

No. **20-8426**

ORIGINAL

Supreme Court, U.S.
FILED

JUN 10 2021

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

Bin Yang

Petitioner

vs.

The Board of Registered Nursing

Respondent

On Petition for a Writ of Certiorari to
The Supreme Court of California

PETITION FOR WRIT OF CERTIORARI

Bin Yang

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I. Questions Presented

1. Why is Petitioner NOT ALLOWED to withdraw her application from a nursing board (quit) while she could do so from medical boards?
2. Why is Petitioner not allowed to have "a mental exam" from a university expert who can best ensure public safety but "the expert" who will say anything that Respondent desires?
3. Is it unconstitutional for licensing agents to set innocent up with "their experts," AGAIN AND AGAIN, causing tremendous personal and family losses and suffering?
4. Is it unconstitutional for the justice system to actively and inactively assist the government agencies to violate law, set innocents up, legalize their crime, and get paid, AGAIN AND AGAIN?

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IV. Petition for Writ of Certiorari

Bin Yang, a resident of Los Angeles County, respectfully petitions this court for a writ of certiorari to review the judgment of the Supreme Court of California.

V. Opinions Below

The opinion of the Supreme Court of CA is unpublished. The Supreme Court of California denied Petitioner's petition for review on Jan 14, 2021. That order is attached at Appendix list (App C)

VI. Jurisdiction

The date on which the Supreme Court of CA decided Petitioner's case was Jan 14, 2021. A copy of that decision appears at Appendix A. Bin Yang invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition during the COVID-19 pandemic for a writ of certiorari within 150 days of the Supreme Court of California's judgment.

VII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, Amendment XIV:

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.

United States Constitution, Articles 1-3:

The first three articles of the Constitution establish three branches of government with specific powers: Executive (headed by the President), Legislative (Congress) and Judicial (Supreme Court). Power is separated and shared. Each branch can **check** other branches' actions or **balance** the actions of other branches with their own actions.

California Code of Civil Procedure 1094.5 (e):

Where the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

California Business and Professions Code Sec. 820:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

California Business and Professions Code Sec. 821:

The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

California Business and Professions Code Sec. 822:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which

caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

California Government Code Disciplinary Proceedings 19572

Each of the following constitutes cause for discipline of an employee, or of a person whose name appears on any employment list:

- (a) Fraud in securing appointment.
- (b) Incompetency.
- (c) Inefficiency.
- (d) Inexcusable neglect of duty.
- (e) Insubordination.
- (f) Dishonesty.
- (g) Drunkenness on duty.
- (h) Intemperance.
- (i) Addiction to the use of controlled substances.
- (j) Inexcusable absence without leave.
- (k) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- (l) Immorality.
- (m) Discourteous treatment of the public or other employees.
- (n) Improper political activity.
- (o) Willful disobedience.
- (p) Misuse of state property.
- (q) Violation of this part or of a board rule.
- (r) Violation of the prohibitions set forth in accordance with Section 19990.
- (s) Refusal to take and subscribe any oath or affirmation that is required by law in connection with the employment.
- (t) Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the appointing authority or the person's employment.
- (u) Any negligence, recklessness, or intentional act that results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.
- (v) The use during duty hours, for training or target practice, of any material that is not authorized for that use by the appointing power.

(w) Unlawful discrimination, including harassment, on any basis listed in subdivision (a) of Section 12940, as those bases are defined in Sections 12926 and 12926.1, except as otherwise provided in Section 12940, against the public or other employees while acting in the capacity of a state employee.

(x) Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related to the job.

VIII. STATEMENT OF THE CASE

United States Constitution, Amendment XIV offers every citizen in any profession the right to quit their job for any reason, not to mention to avoid being set up. The Amendment also grants each citizen equal protection of Law Constitutional Provisions. United States Constitution, Articles 1-3 want executive, legislature and justice branches to check each other and ensure each to function according to the constitution. However, the case presents an opposite reality.

