

Case No. 20-607
**IN THE SUPREME COURT
OF THE UNITED STATES OF AMERICA**

TATYANA E. DREVALEVA,

Petitioner,

vs.

ALAMEDA HEALTH SYSTEM

Respondent

On Petition for Writ of Certiorari to the California Supreme Court

Alameda County Superior Court, case No. RG19002840

Court of Appeal for the First District, Division Four

Appeal No. A157851

The California Supreme Court, Petition for Review S261831 - denied

PETITION FOR REHEARING

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I am reminding the facts of the case. In 2013, I was fired from my Part time job as a Monitor Technician at Alameda Health System for asking questions about unpaid both overtime and shift differentials, the denial of my affiliation to the Union, missed 10 and 15 minute breaks, and for asking to transfer me to a full time job while I was actually working full time. In June-July 2013, I approached Manager Mr. Verrilien Clerve multiple times, and I asked the mentioned above questions. Mr. Clerve promised to think about it but nothing changed.

While working at the AHS, I didn't receive a verbal warning, I was not written up, I was not subjected to progressive discipline, and I received a good Letter of Reference from Assistant Manager Mr. Masangkay (Exhibit 1.)

On August 25, 2013, I approached a newly appointed Director of Step Down Unit Mr. Gilbert Harding, and I asked him the same questions about unpaid both overtime and shift differentials, the denial of my affiliation to the Union, missed 10 and 15 minute breaks, and I asked Mr. Harding to transfer me to a full time job while I was actually working full time. Mr. Harding promised to think about it but nothing changed.

On September 05, 2013, I emailed a letter with the mentioned above questions to Mr. Harding (Exhibit 2), and I asked him to answer in writing. Two days later, on September 07, 2013, I was fired in twenty minutes after the beginning of my shift. Prior to being fired, I hadn't received a Notice, and I was not given an opportunity to be heard. The September 07, 2013 Termination Letter stated (Exhibit 3), "this action is being taken due to the discrepancy between acceptable employment standards and those you

exhibited during your employment with us." The Termination Letter itself didn't explain the nature of the alleged "discrepancies."

After being fired from the AHS, I obtained a copy of my Personnel Record, and I learned that the reason of the termination of my employment was "Probationary Release" (Exhibit 4.)

Also, I was receiving my Unemployment Insurance compensation, and the AHS stated to the Employment Development Department that the reason of the termination of my employment was 'Probationary Release" (Exhibit 5.)

In 2017, I obtained a full time job offer at the Raymond G. Murphy VAMC in Albuquerque, NM (Exhibit 6.) It would have never happened if I were fired for medical negligence towards the patient or the poor professional performance.

On September 16, 2013. I filed both a retaliation and unlawful termination claim and a wage claim with the California Department of Industrial Relations (the DIR), the Division of Labor Standards Enforcement (the DLSE) (Exhibit 7.) On December 29, 2016, the DIR denied my retaliation and unlawful termination claim (Exhibit 8) asserting that "Additionally, your probationary status meant Alameda Health could terminate you at any time and without due process. Your involvement with medical negligence, whether peripheral or not, also gave Alameda Health a compelling reason to terminate you."

. On December 29, 2016, I filed both a lawsuit No. 3:16-cv-07414-LB *Drevaleva v. 1) Alameda Health System, 2) Department of Industrial Relations* at the U.S. District Court for the Northern District of California (Exhibit 9.). Please, read page 4 of my Original Complaint No. 3:16-cv-07414-LB, “Alameda Health System misinformed [Deputy of the Labor Commissioner] Ms. Daly about the reasons of my termination. **They said that I had been fired because my negligence seriously harmed the patient.** It is a pure lie.”

On February 14, 2017, the NTPC filed a Motion to Dismiss my Original Complaint (Exhibit 10) where the NTPC claimed that the District Court lacks subject-matter jurisdiction over my Complaint, and that I failed to state the claim upon which relief could be granted. In this Motion, the NTPC didn’t say that I had been fired for medical negligence towards the patient. The Hon. Judge Laurel Beeler granted the NTPC’s Motion to Dismiss with leave to amend.

On April 10, 2017, I filed an Amended Complaint No. 3:16-cv-07414-LB (Exhibit 11.) Please, read page 2, lines 19-20, “The nature of my [Original December 29, 2016] complaint was: retaliation, unlawful termination, **slander (DIR slandered me that I exhibited negligence towards the patient)...**”

On April 24, 2017, the NTPC filed a Motion to Dismiss (the MTD) my Amended Complaint (Exhibit 12) where the NTPC claimed that the District Court didn’t have subject-matter jurisdiction, didn’t have the Diversity of Citizenship jurisdiction over my Amended Complaint, and that I failed to state the claim upon which relief could be

granted. In this Motion, the NTPC didn't say that I had been fired for medical negligence towards the patient.

