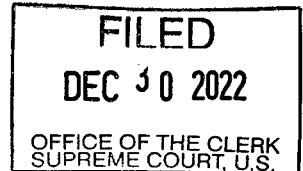


ORIGINAL

No. 22-829



IN THE

SUPREME
COURT OF THE
UNITED
STATES

DR. MARLA FAITH CRAWFORD,
Petitioner

v.

SCHOOL BOARD FOR RICHMOND CITY,
Respondent

PETITION FOR WRIT OF CERTIORARI

Supreme Court of Va. Record No. 200402
Circuit Court of Richmond City Case No. CL18004077

Dr. Marla Faith Crawford, *pro se*
Elite Educational Consulting
6523 South Stevens Hollow Drive
Chesterfield, Virginia 23832
Tel.: (804) 397-4480
Email: eliteeducationalconsulting9@gmail.com

I. QUESTIONS PRESENTED

1. Did the Supreme Court of Va. error in determining that the Circuit Court for Richmond City nonruling on a pretrial motion filed on April 2, 2019 wasn't a reversible error?
2. Did the Supreme Court of Va. error in determining that there was no reversible error when the Circuit Court of Richmond City did not issue a ruling in compliance with Rule 3:20 of its Court?
3. Did the Supreme Court of Va. error in determining that there was no reversible error when the Circuit Court of Richmond City did not issue a ruling in compliance with Fed. R. Civ. P. 56(c) of the United States Supreme Court?

4. Did the Supreme Court of Va. Error in determining that there was no reversible error when the Circuit Court for Richmond City granted the School Board for Richmond City sovereign immunity from expenses under IDEA 34 C.F.R. §300.507(d) for Independent Educational Evaluations (IEEs)?
5. Did the Supreme Court of Va. error in determining that the Circuit Court entering a void order outside its jurisdiction of the subject matter wasn't a reversible error?
6. Did the Supreme Court of Va. error in determining there was no reversible in the rulings of the Circuit Court of Richmond City it conflict with rulings and opinions of this Court?

II. LIST OF PARITIES

A list of parties to the proceeding in the Court
judgment is the subject to this petition below is as
follows:

Defendant:

School Board for Richmond City

Interested Parties this Writ may Affect in Time:

Supreme Court of Va.

III. TABLE OF CONTENTS

I.	Questions Presented.....	i
II.	List of Parties.....	iii
III.	Table of Contents.....	iv
IV.	Case of Authorities.....	iv
V.	Petition for Writ Of Certiorari.....	1-15
VI.	Opinions Below.....	2 - 3
VII.	Jurisdiction.....	3
VIII.	Provisions of Federal/State Regulations and Supreme Court Va. Rules.....	3- 5
IX.	Statement of Case.....	5-7
X.	Reason for Granting Writ.....	7- 14
XI.	Conclusion.....	14-15
XII.	Appendix:	
	December 8, 2017 Interim Order for Evaluations Under IDEA.....	App. 1-2
	February 11, 2019 Memorandum Opinion and Order.....	App. 3-10
	January 10, 2020 Order.....	App.11-12

July 26, 2021 Order..... App. 12-15

June 2, 2022 Order..... App.16

October 3, 2022 Order..... App. 17

Transcripts

**June 10, 2019 Hearing on
Motion for Summary Judgement..... App. 18-116**

**July 9, 2019 Oral Arguments
on Motion for Summary
Judgement..... App. 117-128**

December 17, 2019 Case Hearing.... App.129-193

**Supreme Court of Va. May 13, 2022
Oral Arguments..... App.194-209**

**April 2, 2019 Motion for Summary
Judgment..... App. 210-213**

RPS Vendor Letter Documentation.... App. 214-216

November 9, 2018 Transcript.....App. 220-244

IV. CASE OF AUTHORITIES

Case Law

<i>Baluch v. Miller</i> , 774 S.W.2d 299, 301-302 (Tex.App.-Dallas 1989, orig. proceeding)	21
<i>Barnes v. State</i> , 832 S.W.2d 424, 426 (Tex. 3 App.—Houston [1st Dist.] 1992, orig. proceeding)	21
<i>Jacqueline v. Fairfax County School Board</i> , No. 1:05cv1476 (2006)	21
<i>Haddon Township Sch. Dist. V.</i> <i>New Jersey Dept. of Ed.</i> , IDELR 44 (N.J.S.C. 2006)	14
<i>Lawyer v. Chesterfield County Sch. Bd.</i> , No. 3:92CV760, 20 IDELR 172 (E.D. Va. Aug. 25, 1993).....	9, 13
<i>Safety-Kleen Corp. v. Garcia</i> , 945 S.W.2d 268, 269 (Tex. App.-San Antonio 1997, orig. proceeding).....	21
<i>Taylor v. Vt. Dep't of Educ.</i> , 313 F.3d 768 (2d Cir. 2002).....	9, 13

