

No. 18-9709

ORIGINAL

Supreme Court, U.S.
FILED

JUN 12 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

ANGIE WALKER — PETITIONER
(Your Name)

vs.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

9TH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANGIE WALKER

(Your Name)

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(Address)

GOLD BEACH, OREGON, 97444

(City, State, Zip Code)

541.698.6358

(Phone Number)

QUESTION(S) PRESENTED

§ Section 702. - Right of review

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: Provided, That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance. Nothing herein

- (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or
- (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought

How is justice being served when the standard of review is not adhered to? When there is abuse of discretion?

5 U.S. Code §706. Scope of review

- (1) compel agency action unlawfully withheld or unreasonably delayed; and
- (2) hold unlawful and set aside agency action, findings, and conclusions found to be—
 - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
 - (D) without observance of procedure required by law;

A standard of review used by appellate courts to review decisions of lower courts. The appellate court will typically find that the decision was an abuse of discretion if the

discretionary decision was made in plain error.

The lower court committed a clear error of judgment in reaching its decision. The record contains no evidence to support its decision. The court acted in a manifestly arbitrary, unfair, and unreasonable manner. It undermined the fundamental fairness of the trial itself. The lower court's decision was irrational and based on a clear misapplication of the law.

This is an Obstruction of Justice; 18 U.S. Code §?1505. Obstruction of proceedings before departments, agencies, and committees. "Interference with the orderly administration of law and justice" and governed by 18 U.S.C. §§ 1501-1521."

The Question is: When Justices obstruct the law and legal proceedings by not adhering to the legal standards of review, who will hold them accountable? How high does the corruption go? To apply this to the law, what is justice in these United States of America? If the decision is left in the hands of the courts, then why are the courts not held accountable for incorrect legal proceedings based on arbitrary decisions that are not based on the findings of fact or law?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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6. https://www.cdc.gov/tobacco/data_statistics/sgr/2006/ Exhibits 14-17	
7. https://www.cdc.gov/media/releases/2018/p1206-secondhand-smoke.html Exhibits 12	
8. https://www.hhs.gov/surgeongeneral/reports-and-publications/tobacco/index.html Exhibits 14-17	
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STATUTES AND RULES

1. Oregon State Law, Comparative Negligence, 31.600. p. 15, p. 3. p.7.

2. Vicarious Liability of USDA employees. p.15. p.7.

3. 7 CFR 1.51 - Claims based on negligence, wrongful act or omission.

eCFR

Authorities (U.S. Code)

p.12, p.9.

4. 28 CFR Part 14 - ADMINISTRATIVE CLAIMS UNDER FEDERAL TORT CLAIMS ACT. p.9.

5. ORS 30.260 to 30.300. p. 15 Claims in Oregon.

6. ORS 30.265. p. 15 Claims in Oregon.

7. ORS 30.275. p. 15 Claims in Oregon.

8. U.S. Supreme Court

Foman v. Davis, 371 U.S. 178 (1962) p. 5, p.15 Questions, Abuse of Discretion. p.22, p.20. p. 13,

9. LII Federal Rules of Civil Procedure

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13. 18 U.S.C. §§ 1501-1521. p. 15 Questions, p.22.

14. LII U.S. Constitution 14th Amendment p.4. p. 13

15. Due Process p.8. p. 13

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was OCTOBER 26, 2018.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: MARCH 22, 2019, 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).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Oregon State Law, Comparative Negligence, 31.600. p. 15, p. 3. p.7.

2. Vicarious Liability of USDA employees. p.15. p.7.

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14. LII U.S. Constitution 14th Amendment p.4. p. 13

15. Due Process p.8. p. 13

16. 14TH AMENDMENT DUE PROCESS p. Questions, 4, p. 8, p. 13.