On June 07, 2017, the Hon. Judge Laurel Beeler granted the NTPC's MTD my Amended Complaint for lack of jurisdiction (see Exhibit 13.) Please, read page 11 of the Order, lines 25-26, "This court does not have subject-matter jurisdiction of the claims against defendant AHS. The claims against AHS are therefore dismissed without prejudice."

Please, notice that in her June 07, 2017 Order the Hon. Judge Laurel Beeler didn't say anything about the medical negligence towards the patient.

I filed a Notice of Appeal No. 17-16382 at the 9th Circuit. On March 30, 2018, the NTPC served me with AHS's Answering Brief (Exhibit 14) where AHS and/or the NTPC wrote, "Shortly after Appellant was hired at AHS as a Monitor Technician, AHS found she was involved in an incident in which the safety a patient was compromised. AHS released from her probationary status for her poor performance, not for any complaints about her working terms and conditions."

"AHS hired Appellant as a Monitor Technician on April 1, 2013. (ER 33.) Shortly after Appellant was hired, she was involved in an incident in which the safety a patient was compromised while she was performing her duties. (ER 41, 351-3543.) AHS investigated the incident and interviewed Appellant on three separate occasions. (ER 354.) On September 4, AHS decided to release Ms. Drevaleva from her employment

at AHS. (ER 44, 369.) On September 7, 2013, AHS sent Appellant a letter informing her that her employment with AHS was ending due to the “discrepancies between acceptable employment standards and those [she] exhibited during [her] employment.” (ER 38.)”

At my numerous written requests, Attorney Mr. Timothy Travelstead refused to provide me with both the explanations and the evidence regarding the allegations of medical negligence towards the patient and the poor professional performance. These allegations severely damaged my personal and professional reputation and could be a bar for my future employment.

On August 20, 2018, I submitted a Government claim directly to AHS, and I asked to give me both the explanations and the evidence regarding the DIR’s allegation about the medical negligence towards the patient and regarding the AHS’s allegation about the poor professional performance. I need heard back from the AHS itself. I heard back only from Contractor of the Beta Group Mr. Mark Cachia-Riedl who solely denied my Government claim and who advised me to file a petition for Relief from Government Code Section 945.4. On January 16, 2019, I filed a Verified Petition for Relief from Government Code Section 945.4 at the Superior Court of Alameda County No. RG19002840 *Drevaleva v. Alameda Health System*. In this case, the NTPC appeared on behalf of client AHS, and the NTPC opposed my attempts to obtain the explanations and the evidence regarding the allegations of medical negligence towards the patient and the poor professional performance (Exhibit 15.) The Hon. Judge Frank Roesch dismissed my

Petition, and the Court of Appeal for the First District, Division Four affirmed (Appeal No. A157851, this current Petition for Writ of Certiorari No. 20-607, Appendix B.)

In March 2019, I filed a lawsuit No. RG19010635 *Drevaleva v. 1) Alameda health System, 2) The Narayan Travelstead Professional Law Corporation*. In this lawsuit, I listed three causes of action:

- 1) Libel regarding the allegation of the poor professional performance in AHS's March 30, 2018 Answering Brief in Appeal No. 17-16382
- 2) Abuse of Process
- 3) The Intentional Infliction of Emotional Distress,

On May 15, 2019, the NTPC served me with a so called joint Defendants' AHS's and the NTPC's anti-SLAPP Motion (Exhibit 16) asserting that the statement about the poor professional performance was made during the course of a judicial proceeding (Appeal No. 17-16382) and that this statement is protected by the litigation privilege. Please, notice that in its anti-SLAPP Motion the NTPC didn't disclose who was the author of the allegation about the poor professional performance – AHS *itself* or the NTPC.

On July 23, 2019, the Hon. Judge Jo-Lynne Q. Lee granted the anti-SLAPP Motion (Exhibit 17.)