1. A Wrongful Charge

The case started with a wrongful charge.

On March 30, 2005, Petitioner returned to Lubbock, TX from Houston via Southwest Airlines and asked for a blanket. Because the attendant did not respond to her request three times, Petitioner pushed her right forearm for attention, which was common in China where Petitioner grew up. However, the attendant later claimed that Petitioner punched in her stomach, made her fall into a cabinet and intended to harm her. Petitioner's attorney advised her to plead guilty since she had "no witness." She was charged for 70% of the liability for being rear-ended in 1997 at Amarillo, TX, a nearby city of the same district.

In fact, the Traumatic Brain Injury Petitioner suffered in the auto-accident in 1997 was her best witness as she could not have the strength to do what she was accused of. The airport police report, various tests, and testimonials further support her innocence. However, none of her attorneys asked about Petitioner's head injury. No tests ordered before her attorney pushed her to plead. Petitioner could not link her head injury with her innocence until 3-13-2018 at the hearing with the Board of Registered Nursing (Respondent). Because of the wrongful charge, Petitioner had to go to Wisconsin to apply for a medical license and mistakenly followed someone into a secure building. Dane County has dismissed the citation since it was an unintentional entry with no harm.

Petitioner reactivated her nurse license in 2013. No clinical complaint or police report since. In addition, two mental exams have been done in CA due to the TX issue with normal finding. Petitioner satisfied the continue education auditing in 2017 and was not going to renew her RN license in 2019.

2. Another Setup.

Respondent asked Petitioner to take a mental exam per Code 820 in 2017. Petitioner did not refuse as she supported that each board should ensure its licensees' job safety. However, Respondent insisted that Petitioner go to the "expert of their choice" and refused to let Petitioner go to university experts who will evaluate Petitioner based on facts instead of someone's wish. Also, Respondent lied about their access to expert data and the fact that they do not exclude university experts at all.

Petitioner has been set up before and was afraid of another "IERF" who dare to say ANYTHING for money (more details are included in the PETITION FOR WRIT OF

CERTIORARI Yang vs the Medical Board of California)! After discovering the lies, Petitioner recognized that was another set up-- Respondent can either label Petitioner with a mental illness or accuse her "violation of the Law" for not taking the mental exam to deny her license and jeopardize her healthcare careers. To avoid time wasting, Petitioner wrote to the executive officer of Respondent and requested to withdraw her application (quit), which is the basic rights that the Amendment XIV to the US constitution grants EVERY citizen. Petitioner also can withdraw her application from medical boards. However, Respondent refused to let Petitioner go.

Petitioner had to go to the hearing and then the courts. However, the justice system used various means to prevent her from getting due process, legalize the setup, and get paid. They turn California government a crime-making machine, violating not only the Amendment XIV to the US constitution but also Articles 1-3 of the Constitution.

At the hearing, Petitioner discovered that Respondent did not know that she already had two mental exams done in California due to the TX issue. Petitioner also realized for the first time that she could not have the physical strength to do what she was accused of in TX due to the head injury she suffered in 1997. At the end of the hearing, Petitioner requested to let her quit again if she could not take a mental exam from a university expert. After the hearing, she submitted her head CT scan result and the psychological evaluation from UCLA to Administrative Law Judge (ALJ) and Respondent.

However, both Deputy Attorney General Vinodhini Ramagopal (DAG) and ALJ refused to explore test results nor let Petitioner quit. DAG played with facts and demanded "Any Test" by "Anyone" to assist "her client." ALJ created more facts to

support "his clients". Respondent denied Petitioner's RN license in June 2018. Petitioner had to file Petition for Writ for Mandamus at the Superior Court of Los Angeles on July 30, 2018.

