

No.

IN THE
Supreme Court of the United States

W. A. GRIFFIN, M.D.

Petitioner,

v.

TEAMCARE, A CENTRAL STATES
HEALTH PLAN; TRUSTEES OF THE
CENTRAL STATES, SOUTHEAST AND
SOUTHWEST AREAS HEALTH AND
WELFARE FUND

Respondents,

ON PETITION FOR A WRIT OF
CERTIORARI TO THE
UNITED STATES
COURT OF APPEALS
FOR THE SEVENTH
CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

W. A. Griffin, M.D.

Pro Se Petitioner

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QUESTION PRESENTED

1. Whether or not ERISA authorizes a participant or member of a welfare benefit plan to assign his or her rights to statutory penalties to a medical provider who secures a written assignment of benefit as a condition for medical services.

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1.

Petitioner respectfully prays that a writ of certiorari is issued to review the judgment below.

OPINIONS BELOW

The opinion of the United States district court appears at

Appendix A to the petition and is

☐ reported at ____; or, ☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

2.

JURISDICTION

☒ For cases pending in the United States court of appeals:

The date on which the United States Court of Appeals received the appellant brief was August 01, 2018.

☒ Case submitted in accordance with Supreme Court Rule 11: A petition for a writ of certiorari to review a case pending in a United States court of appeals, before judgment is entered in that court.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date:_____, and a copy of the order denying rehearing appears at Appendix____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____(date) on____(date) in Application No. _____A_____.

The jurisdiction of this Court is invoked under 28 U.S. C. § 1254(1).

**CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

29 U.S.C. § 1132(c). Statutory Penalties

ERISA provides a penalty of up to \$112 per day for the failure to provide plan documents. Any Administrator who fails or refuses to comply with a request for any information which such administrator is required by this subchapter to furnish to a participant or beneficiary . . . by mailing the material requested to the last known address of the requesting participant or beneficiary within 30 days after such request may in the court's discretion be personally liable to such participant or beneficiary in the amount of up to \$112 a day from the date of such failure or refusal, and the court may in its discretion order such other relief as it deems proper.

STATEMENT OF THE CASE

Petitioner, W. A. Griffin, M.D., is a Georgia medical provider that treated a patient who also happened to be a participant in an ERISA plan administered by Respondents. As a condition of service, Dr. Griffin required the patients to assign their health benefits and rights. The written assignment of benefit expressly assigned rights to statutory penalties.

After receiving dismal reimbursements and adverse benefit determinations without any good explanations, Dr. Griffin exhausted ERISA appeals which included requests for plan documents via certified mail. After having zero luck getting paid and being short changed on the requests for plan documents, Petitioner filed a lawsuit against the Respondents for three ERISA counts: 1) payment of benefits 2) breaches of fiduciary duty 3) and statutory penalties. All three counts were dismissed by the United States District Court.

STATEMENT OF THE CASE

Continued

Specifically, the court dismissed the statutory penalty claim, because ERISA does not authorize participants and beneficiaries to assign away their rights to statutory penalties. However, it has been established a long time ago that “elementary contract law provides that upon a valid and unqualified assignment that assignee stands in the shoes of the assignor and assumes the same rights, title, and interest possessed by the assignee.” Moutsopoulos v. American Mut. Ins. Co., 607 F.2d 1185, 1189 (7th Cir.1979); *see also* Hartford Cas. Ins. Co. v. Argonaut-Midwest Ins. Co., 854 F.2d 279 (7th Cir.1988).

REASONS FOR GRANTING THE PETITION

I. THE DISTRICT COURT'S DECISION
CREATED A DANGEROUS PRECEDENT
THAT CONFLICTS WITH ESTABLISHED
SEVENTH CIRCUIT LAW.

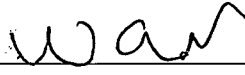
Here, the Seventh Circuit has expressly acknowledged that the assignee stands in the shoes of the assignor and assumes the same rights possessed by the assignor. However, a dangerous inter-circuit split happens when a single United States District court is not bound by established precedent. It is the business of the United States Supreme Court to clarify whether or not ERISA authorizes the assignment of statutory penalty claims in welfare benefit plans.

7.

CONCLUSION

For the reasons set forth above, the Petition for Writ of Certiorari should be granted.

Respectfully Submitted,

 8/9/2018

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