Federal Authorities

IDEA 34 CFR §300.103.....	12, 13
IDEA 34 CFR. §300.502(3)(ii).....	12, 13

IDEA 34 CFR § 300.502 (a)(1)(ii).....	12, 13
IDEA 34 CFR 300.502 (b) and (e).....	13
IDEA 34 CFR. §300.507(d).....	3, 9, 11, 12, 13

State (Virginia) Authorities

Va. Code § 22.1-1.....	12
Va. Code § 22.1-28.....	21
VA Code 22.1-71.....	12, 21

Federal Court of Rules

Fed. R. Civ. P. 56(c).....	2, 12, 16
----------------------------	-----------

State Court of Rules

Supreme Court of Va. Court Rule 1:1 Jurisdiction.....	12, 19
Supreme Court Va. Court Rule 3:20 Summary Judgement.....	2, 12, 15, 21

V. PETITION FOR WRIT CERTIORARI

Hearing Officer Francis entered an Interim Order on December 8, 2017 ordering Dr. Crawford to perform two Independent Educational Evaluations (Functional Behavior Assessment and Classroom Observations) at the expense of the public under IDEA. (App. 1) A hearing Officer may order an Independent Educational Evaluation (IEE) at the public expense. See 34 C.F.R § 300.507(d) (2008) *Taylor v. Vt. Dep't of Educ.*, 313 F.3d 768 (2d Cir. 2002); *Lawyer v. Chesterfield County Sch. Bd.*, No. 3:92CV760, 20 IDELR 172 (E.D. Va. Aug. 25, 1993) Dr. Crawford respectfully requests a Writ of Certiorari to review the judgement of the Supreme Court of Va. because the decision of the Court conflicts with the tenants of IDEA, Rulings and Opinions of this Court, Rulings and Opinions of its own court and other State Courts across the United

States, and Va. Codes governing public policy. The decision of the Supreme Court of Va. will establish case law that Congress has no authority to enact federal laws governing the education of children with disabilities under IDEA for independent evaluations and the States do not have to provide free appropriate public education to children with disabilities or suspected disabilities. Supreme Court of Va. decision will also send a message to school boards and state courts across the United States that this Court and no other Federal Court can enforce federal laws governing education for children with disabilities and suspected disabilities.

VI. OPINIONS BELOW

On June 2, 2022, the Supreme Court of Va. determined that there was no reversible error of the Circuit Court for Richmond City and denied the

Petition for Appeal. (App. 16) And on October 3, 2022,
denied the Petition for Rehearing. (App. 17)

VII. JUISDICITIONAL STATEMENT

Supreme Court of Va. has decided an important federal question in a way that conflicts with relevant decisions of this Court, other State Courts, its own court and Individual With Disabilities Education Act (federal law governing the education of children with disabilities across the United States). This Court has jurisdiction over the proceedings by virtue of 34 C.F.R § 300.507(d) as this matter arises under IDEA of the United States and the ruling of the highest court in the Commonwealth of Virginia.

VIII. PROVISIONS OF FEDERAL/STATE REGULATIONS AND COURT RULES

The Petitioner brought this cause of action for noncompliance of both Federal/State Regulations and Rules of the Court under:

IDEA 34 C.F.R. §300.502(3)(ii) Public Expense: ...the public agency either pays for the full cost of the evaluation...consistent with 34 CFR 300.103.

IDEA 34 CFR § 300.502 (a)(1)(ii): Public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent..."

IDEA 34 C.F.R. §300.507(d) Independent Educational Evaluations: Hearing Officer may order Independent Educational Evaluations (IEE) at public expense.

Va. Code § 22.1-1: ...school boards are not state agencies...