17. LII U.S. Constitution 14th Amendment p. 4, p. 8, p. 13.

STATEMENT OF THE CASE

My name is Angie Walker. I live in Gold Beach Oregon in an apartment that went into a No Smoking policy in January of 2014. Tenants are supposed to smoke 100 ft away from the apartment property. This meant that there was no smoking inside the building/apartment at all. These apartments are subsidized by Rural Development, subsidized by the United States Department of Agriculture, USDA. Because of this, the apartments are overseen by the USDA and have yearly inspections and policies that are meant to be followed by the tenants.

The tenants next door to us were smoking inside the apartment. This caused us considerable adverse health issues over time. Documented are an exacerbation of my severe anemia and permanent lung damage, interstitial lung disease that deteriorates lung tissue over time. There is no cure or alleviation of this lung disease. My Son, who is 26 and has never smoked cigarettes, has an increased chance of cancer by 30% because of the exposure to the years of secondhand smoke that permeated our apartment home for over the course of 3 years.

I reported the smoking after informing the tenants that the smoke was causing us severe health issues. The apartment management tried to evict us, taking the side of the tenants who denied smoking inside the apartment. The management fabricated a lie saying I threatened the former tenants with violence; when I had just returned from the hospital that same morning after having 3 units of blood transfused. The Circuit Court Judge found in our favor.

When USDA was informed of the problems we were having, they did not exercise the authority they had to oversee that the apartment management was in compliance of their rules and policies; as the daily inundation of the secondhand smoke created a clear danger to our health, and was against their policies. Exhibits 1-7 (entered at the District Court) showed our ceiling and walls covered with orange nicotine stains from the secondhand smoke that drifted into our apartment and stayed hours long after the smoking.

In my petition are Exhibits 1-13, there are 4 new pictures of Precancerous Moles, one over 5 mm in width that are on the scalp of my son. We have not only been exposed for a long period of time to dangerous secondhand smoke, but are now living with thirdhand smoke damage to our apartment home that USDA has refused to acknowledge. Thirdhand smoke causes serious health issues over time, because thirdhand smoke damage increases in severity with the passage of time.

My claim is Gross Negligence by USDA employees. One of the former tenants is deceased, having died of lung cancer that metastasized to other organs and dying in November of 2016; within weeks of filing the complaint with the District Court of Oregon, having filed in October of 2016.

Because of the health issues and the ongoing threat to our lives and well-being, I filed suit with the District Court of Oregon against the USDA. The District Court dismissed the case basing their decision off of the first complaint that was filed. They did not acknowledge the motion to amend the complaint or the amended complaint, therefore the dismissal of the complaint was an abuse of discretion, Federal Rules of Civil Procedure Rule 15. Amended and Supplemental Pleadings.

Accordingly, the record contains no evidence to support its decision for the dismissal of the case. Therefore, in effect denying the amended complaint. This is a manifest abuse of discretion that is obvious and clearly apparent on the District Courts' part.

The Ninth Circuit Court dismissed the case without any evidence presented, no brief was filed by me. Upon stipulating my reasons for them allowing me to appeal, the reasons were given of this abuse of discretion by the District Court; with no denial or response on the respondent's part, yet my case was still dismissed. How is that a fair and just trial? There was nothing fair about the undue delays of the appellate court, taking over five months to dismiss the case without allowing me to appeal it, and taking five months to deny a new trial that was requested; but which they stipulated they were treating as a reconsideration, which was denied. Thereby affectedly denying me due process by law. This is an Obstruction of Justice and an abuse of discretion.

REASONS FOR GRANTING THE PETITION

The Court should grant certiorari because of the issues at stake, lives of thousands of Americans are at risk from the dangers of secondhand smoke in public housing. Government agents, compliance officers, etc., are supposed to ensure compliance with the health regulations of public housing. The United States Department of Agriculture, USDA, employs compliance officers, inspectors, area specialists, etc., whose job description says: "As a compliance officer, you would perform routine inspections or audits to ensure the regulations, laws, and policies under your jurisdiction are being met".