On September 09, 2019, I filed both a Motion for Reconsideration of the July 23, 2019 Order that granted Defendants' anti-SLAPP Motion and a Motion for Specified Discovery Despite the Pending anti-SLAPP Motion (Exhibit 18.) In this Motion, I wrote,

"On March 30, 2018, Defendant Alameda Health System who was represented by the Narayan Travelstead Professional Law Corporation at the 9th Circuit said in its Answering Brief that I had been fired from my job for poor professional performance. On August 20, 2019, I submitted a claim to Alameda Health System, and I asked to provide me with both the explanation and the evidence regarding the allegation of the poor professional performance. AHS offered me to file a Petition for an Order Relieving me from Government Code Section 945.4. On January 16, 2019, I filed a Petition for an Order Relieving me from Government Code Section 945.4 at the Superior Court of Alameda County, case No. RG19002840. Defendant AHS who was represented by the Narayan Travelstead P.C. opposed my Petition and didn't give me both the explanation and the evidence regarding the allegation of the poor professional performance.

On January 16, 2019, I filed a Petition for Writ of Mandate to Compel AHS to Issue the Improperly Withheld Public Records at the Superior Court of Alameda County, case No. RG19002853. I propounded Special Interrogatories, and I asked AHS to provide me with both the explanation and the evidence regarding the allegation of the poor professional performance. AHS issued only objections to my Interrogatories. I filed a Motion to Compel Further Discovery Responses. AHS opposed, and AHS didn't provide me with both the explanation and the evidence regarding the allegation of the poor

professional performance. Hon. Judge Frank Roesch denied both Petitions and dismissed my Motion to Compel Further Discovery responses as moot. Currently, Appeals A157784 and A157851 are pending at the Court of Appeal for the First District.

On March 12, 2019, I filed a lawsuit No. RG19010635 against AHS and the NTCP for Libel regarding the allegation of the “poor performance”, Abuse of Process, and the IIED. On May 15, 2019, Defendants filed an anti-SLAPP Motion and banned the Discovery process. On July 23, 2019, the Superior Court of Alameda County granted Defendants’ anti-SLAPP Motion in full and awarded Attorney’s Fees to Alameda Health System.

...

Because I am pursuing the fair administration of Justice in this case, I am filing a Motion for Specified Discovery Despite the Pending anti-SLAPP Motion.

...

I am respectfully asking the Superior Court of Alameda County to issue an Order that allows me to conduct the following Discovery:

- 1) To compel AHS and the Narayan Travelstead Professional Law Corporation to give me both the explanation and the evidence regarding the allegation of the poor professional performance
- 2) To present the affidavit signed under the penalty of perjury by that Officer of Alameda Health System who said to the Narayan Travelstead Professional Law

Corporation that I had been fired from my job for poor professional performance. The affidavit shall state the following:

- a) The name of the Officer of AHS, his/her title, the phone number, and the email address
- b) The date when the Officer of AHS said to the Narayan Travelstead Professional Law Corporation that I had been fired for poor professional performance
- c) Explain in detail how the communication between the Officer of AHS and the Narayan Travelstead Professional Law Corporation occurred – via the email exchange, via the U.S. mail., or via the phone conversation
- d) The description of the documents that the Officer of AHS presented to the Narayan Travelstead Professional Law Corporation regarding the allegation of the poor professional performance

3) Provide me with all documents from Alameda Health System regarding the allegation of the poor professional performance:

- a) The date and the time of every incident of the poor professional performance
- b) The description of the poor professional performance
- c) The witness who can confirm every incident of the poor professional performance
- d) The corrective actions that AHS took against me for every incident of the poor professional performance.”

On October 01, 2019, the NTPC served me with an Opposition to my Motion for Specified Discovery (Exhibit 19) where the NTPC wrote, page 2, lines 3-4, “However, Plaintiffs motion should also be denied because it is frivolous, without merit, and seeks discovery into matters well beyond those at issue in this lawsuit.”

On October 22, 2019, the Hon. Judge Jo-Lynne Q. Lee denied my Motion for Specified Discovery and thus prevented me from obtaining the knowledge about who was the author about the allegation about the poor professional performance and what exactly wrong I allegedly did that was considered “poor performance” (Exhibit 20.)

On July 02, 2020, I filed a lawsuit No. RG20066898 *Drevaleva v. Alameda Health System*. The NTPC appeared on behalf of AHS in this lawsuit. On December 15, 2020, the NTPC served me with a Demurrer.

On January 15, 2021, the Hon. Judge Noel Wise issued an Order that partially sustained the NTPC’s Demurrer with leave to amend. Here is what the Judge wrote (Exhibit 21), “The Demurrer to the Eleventh Cause of Action for Libel is SUSTAINED WITH LEAVE TO AMEND to (1) allege a claim limited solely to the allegation that “AHS lied to DIR that I expressed negligence to patient”, and (2) to allege when that occurred.”

