial supportive evidence.

CASE BACKGROUND

June 6, 2014, I sustained multiple work injuries from faulty steps. Left leg spiral fracture twice around leg through entire left ankle, fractured left foot, severely injured right ankle and foot, left knee, left hip, both wrists. Suffering Complicated Chronic Regional Pain Syndrome ("CRPS/RSD"), Tibias Postrial Tendinitis Stage II, depression from lengthy excruciating pain and not able to walk for months, among other (totaling thirty) diagnosis. No weight bearing for a month, cast/crutches over four months.

July 20, 2016 VAWCC Opinion and Medical Awards ruled in favor of Petitioner awarded payment and medical benefits for Left Leg, Left Foot, Left Angle, Right Ankle, Left Wrist, Right Wrist, Left Knee, Tibial Tendinitis, Achilles Tendinitis and Neuralgia.

June 6, 2017 VAWCC Opinion and Medial Awards ruled in favor of Petitioner awarded medical benefits pursuant to *Section 65.2-603* of Workers' Compensation Act, awarded some new diagnosis, removed Knee award.

VIRGINIA WORKERS' COMPENSATION COMMISSION

VIOLATIONS OF THE LAWS

2017 Administrative decisions by the Virginia Workers Compensation Commission are in direct conflict with the *Administrative Process Act*, *Va. Code Ann §2.2 et seq.* and *Va. Code §65.2-201, §65.2-202, §18.2-456(4), and Rule 2A:3(b) and (c)* resulting in the denial of equal "due process of the law," under the 5th and 14th Amendment.

According to *Va. Code § 65.2-201(A)*, Employer Model Home Temps/Next Day Temps, Accident Fund ("Respondents") and counsel four (4) years of contempt of Court Orders (medical/paid benefits), additionally, Virginia Workers' Compensation Commission ("VAWCC") not enforcing its own Court Orders from 2016-Present conflict with laws- *Administrative Process Act, Workers' Compensation Act, Va. Code Ann §2.2 et seq., Va. Code §65.2-201, §65.2-202, §18.2-456(4), Constitutional Rights* and VAWCC Opinions.

Va. Code § 65.2-201(A) "It shall be the duty of the Commission to administer this title and adjudicate issues and controversies relating thereto... to punish for contempt..."

Rule state it is a duty, not discretionary for VAWCC to enforce compliance with its Orders/Awards when disobeyed by Respondents.

Code Sec. 65.1-88(B) "is to place the cost of medical care on the employer and to restore the employee's good health" so that he/she may return to work.

Murray's Lessee v. Hoboken Land & Improvement Co., 59 U.S. 18 How. 272 272 (1856) The Supreme Court of the United States stated, "The words, 'due process of law,' were undoubtedly intended to convey the same meaning as the words 'by the law of the land' in Magna Carter..."

2017 appeal derived from VAWCC Opinion removing Awarded Knee diagnoses (Chondromalacia/damaged cartilage) and denied my consequence Right-Knee claim.

Nanochemonic Holding v John McKinney (exhibit)

“Under doctrine of compensable consequences, a claimant may recover for an injury that results from an employment accident even if the injury does not develop until some future time.” Beglund Chevrolet, Inc. v. Landrum, 43 Va 742, 751, (2004).(exhibit) “When the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury likewise arises out of the employment...”

Denying diagnosed depression related to 2014 injuries, CRPS/RSD diagnosed by CAT-SAN and Five physicians including Respondents Independent Medical Examiner (“IME”). Denying paid benefits (last pay December 2015) while not able to do same jobs/strict work restrictions/limitations (Realtor is contractual-paid on settlements, not salary), denied other work injuries VAWCC unfairly weighing IME questionable notes three years after injury, against treating physicians consistent 2014-2017 notes. Treating physician notes bares greater weight, as well as Petitioners documents/testimony. United Airlines, 58 Va. App. at 237-38 *“...determination regarding causation need not be based solely on medical evidence and may consider a claimant’s testimony.”*

Respondents disobeying Court Orders/Award since 2016, abusing, harming my health/recovery frequently refusing medical treatment/prescriptions. Needing wrists surgery.

VAWCC did not enforcing Court Orders/laws *Code §65.2-201* (Commissioner power to punish for contempt/enforce compliance with lawful orders/awards). VAWCC did not protect my rights under *Workers' Compensation Act, 5th Amendment* ("No person shall be..., nor be deprived of life liberty... without due process of law."), the *14th Amendment* (no state can "deny to any person... equal protection of the laws"), *Article IV Section 4* (do no harm to others) and *Civil Rights Act* (not to discriminate against race, disabilities or not having representation), as set forth in our U. S, Constitution for all citizens.

