

DEC 07 2022

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No. 22-624

IN THE  
SUPREME COURT OF THE UNITED STATES

ZAFAR IQBAL – PETITIONER

VS.

BUREAU OF POA

COMMONWEALTH OF PENNSYLVANIA – RESPONDENT(S)  
ON PETITION FOR WRIT OF CERTIORARI TO  
SUPREME COURT OF PENNSYLVANIA DOCKET NO. 131WAL2022

ZAFAR IQBAL

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ORIGINAL

## QUESTIONS PRESENTED

1. Did the ruling(s), by disregarding testimony of material witness, proven to lie under oath ***violated*** petitioner's right to due process enshrined in fourteenth amendment.
2. Did the ruling(s) disregard a material witness's testimony proving fabricated evidence, ***violated petitioner's*** right of due process, equal protection under the law, by fourteenth amendment rights.
3. Did the ruling(s), disregard ***violation*** of fifth amendment's rights of the petitioner, and ***due process*** when a detective as a material witness; admitted under oath to obtain a coerced confession and destroyed an earlier voluntary statement.
4. Did BPOA, not err but acted with malice and impunity, to flagrantly violate petitioner's fifth, fourteenth amendments and *Due process of the law*.
- 5.
6. Did the Pennsylvania Commonwealth Court ignore flagrant violations by BPOA by Affirmation of BPOA order.
7. Did, Supreme Court of Pennsylvania by its order, ignored ***violations of fifth, fourteenth and due process of law*** guaranteed under the Constitution of the United States.

## **LIST OF PARTIES**

1. Supreme Court of Pennsylvania no. 131 WAL2022 Judgment entered October 18, 2022.
2. Zafar Iqbal vs Bureau of Professional and Occupational Affairs, State Board of Medicine No. 1190-CD-2020, Commonwealth Court of Pennsylvania. Judgement entered April 18, 2020.
3. Ferketic v. Curahealth Pittsburgh, LLC, et al US district Court, Western District of Pennsylvania No. 2:18-cv-00842-JFC-PLD. Case Dismissed Oct 24, 2019
4. Commonwealth of Pennsylvania v. Zafar Iqbal No. CP-02-CR-0003120-2018 Judgement entered Nov 20, 2018.
5. Melissa Smith and Craig Smith vs. Zafar Iqbal M.D. Court of Common Pleas of Allegheny County, Pennsylvania No. GD 16-010615 Settlement entered Feb 27, 2018.

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APPENDIX B: FINAL MEMORANDUM OPINION AND ORDER ADOPTING HEARING EXAMINER'S PROPOSED ADJUDICATION AND ORDER AND ADDRESSING EXCEPTIONS.No174914398. Order dated Nov. 2, 2020

APPENDIX C: DOCUMENTS REPRODUCED FOR COMPLAINANT M.S.

APPENDIX D: DOCUMENTS REPRODUCED FOR COMPLAINANT K.F. AND DETECTIVE DONALD COKUS.

APPENDIX E: ORDER OF SUPREME COURT OF PENNSYLVANIA dated October 18, 2022.

## **TABLES OF AUTHORITIES CITED**

### **STATUTES AND RULES**

#### **1. CONSTITUTION OF THE UNITED STATES**

##### **(a) Fifth Amendment:**

No person shall be held to answer for a capital, or otherwise infamous crime, unless a presentment of indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of live or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property to be taken for public use, without just compensation.

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##### **(b) Fourteenth 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 the State wherein they reside. No State shall make or enforce any laws 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 person within its jurisdiction the equal protection of the laws.

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**

**STATE COURTS OF PENNSYLVANIA:**

The opinion of the highest state court (Supreme Court of Pennsylvania) to review the merits appear in Appendix E, and is reported in JUSTIA U.S. Law # 1786, 2022.

The opinion of the Commonwealth Court of Pennsylvania appears in Appendix A.

The opinion of the Board of Professional and Occupational Board appears in Appendix B.

## **JURISDICTION**

The date on which the highest state court decided my case was October 18, 2022.

A copy of that decision appears in Appendix E.

A timely petition for rehearing was thereafter denied on the following date:

October 18, 2022, and a copy of the order denying rehearing appears at Appendix E.

The jurisdiction of this Court is invoked under 28 U.S. C. 1257 (a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

### **CONSTITUTION OF THE UNITED STATES**

#### **(a) Fifth Amendment:**

No person shall be held to answer for a capital, or otherwise infamous crime, unless a presentment of indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property to be taken for public use, without just compensation.

#### **(b) Fourteenth 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 the State wherein they live. No State shall make or enforce any laws 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 person within its jurisdiction the equal protection of the laws.



BPOA (Board of professional and Occupational Affairs, Commonwealth of PA) conducted a transcribed trial hearing on February 26 and 27, 2020 (no. 174914398); for a show cause notice for four complaints against my medical license MD044624E.