Ramona Mitchell, Multi-Family Housing Program Director, Rural Development – Oregon, United States Department of Agriculture, states that it did not matter that management actually lied about being on site when it was reported that the tenant was seen smoking as she exited her apartment:

"the statement that management was not on site on the stated Sunday would not have changed the decision of the Agency. The Agency has not found the management company to be in non-compliance with program regulations under 7 CFR 3560."

According to the 2014 Surgeon General's Report, "The Health Consequences of Smoking – 50 Years of Progress: Each year exposure to secondhand smoke causes more than 41,000 deaths from lung cancer and heart disease among non-smoking adults and 400 deaths from Sudden Infant Death Syndrome.

<https://www.cdc.gov/media/releases/2018/p1206-secondhand-smoke.html>

58 Million Americans Still Exposed to Secondhand Smoke
Exposure remains high for certain groups, including kids

In addition to policies addressing smoking in public areas, some recent policies have addressed private settings – the main sources of children's exposure to secondhand smoke. For example, the U.S. Department of Housing and Urban Development adopted a rule

policy compliance. Provides support at each of our communities. The Compliance Specialist serves as a help desk for compliance issues. Utilizes knowledge of local, state and federal laws and regulations relevant to affordable multi-family housing development, Rural Development, Tax Credits and HUD programs to evaluate projects and provide assistance to ensure property managers are compliant.

RESPONSIBILITIES "Verifies compliance with rules and regulations of various funding sources, Fair Housing standards... Recommends appropriate corrective action to resolve noncompliance. Provides compliance-related consultative services to site managers and their administrative staff. Identifies trends in noncompliance and recommends corrective action through changes in policies and procedures and training. Assists the Compliance Director with implementation of policies, procedures and processes".

Reports from the Center for Disease Control show that a high number of people living in public housing are exposed to secondhand smoke. Many have adopted no-smoking policies, but what is the point if they are not enforced? The policies mean nothing for those unfortunate enough to have to endure the dangerous secondhand smoke when the policies are not enforced by the compliance officers. And by enforcement, I mean ensuring that the health and safety of tenants are not endangered according to their policies, whether it is by secondhand smoke or any other issue that the compliance officers turn a blind eye to.

Secondhand smoke is insidious. It drifts and it leaves poison wherever it goes and onto whatever it touches. The dangers are real, yet virtually ignored. Why do so many people die from its effects when they are supposed to be protected from its dangers? The law creates a stable situation whereby people can grow and live. Without enforcement of those laws for the health and well-being of people, the laws and rules become meaningless and people suffer and die. The tobacco industry admits that it sells poison to people, yet they are allowed to continue this deleterious business that kills millions yearly worldwide. The dangers from the tobacco industry are too large to ignore. Every year they grow stronger and millions die because they are allowed to sell death in the form of a cigarette, *Williams v. Philip Morris Inc.*

The Oregon Supreme Court not only discussed the "the possibility of severe criminal sanctions, both for the individual who participated

and for the corporation generally," as a result of aggressive and deceptive promotion of dangerous tobacco products, but stressed that these actions could "constitute at least second-degree manslaughter" under Oregon law.

My claim is not frivolous, nor does it lack jurisdiction. There has been a gross miscarriage of justice because of abuse of discretion. Some people choose to die by tobacco smoking. Others avoid it and die anyway from it because the laws protecting them are not enforced by the very people that are being paid to enforce them. If we can't trust the USDA to ensure their policies in public housing per their job descriptions, then many more will suffer as the health and safety policies are ignored.

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We suffered and continue to suffer to this day. Where is our right of review?

§ Section 702. - Right of review

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This is an Obstruction of Justice; 18 U.S. Code §?1505. Obstruction of proceedings before departments, agencies, and committees. "Interference with the orderly administration of law and justice" and governed by 18 U.S.C. §§ 1501-1521."

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

ANGIE WALKER

Date: JUNE 11, 2019