On January 28, 2021, I filed my First Amended Complaint No. RG20066898 where I explained to the Hon. Judge Noel Wise about the DIR’s allegations about the medical negligence towards the patient, the AHS’s and/or the NTPC’s allegations about

the poor professional performance, and about my many year good faith attempts to obtain both the explanations and the evidence regarding both allegations of the medical negligence and the poor professional performance that both the DIR and the NTOC blocked.

Conclusion.

My lawsuit No. RG19002840 *Drevaleva v. Alameda Health System* was aimed to obtain both the explanations and the evidence regarding the allegations of the medical negligence towards the patient and the poor professional performance. In this lawsuit, the NTPC opposed my attempts to obtain both the explanation and the evidence regarding the allegations about the medical negligence towards the patient and the poor professional performance. However, the January 15, 2021 Order of the Hon. Judge Nöel Wise in the lawsuit No. RG20066898 *Drevaleva v. Alameda Health System* directed the Parties to give the explanation to the Court regarding the allegation of the medical negligence towards the patient.

Because my underlying lawsuit No. RG19002840 was pursuing exactly the same issue (obtaining the explanations and the evidence regarding the allegations about the medical negligence towards the patient and the poor professional performance), I am respectfully asking the U.S. Supreme Court to grant my Petition for Rehearing and to

remand my lawsuit No. RG19002840 back to the Superior Court of Alameda County for a further proceeding.

VERIFICATION.

I, a Pro Se Petitioner Tatyana Drevaleva, am a Party to this action. I have read the foregoing Petition and know its contents. The facts alleged in the Petition are within my own knowledge and I know these facts to be true.

I declare under the penalty of perjury and under the Federal laws and under the laws of the State of California that all foregoing is true and correct. Executed at San Francisco, CA on February 04, 2021.

Respectfully submitted,

Tatyana Drevaleva
td

s/ Tatyana Drevaleva

td

Petitioner-Appellant Pro Se

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Date: February 04, 2021.

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On Petition for Writ of Certiorari to the California Supreme Court

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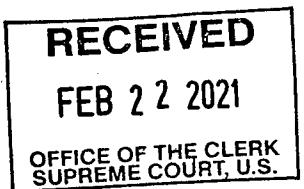
Court of Appeal for the First District, Division Four

Appeal No. A157851

The California Supreme Court, Petition for Review S261831 - denied

CERTIFICATE, Rules of the U.S. Supreme Court, Rule 44(2.)

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I am certifying that this Petition for Rehearing is restricted to the grounds specified in the Rules of the U.S. Supreme Court, Rule 44(2) and that this Petition for Rehearing is presented in good faith and not for delay.

The grounds for this Petition for Rehearing are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

Throughout multiple litigations at both the Federal and the State Court systems, the Narayan Travekstead Professional Law Corporation (the NTPC) appeared on behalf of Defendant Alameda Health System. In all lawsuits, the NTPC refused to provide the Courts with the explanations and the evidence regarding the allegations of the medical negligence towards the patient and the poor professional performance.

On January 15, 2021, while litigating my lawsuit No. RG20066898 *Drevaleva v. Alameda Health System*, the Hon. Judge Nöel Wise ordered me to explain the allegation about the medical negligence towards the patient. On January 28, 2021, I submitted my First Amended Complaint where I explained about the allegations about the medical negligence towards the patient and the poor professional performance..

Because I was looking for the same information during the litigation of my lawsuit No. RG19002840 *Drevaleva v. Alameda Health System* (the current Petition for Writ of Certiorari No. 20-607), and because the NTPC opposed my attempts to obtain the explanations and the evidence regarding the allegations about the medical negligence

towards the patient and the poor professional performance, and because I need this information to satisfy the January 15, 2021 Order of the Hon. Judge Nöel Wise in the lawsuit No. RG20066898, I am respectfully asking the U.S. Supreme Court to grant my Petition for Rehearing, to remand my lawsuit No. RG19002840 back to the Superior Court of Alameda County for a further proceeding, and to order Defendant Alameda Health System to disclose the explanations and the evidence regarding the allegations of the medical negligence towards the patient and the poor professional performance.

I declare under the penalty of perjury and under the Federal laws and under the laws of the State of California that all foregoing is true and correct. Executed at San Francisco, CA on February 04, 2021.

Respectfully submitted,

s/ Tatyana Drevaleva

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Date: February 04, 2021.

**Additional material
from this filing is
available in the
Clerk's Office.**