I informed VAWCC of Respondents case negligence, Contempt of Court Orders/Awards in roughly fifteen (15) filed documents. After four years, only acknowledgment (to date) Commissioner Cummins 2018 Order (Appendix) reminded Respondents,

"... once physician becomes the treating physician, medical management of the employee is not to be directed by the employer. Control over that treatment remains within the purview of the treating physician... Defendants are, therefore, cautioned from engaging in any activity that smacks of medical management...claimant is not required to seek permission for every little item recommended by the treating physician..." Siting Richmond Memorial Hospital v. Allen 3 Va. App. 314, 318, 349 S.E.2d 419, 422 (1986).

Contempt of medical Orders/Awards and no paid benefits continues today, as my filed documents states in the VAWCC, provided with my explicit medical and case proceedings in my Writ of Certiorari to this honorable Court.

A California Opinion, In Lab. Code, §5814; cf. Kerley v. Workmen's Comp. App. Bd. (1971) 4 Cal. 3d 223, 227 [93 Cal. Rptr. 192, 481 P.2d 200] sites, "... *payment of compensation has been unreasonably delayed or refused, a penalty may be imposed.*" VAWCC not enforcing Orders, comparatively unbalanced with other states and other Virginia Opinion. Hudock v. Indus. Comm'n of VA., 1 Va. App. 474, 480, 340 S.E.2d 168, 172 (1986). "*This is a concomitant of judicial power, necessary to the proper and effective discharge of [the commission's] duties.*"

In South Carolina Supreme Court, Scott Ledford v. Department of Public Safety, State Accident Fund, Appendix) Writ of Certiorari to Court of Appeals, Commissioner Barden allegedly threatened proceedings against Ledford (Court of Appeals affirmed Commissioner not required to recuse...). *Sec. 3E, CJC, Rule 501, SCACR. "In our view, Commissioner Barden's behavior... would undoubtedly lead one to reasonably question her impartiality... she should have recused herself...conduct...unacceptable and offensive to the ideals of a fair and impartial judiciary." "Instead of stepping aside, Commissioner... became more abusive and strident in both her ruling... and final order... compounds the initial error." "Accordingly, we reverse the decision of the Court of Appeals, vacate the orders of Commissioner Barden and the Appellate Panel, and remand for a new hearing before a single commissioner.*" After filing letter concerning inapt 3 ½ hour IME appointment to VAWCC detailing every fabrication in report, VAWCC conduct also became very abusive, strident in rulings/final orders (never addressing

letter) Opinion heavily weighing IME report, compounded on appeal hiding sixty-nine documents from Appendix to Appellate Court. Unlike South Carolina Supreme Court ruling denouncing abuse, VAWCC and Court of Appeals of Virginia (“CAVA”) ignored and compounded.

In Court of Appeals of Virginia, The Cura Group, Inc. v. VAWCC. (Index) 2005. Cura Group, Inc. appeals VAWCC assessment of thirty-four fines, failure to appear hearing. CAVA cited numerous rules/cases *Code 65.2-202(A)*, *Code 18-2-456*, *Code 18.2-456(5)*, *Code 65.2-201(A)*, *16 VAC30-50-20(12)*, *Hudock v. Indus Comm’n of Va.*, *1 Va. App. 474*, *480*, *340 S.E.2d 168*, *172 (1986)*... authorizes courts issue contempt sanctions on disobedience/resistance, punish for contempt, enforce compliance with lawful orders/awards... Conflicting, this discrete case, VAWCC and CAVA never enforced Four years of Respondents contempt of Orders/Awards, disregarded their given duty to enforce.

Texas 2019 case involving Respondents Accident Fund. Co., *Texas Commissioner of Workers’ Compensation v. Accident Fund National Insurance Company*, No. 20195866 **Accident Fund Failure To Timely Comply With A Final Or Binding Contested Case Hearing Decision And Order.** Assessment of Sanctions:

“...failure to provide appropriate income benefits in a manner that is timely and cost-effective is harmful to injured employees and to the worker’s compensation system of the state.”

