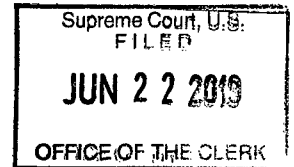


No. 18-9802

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Rodney B. Benson — PETITIONER
(Your Name)

VS.

UTAH LABOR COMMISSION ET AL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The UTAH Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rodney B. Benson
(Your Name)

General Delivery
(Address)

Shingletown CA 96088
(City, State, Zip Code)

530-691-9661
(Phone Number)

Question Presented.txt

QUESTION PRESENTED:

Does Utah's Executive Branch and/or Judicial Branch have the power to deny constitutional rights (including rights guaranteed by: U.S. Constitution's Fourteenth Amendment, 7th Amendment, Article III section 2, and Article VI paragraph 2, as well as some of Utah's constitutional provisions) to a worker injured, in the line of duty, while employed by Utah's Executive Branch?

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:

UTAH LABOR COMMISSION

UTAH DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL

WCF MUTUAL INSURANCE
COMPANY

Rodney BLAKE Benson

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	5
REASONS FOR GRANTING THE WRIT	8
CONCLUSION.....	9

INDEX TO APPENDICES

APPENDIX A	UTAH APPEALS COURT 1-18-19 ORDER UTAH SUPREME COURT MARCH 26, 2019 ORDER CASES 20190137-SC, 20170872-CA, 13-0852
APPENDIX B	UTAH LABOR COMMISSION 10-3-17 ORDER
APPENDIX C	UTAH SUPREME COURT 3-26-19 ORDER
APPENDIX D	UTAH APPEALS COURT 12-20-18 OPINION
APPENDIX E	UTAH LABOR COMMISSION 4-27-17 ORDER
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

The UTAH Supreme Court Opinion in Injured Workers
Association of UTAH, et al., Appellants, v. State of Utah, Appellee
No. 20140372 Filed MAY 18, 2016 4

STATUTES AND RULES

U.S. CONSTITUTION 14th Amendment, i, 3, 5
~~7th Amendment~~, ARTICLE III SECTION 2, ~~And~~ i, 3, 5
ARTICLE VI PARAGRAPH 2 i, 3, 6
1st Amendment i, 3, 4

UTAH CONSTITUTION 10th ARTICLE 4
ARTICLE XVI SECTION I 5

OTHER

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 _____ 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 United States district 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.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix D to the petition and is I Don't Know

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

The opinion of the UTAH LABOR COMMISSION court appears at Appendix E to the petition and is I don't know

☐ 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 _____.

☐ 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: _____, 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 3-26-19.
A copy of that decision appears at Appendix C.

☐ 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.txt

Constitutional and Statutory Provisions Involved

U.S. Constitution 14th Amendment Section 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Constitution 7th Amendment:

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

U.S. Constitution Article III section 2:

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

U.S. Constitution Article VI paragraph 2:

Constitutional and Statutory Provisions Involved.txt

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Utah Constitution 10th article:

In capital cases the right of trial by jury shall remain inviolate. In courts of general jurisdiction, except in capital cases, a jury shall consist of eight jurors. In courts of inferior jurisdiction a jury shall consist of four jurors. In criminal cases the verdict shall be unanimous. In civil cases three-fourths of the jurors may find a verdict. A jury in civil cases shall be waived unless demanded.

Utah Constitution 16th article section I:

The rights of labor shall have just protection through laws calculated to promote the industrial welfare of the State.

Statement of the Case.txt

Statement of the case:

From the time of my employment until I was terminated because of the 6/17/92 industrial accident injury, I had a great relationship with my employer, UDABC (Utah Department of Alcoholic Beverage Control). My relationship with the UDABC became adversarial when the ULC (Utah Labor Commission) advised me, as a matter of standard operating procedure, that I must name UDABC as an opponent to get my WCF Mutual Insurance Company benefits reinstated. The UDABC had eliminated all UDABC evidence of my employment even though I had been injured on the job. WCF Mutual Insurance Company and I had a good relationship until WCF Mutual Insurance Company started denying all benefits on 8/21/13, more than 21 years after my injury. The stated reason WCF Mutual Insurance Company claimed for discontinuing benefits was unsubstantiated non-cooperation. I cooperated fully. I was surprised by the denial of benefits. This case came before the ULC, ALJ Deidre Marlowe as a result.

I filed a motion for jury trial. The motion was denied because ULC procedures do not include jury trials. This ruling improperly assumes that the legislature's omission of jury related procedures for the ULC, somehow facilitates the abandonment of constitutional provisions (Page 297 of the record). The ULC violated citizens' right to jury: US Constitution 7th Amendment "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved..." and Utah Constitution 10th Article "...A jury in civil cases shall be waived unless demanded."