I am a 68-year-old naturalized USA citizen from 1990, who was granted a New York State medical license from 1987-1990, and then PA medical license from 1990 up until it was revoked on November 2, 2020 (*Appendix B*). BPOA, final order relied upon testimonies of two complainants M.S., and K.F., and one police detective Donald Cokus (*Appendix C, D*).

This trial/hearing brought new evidence as M.S., K.F., and Detective Cokus were cross-examined for the *very first time*. BPOA determined in their final order (*Appendix B, page 4, lines 6-7*); ***Respondent's (SC petitioner) exceptions, relating to M.S., K.F., and Detective Cokus are without merit.***

Commonwealth Court of PA (*Appendix A*) claimed '*this Court's review is therefore limited to deciding whether constitutional rights have been violated...* (*Appendix A, page 7, III Discussion, lines 7-12*).

The court order ***affirmed BPOA discretion to disregard M.S., K.F., and detective testimonies (Appendix A).***

***M.S., K.F., and Detective Cokus testimonies violated Constitutional rights of the petitioner:***

1. M.S.: The claim, that I forcibly kissed her in a stationary elevator 8/1/2015. I denied the allegations but agreed that I took a ride on an elevator with her *and* with other people, which stopped at different floors, and we came out on the ground floor, WHICH HAD HOSPITAL VIDEO SURVEILLANCE. Initially the hospital denied any hospital cameras, so a video from a PMC Bank automated teller was obtained, which had significant periods of obstruction by clients making transactions. On my insistence, at the interview of security personnel, it was revealed that a hospital security camera video was handed over to the chairperson of the investigation committee and was never made part of the record. Prior to the BPOA hearing a witness list was provided to me (*Appendix C, document dated 2/20/2020, and I sent a list of questions for M.S. dated 2/21/2020* which included *why it took some 28 days (4 weeks) to file a police complaint post incident.*

Testimony of Sergeant Itri revealed that he wrote the police report on 29<sup>th</sup>, August 2015 (the day M.S., and her husband reported) some 28 days (about 4 weeks) post-incident to his police station (*Appendix C, Police report 1-4, transcript 2/26 page 122, lines 17-25, page 123 lines 2-4*).

M.S. testified two times that she reported the incident to the police within 2 days from 8/1/2015 (*Appendix C, 2 /26 page 50, lines 21,22 and page 79 lines 19-21*). This testimony stands in stark contrast to the police report and Sergeant Itri's testimony. Pre-hearing questions 2/21/2020 (*Appendix C*) which challenges the four weeks delay in the reporting to the police. This makes it a *premeditated lie under oath*, and **not an error but criminal intent to commit lying under oath, obstruction of justice and obstructing due process of the law.**

**2. K.F.:** She claimed that I forcibly kissed her on 11/07/2017, in the medical records room of Curahealth hospital. She testified under oath on 2/27/2020, and owned a written statement given to the hospital 48 hours (about 2 days) later 11/09/2017 (*Appendix D, R-11*).

Police were notified the same day. In her first written statement she claimed injury and a bloodstained garment which under oath she claimed to hand over to the police. She also owned another written statement dated 12/07/2017, in which she had redacted the claim of bodily injury and blood-stained garment (*Appendix D, R-11, R-12*). These statements were not made part of the police report or criminal trial (*Appendix D, police report 1-3, Cokus affidavit 1-2*). A non-Jury trial was held on 11/20/2018, under no.CP-02-CR-0003120-2018 convicted me of a second-degree misdemeanor. The trial *did not have* the two written statements, first revealed in June 2019, during a deposition for her civil trial. Her Federal civil lawsuit no. 2:18-cv-00842 was dismissed upon discovery of these two statements (*Appendix D, R 14*).

**3. DETECTIVE DONALD COKUS:** I was interviewed by detective Cokus at North- Fayette police department in Allegheny County of Pittsburgh, on 11/10/2017. Detective Cokus informed me that the premises record audio and video of the interview room.

He also declared that he is in possession of video recording of the incident which took place on 11/07/2017 at the medical records room at CuraHealth Hospital. He asked me to give a statement voluntarily, which I provided. He informed me that the first statement is not acceptable to him. He threatened, if I did not admit to non-consensual touch, he by adding witness harassment will increase the charges to felony. He tore up my first statement.

On 2/27/2020, under oath, detective admitted that he lied about the video surveillance (*Appendix D, 2/27 page 92 lines 4-12*). He admitted that he tore up the first voluntary statement (*Appendix D, 2/27 page 83 lines 11,12; page 84 lines 11,15 and lines 13, 20; page 87 lines 3,6,7,8 and page 91 lines 20-25*).