VA Code 22.1-71: ...a school board constitutes body corporate body; corporate powers... ...may be sued...Va. Code 1950, §§ 22-63, 22-94; 1980, c. 559.

Supreme Court of Va. Court Rule 1:1: Court's Rule 1:1 of the 21-day rule

Supreme Court Va. Court Rule 3:20: ... make a motion for summary judgment...If it appears from the pleadings, the orders, if any, made at a pretrial conference, the admissions, if any, in the proceedings, ... Summary judgment, interlocutory in nature, may be entered as to the undisputed portion of a contested claim or on the issue of liability alone although there is a genuine issue as to the amount....

Fed. R. Civ. P. 56(c): Summary judgment, interlocutory in nature, may be entered as to the

undisputed portion of a contested claim or on the issue of liability alone although there is a genuine issue as to the amount.... There is no genuine issue as to any material fact...

IX. STATEMENT OF THE CASE

Dr. Crawford, petitioner, served as an expert witness on Individual with Disability Education Act (IDEA) in a Due Process administrative hearing in 2017 on behalf of a student. During the course of the proceedings, Dr. Crawford was ordered by the Hearing Officer Francis to conduct two evaluations (Functional Behavior Assessment and Classroom Observations) as independent educational evaluations (IEEs) under 34 CFR 300.507 to be paid at the public's expense under 34 CFR 300.502 (b) and (e) on December 8, 2017. See 34 C.F.R. § 300.507(d) (2008) *Taylor v. Vt. Dep't of Educ.*, 313 F.3d 768 (2d Cir. 2002); *Lawyer v. Chesterfield County Sch. Bd.*, No. 3:92CV760, 20 IDELR 172 (E.D. Va. Aug. 25, 1993) This meant that the School Board for

Richmond City was to pay the professional fees of Dr.

Marla Crawford. *Haddon Township Sch. Dist. V.*

New Jersey Dept. of Ed., IDELR 44 (N.J.S.C. 2006)

“Public expense means that the public agency either

pays for the full cost of the evaluation or ensures

that the evaluation is otherwise provided at no cost

to the parent...” 34 CFR § 300.502 (a)(1)(ii). The

Respondent has not paid for the IEEs under IDEA

ordered by the Hearing Officer and kept the work

product and report developed by Dr. Crawford as

well as caused undue expenses and financial loss to

Dr. Crawford. Language of IDEA is clear that the

IEEs are to be at the public expense and Federal and

State Courts across the United States have rendered

rulings and opinions that the School Boards are

responsible for the expense of IEEs under IDEA and

School Boards can be sued. The Petitioner brought

this cause of action for noncompliance of both

Federal/State Regulations and Rules of the Court.

X. REASON FOR GRANTING WRIT

If a hearing officer orders an IEE during the course of a Due Process Hearing, it will be conducted at public expense. *Id.* Under IDEA 34 CFR 300.502(3)(ii) Public expense means that the public agency either pays for the full cost of the evaluation...consistent with 34 CFR 300.103. Rule 3:20... make a motion for summary judgment...If it appears from the pleadings, the orders, if any, made at a pretrial conference, the admissions, if any, in the proceedings, ... Summary judgment, interlocutory in nature, may be entered as to the undisputed portion of a contested claim or on the issue of liability alone although there is a genuine issue as to the amount.... There is no genuine issue as to any material fact and that Richmond School Board for Richmond City,

Appellee, was entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). It was understood by Dr. Crawford, Petitioner, and School Board for Richmond City, Respondent, that the School Board for Richmond City, Respondent, was responsible and would pay the professional fees for the IEE in accordance to 34 CFR 300.502 (a), (b) and (e).

Upon full cooperations with agents acting on behalf of the School Board for Richmond City, Dr. Crawford engaged in an extensive number of work hours that encompassed 33 hours of classroom observations, multiple parent/student/teacher interview questionnaires, home/school travel observation, records review, report development with a proposed behavior plans for the student, etc. The counsel for the Respondent, admitted to the Circuit Court of Richmond City on November 9, 2018, that as a matter of law that:

..." And the basis for Dr. Crawford's complaint is that a hearing officer at a due process hearing ordered that a functional behavior evaluation be completed for a student and ordered Dr. Crawford to complete that evaluation." (In the Record: Trans., P 9, paragraphs 16-19) (App. 232)