Texas Department of Insurance Ordered administrative penalty. Conflicting, my filed VAWCC documents informed paid benefits frequently cut off, then denied. Unlike Texas Commissioner on Respondent Accident Fund, VAWCC didn’t respond, nor

enforcing Orders Code §65.2-202(A) creating unequal due process of laws leading to legal abuse. Texas Commissioner of Workers' Compensation also found Accident Fund:

"... factors set forth in TEX. LAB/CODE 415.021(c) and 28 TEX. ADMIN. CODE 180.26(e) to be aggravating: the seriousness of the violation; the history and extent of previous administrative violations; the penalty necessary to deter future violations; whether the administrative violation has negative impact on the delivery of benefits to an injured employee, and other matters that justice may require."

Workers' Compensation Act protects both injured workers and defendants. Respondents counsel aware of client's conduct/violations Code §18.2-456(4). Respondents contempt and accountability disregarded. My rights disregarded. Fractured laws inconsistent within VAWCC own rules/Opinions as well as nationwide.

Code §65.2-201 "In all matters within the jurisdiction of the Commission, it shall have the power of a court of record... to punish for contempt... and to enforce compliance with its lawful orders and awards."

Code §65.2-202(A) "The Commission has the authority to punish for contempt or disobedience of its orders as is vested in courts and judges by § 18.2-456."

Code §18.2-456(4) Misbehavior of an officer of the court in his official character... also authorizes courts to issue contempt sanctions based upon a party's "[d]isobedience or resistance... to any lawful process, judgment, decree or order of the court."

Hudock v. Indus. Comm'n of VA., 1 Va. App. 474, 480, 340 S.E.2d 168, 172 (1986). "This is a concomitant of judicial power, necessary to the proper and effective discharge of [the commission's] duties."

Id. At 481, 340, S.E.2d at 172. That is, "[w]ithout the authority to cite and punish for contempt of its decrees and orders the Commission would be virtually powerless to enforce them."

Rule 5:10(b) commits dispute to the trial court when case was not afforded equal "Due Process of the Law"

Legal Abuse- "Abuses can originate from virtually every part of the legal system... attorneys, law enforcement and judiciary can abuse the system... more often intentionally. Legal abuse can also be systemic, such as when the principles, processes, and consequences of law itself encourage and enable individuals to legally harm others." https://en.wikipedia.org/wiki/Legal_abuse

Only the U. S. Supreme Court decisions can protect me from further Legal Abuse, with decisions clarifying fractured laws and abuse needed.

COURT OF APPEALS OF VIRGINIA
VIOLATIONS OF THE LAWS

Respectfully, the 2019 Appellate Court decisions by the Virginia Court of Appeals is in direct conflict with the Commissioners Opinion/Awards, *Workers' Compensation Act*, the *Supreme Court of Virginia Rule 2A:3(b),(c),(d),(e)* not enforcing Opinions/Awards, denying filed evidence, resulting in further Legal Abuse, denial of equal protection and "due process of the law," under the 5th and 14th Amendment. Whether *Rule 2A:3(e)* should be applied after violations of the *Administrative Process Act*, *Workers' Compensation Act*, *Va. Code Ann §2.2 et seq.*, *Va. Code §65.2* and *Rule 2A:3*, upsetting the 5th and 14th Amendment? Needing authoritative resolution.

This layering abusive case displays a full view of what transpires from unresolved Legal Abuse. VAWCC did not relinquishing given duty *Code §65.2-201* on Respondents disobeying Court Orders. Coupled with VAWCC escalating abuse on appeal, omitting filed evidence from Appendix to CAVA.

Case decisions conflict with *Rule 2A:3(b),(c),(d),(e)*. Upon appeal requires VAWCC to supply a complete record (all filed documents) to Appendix for Appellate Court. Not to supply selected filed documents at Commissions discretion. Would applying *Rule 2A:3(e)* unfairly leave room for prejudice (remaining decision to VAWCC on which files to add

to Appendix) and conflict with *Article IV, Sec.4* and the 5th and 14th Amendment (to do no harm, equal protection, due process of law), after VAWCC (originally) deliberately omitted filed documents/evidence throughout 2014-2017? Initiating my Writ of Certiorari to CAVA on sixty-nine (69) missing filed documents/evidence from Appendix, supporting my case (68 mines, only 1 Respondents).

Virginia Supreme Court - Record on Appeal

2A:3(b) The agency secretary shall prepare and certify the record as soon as possible after the notice of appeal... transmit the record to the clerk of the court named in the notice of appeal.

2A:3(c) The record on appeal from the agency proceeding shall consist of all notices of appeal, any application or petition, all orders or regulations promulgated in the proceeding by the agency, the opinions, the transcript or statement of the testimony filed by appellant, and all exhibits accepted or rejected, together with such other material as may be certified by the agency secretary to be part of the record.