**4. FRESENIUS MEDICAL CARE 2003 RULING:** (*Appendix B, page 6, lines 8-15*) Board recognizes, *Exhibit R-15 (Appendix C, R-15)* has the conclusion of Governing Body Committee Decision, on April 4, 2003 that there were insufficient grounds for finding of sexual harassment based .....*the sole purpose of the introduction of this evidence was to lay the foundation and supply the full picture of UPMC's investigation in the current M.S. matter.*

**EXCERPTS FROM ORDERS AND OBSERVATIONS:**

1. BPOA responded in the final order as: (*Appendix B, page 4 lines 6,7*) *Respondent's (now petitioner) first three exceptions, relating to credibility of M.S., K.F., and detective Cokus are without merit.*

PETITIONER'S RESPONSE: These violations of lying under oath by M.S., fabrication of evidence by K.F., and obstruction of Justice by destroying evidence and obtaining coerced confession violated petitioner's **RIGHTS UNDER FOURTEENTH AMENDMENT, FIFTH AMENDMENT AND DUE PROCESS**, were brought to Commonwealth Court of Pennsylvania under no. 1190CD2020.

**2.Commonwealth Court PA, order entered April 18, 2022**

COURT order (page 7) III. Discussion (*Appendix A lines 6-16*)

Physician disciplinary sanctions are within Board's discretion and must be held unless Board acted in bad faith or fraudulently or sanction makes up capricious action or a flagrant abuse of discretion.....This Court's review is therefore limited to determining whether constitutional rights have been violated.....

*Statement of standard of review presented to Commonwealth: (Appendix B page 4 lines 1-7)*

The board concludes that the exceptions relating to the credibility of M.S., K.F., and Detective Cokus were without merit.

*Affirmation by Court (Court Order), violates the same constitutional rights, as proffered by the Court to guard against.*

PETITIONER'S ACTION: Appeal filed in Supreme Court of Pennsylvania  
5/06/2022.

**3.PA. SUPREME COURT ORDER ENTERED OCTOBER 18, 2020**, denied my petition *affirming State rights to disregard violations of fifth, fourteenth amendments and due process of law guaranteed under the Constitution of the United States.*

## REASONS FOR GRANTING THE PETITION:

Your Honors, I adopted this wonderful country to avoid tyranny. The forebears of this nation such as John Adams, who asked Thomas Jefferson to write *Declaration of Independence* to fight tyranny. James Madison who wrote *The Bill of rights*, to avoid tyranny by the powerful. Ibrahim Lincoln carved a long path to equality. If anyone is close to being sagacious enough, they are the members of this highest legal body in the land, so I bring my case through the right channels to you.

BPOA of Commonwealth of Pennsylvania, acted in a tyrannical manner, by using their discretionary powers to disregard law breaking testimonies, is ***tantamount act with criminal intent***. This board, by their discretionary powers, may have destroyed the lives of hundreds of individuals; such Boards do exist in the rest of 49 states.

Commonwealth of PA Courts, with full knowledge of their role of as protectors of THE Bill OF RIGHTS, and so did the Justices of the Supreme Court of PA, let violations of the Constitution of the United States ensue.

Honorable Justices of this revered Court, sexual harassment/assault is a Scrooge affecting our society, there is a minority more than recognized, where the person accused is innocent with his life turned upside down, and the system finds a loophole to disregard exculpatory evidence. This disregard ***violates the rights of person accused enshrined in the amendments of the Constitution of the United States***.

No other Court like yours' can recognize and implement checks to all such decisions by the Boards across in 50 States. I plead with you to grant me certiorari, to argue for innocents affected who hide in shame and in financial ruins and cannot afford to go as far.

***Non-granting this petition would mean, to accept a tyrannical disregard by BPOA of fifth, fourteenth amendments and due process of law. All the courts of Pennsylvania have ignored the exculpatory evidence. This august body needs to accept the petition to see violations of fifth, fourteenth amendments and due process of law.***

Fresenius Medical Care, a dialysis Giant company has revoked my privileges to practice for life, ***this acted as a steppingstone for every investigation, as suggested by BPOA (Appendix B). If this petition is granted the evidence on balance will lead to:***

***Overturing of Criminal Conviction (obtained not by error but by design)*** criminal case no. CP-02-CR-003120-2018, by granting testimonies of fabricated evidence and coerced confession ***due process.***

1. Restoration of Medical license revoked, ***without giving due process,*** by BPOA State of Pennsylvania.
2. All such revocations ***to be*** reviewed in all 50 States, by such agencies.
3. Fresenius, ***for life*** revocations review in all 50 States.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

ZAFAR IQBAL.



(Signature)

Date: November 22, 2022.

Commonwealth of Pennsylvania  
County of Allegheny

19 Sworn to and subscribed before me this  
22<sup>nd</sup> day of November, 2022 by  
Zafar Iqbal

Harry M. Ruben, Notary Public