The rule 1094.5 (e) allows critical evidence to come to the court with due diligence [*English v. City of Long Beach (1952) 114 Cal. App. 2d 311, 316–317, 250 P.2d 298*]. Petitioner's head CT scan result is indisputable evidence to prove her innocence in Southwest Airlines issue. The psychological evaluation from UCLA further supports her innocence and is what Respondent needs. She reactivated her license in 2013 not 2017. The Superior Court Judge (SCJ) first said at the hearing on March 21, 2019 that he did not want to spend hours listening to expert witness on CT scan and head injury. Petitioner contacted Dr. Weiss and got his letter on May 27th, 2019. The four pieces of evidence are turning points of Petitioner's case. Petitioner has used her best due diligence to bring them to the hearing and Respondent and the trial court, therefore, she fully meets the requirement for 1094.5 (e).

However, DAG did her best to exclude the critical head CT scan result and mental test result, altered facts, and created more stories. SCJ actively assisted her. When he realized that he could not ignore the critical evidence, SCJ make the critical evidence sounded like they have already been presented in the Texas US district court in 2005.

The SCJ knew that Respondent's analyst was lying about that they had no access to expert data due to HIPAA, Respondent does not exclude university experts, and Petitioner could not know EVERY doctor in every university. Still, SCJ misled Petitioner to go against her common sense. Once again, Petitioner requested to

withdraw her application. However, SCJ wanted her to “discuss it with Respondent.” Furthermore, the SCJ always blamed Petitioner for improper proofs of service WHENEVER DAG did not show up for Ex Parte even Petitioner called and emailed DAG before 10 am and 24 hours prior.

SCJ denied the petition for writ of mandamus on July 2, 2019 (App. B). On July 11, 2019, Petitioner filed a motion to reconsider, which SCJ denied on Sep 17, 2019.

3. Direct Appeal

Petitioner submitted notice to appeal to the 2nd Court of Appeal (COA) on July 2, 2019. In her opening brief, Petitioner pointed out that SCJ refused to let Petitioner quit, excluded critical evidence in trial, sided with DAG, and assisted Respondent to abuse code 820 and set Petitioner up. However, COA denied the fraud on the court of SCJ and DAG, stated that Petitioner did not explain how she satisfied the Requirements for CCP 1094.5 (e) while Petitioner spent lengthy time to do so, and even blamed Petitioner did not submit Dr. Weiss’ letter at the hearing in March 2018 when Dr. Weiss only wrote the letter in May 2019. COA denied the appeal on 10-27-2020 (App. A)

Petitioner filed the motion to reconsider on November 6, 2020 after noticing DAG had turned her nurse license activation date from 2013 to 2017 and denied that Petitioner had requested to quit/withdraw her license application. However, COA disregard the false statements and denied the motion to reconsider on November 10, 2020. Then Petitioner realized that her parents and others had become indirect victims of her misfortune and filed the 2nd motion to reconsider on November 12, 2020. COA denied the motion the next day.

Petitioner filed a petition for review at the Supreme Court of CA on November 26, 2020, listed how Respondent set her up and refused to let her withdraw her application or let her take a mental exam from professionally qualified experts. Petitioner also explained why she satisfied the requirements for CCP 1094.5 (e), what false statements DAG had given, and how SCJ and COA manifestly abused their discretion and deprived Petitioner's rights. However, the petition was denied on January 14, 2021 (App. C).

IX. REASONS FOR GRANTING THE PETITION

A. Stop the deprivation of the right to quit a job that Amendment XIV grants to each nurse, AGAIN AND AGAIN.

B. Stop government agencies from setting innocent up with their "experts" and depriving their life and liberty.

C. Stop the crime-making machine that government agencies and justice system have formed. Ensure three branches check each other and safeguard due process of law and equal protection of the laws.

This is one out of a million cases. Petitioner not only had no clinical complaints, no police report since she reactivated her nurse license in 2013 but also had two mental exams done in California and could finally prove her innocence in the TX issue. Above all, Petitioner has never challenged the base of the mental exam and was willing to comply to best ensure job safety.