2A:3(e) In the event the agency secretary determines that the record is so voluminous... unduly burdensome... may, prior to and in lieu of filing the entire record, move the court for leave to file an index to such record. A party shall have the opportunity to respond to the agency's motion...The agency shall nevertheless retain the entire record and make it available to the parties... of the appeal.

According to 2A:3(c), all filed documents were to be forwarded to CAVA.

CAVA letter requested I list missing documents. I submitted list. CAVA later request I provide detailed log listing dates, document titles and describe with "specificity." I filed log (difficult with VAWCC having unmatched titles and dates). From February 2, 2018-December 26, 2018, VAWCC added 4 instalments to Appendix. CAVA

October 24, 2018 on Writ of Certiorari granting seven (7) of 69 missing files, denied 27, remained 35 back to VAWCC to decide if part of Record.

My brief included Addendum adding supportive missing filed documents, extensive description and chart (formatted like Appendix). CAVA Opinion denied everything I appealed without complete Appendix, didn't rule against Respondents contempt of Court Orders and rejected my Addendum calling it Amendment, citing rules for Amendment. Addendum is an addition. Amendment is change/replacing. The denial of evidence is palpable.

Only the U. S. Supreme Court can provide needed clarity of fractured laws in this case treated unfairly, with no resolutions.

CIVIL RIGHTS VIOLATIONS

Respectfully, the duration and extent of Respondents 2014-present conduct, disobeying Court Orders, VAWCC and CAVA Court proceedings violating Rule of Law, discriminating against my race, taking advantage of my disabilities and not having representation, while retaliating against me for standing up for my constitutional rights and medicals. Needing the Supreme Court of U.S. authoritative resolution to stop continuous unconstitutional and inhumane abuse violating my *Civil Rights Act*.

This case is irrefutably disproportionately abusive. I showed in this Petition for Rehearing, bold and excessive amount of legal abuse I experienced throughout Courts past five-and-a-half years. I matched up evidence with other VAWCC/CAVA Orders and nationwide, indicating my case is disproportionately extreme. Displayed how

VAWCC/CAVA abused my rights, my health/medical treatment, fractured Workers Compensation Act, Americans with Disabilities Act (ADA), State Laws and abused our U. S. Constitution "Law of the Land and Respondents manipulating case.

Why such abuse gone far and unchecked?

Only expected VAWCC to protect my rights. I followed everyone's thousands of rules while watching Respondents/VAWCC/CAVA who practice law break and abuse known laws/rules, and retaliate against me for following Court Orders, expecting Respondents to do so as well.

My parents say, "I just don't understand, all they had to do was follow Court Orders." While my parents (late 70's) forced to watch their daughter's, rights terrorized, throughout Courts just for identifying medicals and paid benefit rights according to the law, to not be discriminated against my race, not finding representation and my disabilities. Left with irregular and seemingly unlawful Opinions. VAWCC/CAVA Denied CRPS/RSD from five physicians (over 100 years' experience), while VAWCC/CAVA Opinions in other cases as mentioned, differ from mine granting Awards according to rules and one diagnosis. I have Not been afforded the same medical, paid benefits and Opinions.

The health of disabled injured workers is critical. Declaration of Independence states, *"We the people... are all created equally."*

Had courts properly adjudicated case years ago, I would not have experienced years of unimaginable Legal Abuse and obvious human effects, worsening my depression/agoraphobia not leaving home over two weeks... Further, piled on numerous Life-Long work injuries/disabilities.

VAWCC/CAVA have not applied rules fairly in accordance with Workers' Compensation Act to protect my rights, abusing me personally. Therefore, breached contractual agreement with me, this abuse must cease. On top of disabilities/depression from 2014 work injuries. This is disastrous at an unimaginable level. I plead with the U. S. Supreme Court to

CONCLUSION

Based upon the foregoing, the Court should grant my Petition for Rehearing, vacate January 27, 2020 denying petition for writ of certiorari, granting it, review case on its merits, or give Opinions, removing abusers requiring settlement for future medical, past/future loss pay and sanction according to the Justices will.

Respectfully submitted,

Adrienne Brown-Mallard
Adrienne Brown-Mallard

February 21, 2020

DECLARATION

I, Adrienne Brown-Mallard hereby hand-delivered on February 21, 2020 eleven copies of above Petition for Rehearing to the U. S. Supreme Court guards at booth and received attached stamped receipt.

Adrienne Brown-Mallard
Adrienne Brown-Mallard
March 4, 2020