The lawyers, that Utah allows to work on workers compensation cases, chose not to study my case even after they agreed to represent me. I found their uninformed strategy insufficient to effectively represent me. Their pay was unconstitutionally limited by the ULC until May 18, 2016, after my ULC hearing in March of 2016. At the beginning of the hearing, the ALJ (Administrative Law Judge) asked me if I would be representing myself. I told her that I am not qualified to represent myself or answer her question. I wanted informed counsel to represent me. She said that it was obvious that I am representing myself because I attended the hearing. I attended because the ALJ ordered me to attend the hearing with a special order that the hearing would not be continued if I did not attend. ALJ, Diedre Marlowe, wrote about herself using a third person pronoun in her April 27, 2017 Findings of Fact, Conclusions of Law, and Order: "However in a November 13, 2015 Order she told the Petitioner that she would continue the hearing one more time to give the Petitioner time to find a lawyer, and he if did not find one he would have to represent himself if he desired to continue pressing the case." The Utah Supreme Court opinion in INJURED WORKERS ASSOCIATION OF UTAH, et al., Appellants, v. STATE OF UTAH, Appellee. No. 20140372 Filed May 18, 2016, states:

~~Page 5~~

Statement of the Case.txt

"¶3 We agree with IWA and hold that the regulation of attorney fees is included within the power to govern the practice of law. Because the Utah Supreme Court is vested with exclusive inherent and constitutional authority to govern the practice of law—and the court cannot under the separation-of-powers doctrine delegate the regulation of attorney fees to the legislature or the Commission—we hold both the Commission's fee schedule and its authorizing statute unconstitutional." Therefore, it was unconstitutional for the ALJ to order me to represent myself because I could not find a lawyer that would work competently for the pay unconstitutionally mandated by the ULC.

The legislature violated Utah constitution Article XVI, Section 1: "The rights of labor shall have just protection through laws calculated to promote the industrial welfare of the State." because it passed laws empowering the ULC's procedures. Just protection is stripped away by the ULC procedures starting with standard ULC Adjudication Division legal advice to add a worker's employer as a legal opponent (instead of naming only the insurance company) and initiating administrative procedures that circumvent many traditional, proper and constitutional legal procedures, Utah Code 34A-2-105(1) . My opening brief details many ways where the rights of labor don't have just protection through laws calculated to promote the industrial welfare of the State.

The ULC violated the U.S. Fourteenth Amendment "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." All three provisions of this amendment were violated.

1. ULC procedures deny the equal protection of the laws. Workers don't have protection equal to the protection of unemployed citizens. Injured workers must submit to the ULC procedures while injured unemployed citizens are allowed to use the judicial branch to settle disputes.

2. Utah has made and enforced law which has abridged the privileges or immunities of citizens of the United States by creating the ULC and ULC procedures. Specifically, Utah Code 34A-2-105(1) creates an "exclusive remedy" abridging privileges of citizens of the United States.

3. The ULC and Utah Appellate Court deprived me of property without due process of law, judging ULC procedures (or the lack thereof) as supreme, and federal and state constitutional provisions as inferior. Both courts denied all constitutional rights listed in this petition (Page 297 of the record and the Utah Court of Appeals Jan. 18, 2019 order)

The ULC violated US Constitution Article III section 2 "...judicial power shall extend to all cases in law and equity..." The ALJ's response to my motion for a jury trial gave an explanation for denying my right to jury that seems to

Statement of the Case.txt

claim ULC procedures (or the lack thereof) are powerful enough to quash constitutions. Please see page 297 of the record, #2. The ALJ acted as though judicial power did not extend to ULC Case No. 13-0852, a case in law and equity.

Similarly, the ALJ's decision (page 297 of the record, #2) violates US Article VI paragraph 2 "constitution...shall be the supreme law of the land; and the judges in every state shall be bound thereby...". The ALJ's decision to favor ULC procedures (or the lack thereof) over the supreme law of the land violates US Article VI paragraph 2.

The Utah Court of Appeals filed an order on January 18, 2019 saying that I failed to demonstrate any point of law or fact misapprehended or overlooked by the court, citing Utah R. App. P 35(c). My Petition for Rehearing, filed Dec. 31, 2018, demonstrated that the court had misapprehended or overlooked 16 points of fact or law in it's Dec. 20, 2018 opinion.

The facts of the case are not really necessary to understand the issues presented for review, however, It may be helpful to know that facts were manipulated into untruths by ULC procedures. I have pointed out many indisputable untruths in the "Independent Medical Examination" report, written by a professional witness for WCF Mutual Insurance Company, in my briefs and at the hearing. (Please read my opening brief, pages 34 to 80 and listen to and/or read the hearing transcript) The documented indisputable untruths in Dr. Knoebel's "IME" report remain undisputed. Opposing lawyers repeatedly ignore them. The ULC and WCF Mutual Insurance Company try to add credibility to the false report by deceptively calling it an "Independent Medical Examination". A professional witness working for my opponent cannot be construed as independent. The "examination" did not include a review of my x-rays, but the professional witness and I both traveled to Utah, from California and Idaho, so he could ask me if I am right or left handed, and perform other useless elements of his "examination". ULC procedures, documented in my opening brief, put Dr. Knoebel's "IME" report into an echo chamber, where the ALJ and "independant" ULC professional witnesses repeated untruths. Everyone that worked on this case at the ULC, except me, is paid by and instructed by my opponent, Utah's executive branch. Nothing independant happened.



Reasons for Granting the Petition.txt

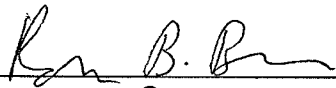
Reasons for Granting the Petition:

1. To enforce consistant constitutional gauruntees to individual citizens.
2. To remedy corruption created by executive branch conflict of interest between the executive branch's money and the executive branch's injured employees' benefits.
3. Other reasons a real lawyer would be able to find and articulate. (I have no way to pay a lawyer because I am sueing for healthcare not money. Please appoint one or get professionals working on this somehow.)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Rodney B. Benson

Date: June 21, 2019