However, Respondent abused code 820, insisted Petitioner to go to "their expert," instead of university experts who will evaluate based on facts instead of someone's wish, who Respondent does not exclude. Have been set up before, Petitioner immediately recognized the new set up and request to withdraw her application (quit), which is the basic right of every US citizen. Also, Petitioner could

withdraw her application from medical boards in California and Texas. However, Respondent refused to let her quit but abused code 820 and denied her license.

While Respondent arbitrary, capricious, and abusively exercised its discretion to set Petitioner up, DAG altered facts and blocked critical evidence to assist "her client." ALJ refused to let Petitioner quit and created even more stories to make a passionate healthcare provider look like a potential bomber. SCJ sided with DAG, excluded critical evidence and misled Petitioner to legalize the setup. When Petitioner requested to quit, SCJ wanted Petitioner to "discuss it with Respondent." DOA blurred facts, ignored DAG and SCJ's false statements, and blamed Petitioner for not explaining how she satisfied the Requirements for CCP 1094.5 (e) while Petitioner spent a lengthy time to do so. COA even blamed Petitioner did not submit Dr. Weiss' letter at the hearing in March 2018 when Dr. Weiss only wrote his letter in May 2019! The Supreme Court of California did nothing, which is equal to giving their permission.

This is not the first time for a CA government licensing agency to set innocent up via "their expert," and the same legal system helped to legalize the crime and get paid! More details are included in the PETITION FOR WRIT OF CERTIORARI Yang vs Medical Board of California.

The deprivation of basic human rights and respect is also a big reason for the nurse shortage in the US. Nurses ARE NOT ALLOWED to withdraw or quit their application like other professionals no matter how uncomfortable they feel about their environment. Respondent does not use code 820 to ensure public safety but to abuse its nurses to satisfy their Ego. Yet, DAG and judges find ways to legalize Respondent's violation and GET PAID, which is far worse than the police brutality on the street.

The government is set up for the people and by the people. As a government licensing agent, Respondent at least should not violate the CA Government Code 19572, understand Petitioner's concern and accommodate her reasonable request. As officers of the court, DAG and judges at different levels have more reasons to check other branches and defend the Constitution per United States Constitution, Articles 1-3.

Florida Supreme Court disbarred Stephen Diaco and 3 other attorney for DUI set up [*Florida v Stephen Diaco The Florida Bar File No. 2013-10,735 (13F)*]. Colorado has disbarred attorneys for abuse [*People v. Scruggs, 52 P.3d 237, 241 (Colo. 2002)*]. What DAG and judges at different levels have done is far worse than a DUI setup and abuse.

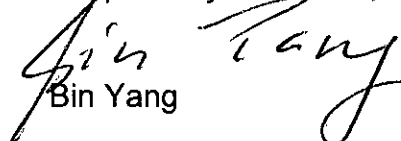
This case presents this Court with an opportunity to reinforce basic human right and equal law protection, stop government agencies from setting innocent up via "their experts," stop the crime-making machine that government agencies and the justice system have developed, and ensure three branches function per constitution. Absent intervention by this Court, the existing crime-making machine will destroy the Constitution and Democracy that this nation has spent the past 245 years developing, and both healthcare and citizens will suffer.

X. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court issue a writ of certiorari to review the judgment of the Supreme Court of Appeals.

DATED this 10th day of June 2021.

Respectfully submitted,


Bin Yang

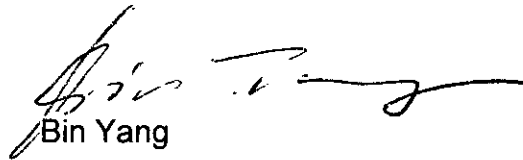
DECLARATION OF BIN YANG

I, Bin Yang, declare:

I am above 18 years old, a party with a beneficial interest in the case. I have the personal knowledge of the matters set forth in this Declaration and, if called as a witness, could and would testify truthfully and competently thereto.

I declare under the penalty of perjury under the laws of the State California the foregoing is true and correct and that the declaration was executed on June 10, 2021, at Los Angeles, CA.

Date & Time:
6/10/2021



Bin Yang