"And under the Virginia Administrative Code, independent educational evaluation is ordered, that evaluation is to be at the public expense and for that reason, it's the School Board who is liable for any potential expenditures associated with those evaluations..." (In the Record: Trans., P 9, paragraph 20- 24) (App..232-233)

"The parties were very close prior to suit being filed... I represented to Dr. Crawford, once I was involved and her demand was the ad damnum in the complaint, that if we were in that range that were in in May, that we would have something to talk about, but if her demands are what they are now, that was not going to happen." (In the Record: Trans., p15., paragraphs 4-12) (App. 240-241)

On February 11, 2019, the Court entered an Order the Circuit Court that the summary judgment was denied and granting defense counsel an

opportunity for discovery as well as ruling that if no new facts in dispute become evident, Dr. Crawford may resubmit her motion for summary judgement (paraphrasing). (App. 9) On April 2, 2019, Dr. Crawford resubmitted a motion for summary judgement. (App. 210) On June 10, 2019, status hearing was held before a different Judge. On July 9, 2019, a hearing was held on the Petitioner's motion for summary judgement and Respondent's special plea in bar for sovereign immunity. (App. 117) The Circuit Court would not accept any documents from Dr. Crawford, but accepted documents from defense counsel for the School Board for Richmond City during December 17, 2019, the Circuit Court would only hear defense counsel for the School Board for Richmond City on sovereign immunity and would not hear any aspect of Dr. Crawford claim, the Circuit Court for

Richmond City rendered a ruling that the Respondent had sovereign immunity from the expenses that occurred for the IEEs. (App.93 On January 10, 2020, the Circuit Court Richmond City entered an Order extending its jurisdiction when jurisdiction expired in accordance to Rule 1:1 (21-day rule) (App. 11) and permitted the Respondent to bring civil action against Dr. Crawford. On August 10, 2020, Supreme Court of Va. dismissed the Petitioner's interlocutory petition for appeal without prejudice pending a final Order.

On July 26, 2021, the Circuit Court entered an Order awarding the Respondent \$1250 of its over \$31,000 legal bill for defending the court action about the IEE expenses plus over \$4500 in attorney fees for the civil action. On May 13, 2022, Petitioner rendered a writ panel argument before the Supreme Court of Va. for which the Court stated:

“So, the school board recoiled because this assessment, the bill was higher than what they typically pay.” (Trans, pg. 7, lines 10-12) (App. 202)

Petitioner testified to the following on May 13, 2022:

“This is a debt collection of services provided under the Individual With Disabilities Act at the public’s expense that was ordered by a hearing officer.”...I performed two assessments...hourly rate...in full cooperation with agents acting on behalf of the school board...I was a vendor of theirs...they understood my fees.” (Trans, pg. 3, lines 17-25) (App. 197-198)

“...errors of the Court...to rules of this Court, by rules governing public policy for the Commonwealth of Virginia, as well as federal mandates under IDEA...in the education of children with disabilities. (Trans, pg. 4, lines 1-5) (App. 198)

“...resubmit motion for summary judgement. Upon that no new information was acquired through discovery, the material facts the same and they undisputed, and the Court gave no ruling or opinion...motion for summary judgement after it was argued in June of 2019.... counsel for school board for Richmond City...said it was the responsibility of the School Board for Richmond Public Schools to be responsible for the bill and expenses (Trans, pg. 4, lines 9-24)(App. 198-199)

“...Rule 3:20 for summary judgement, when there is no disputed facts of event, the Court could render a summary judgement at no risk of an appeal.... In this Court Andrew v. Ring...summary judgement was granted... (Trans, pg. 6-13) (App. 200 - 201)

“... *Barnes v. State*...administrative duty of the Court to act on a summary judgement or a motion filed...*Safety-Kleen Corp v. Garcia*...abuse of discretion not to act on a timely filed motion...*Baluch v. Miller*...denial of due course of law... (Trans, pg. 6, lines 24) (App. 200)

“...granting the School Board for Richmond City sovereign immunity...in conflict with the public policy of Va. Code 22.1-71 and 22.1-28... (Trans, pg. 6, lines 1-3) (App. 200)

“...school board...can sue and be sued...” (Trans, pg. 6, line 13) (App. 200 - 201)

“...*Jacqueline v. Fairfax County School Board*, the Court rendered in Virginia...Virginia Code 22.1-28...power to sue and be sued. And to grant sovereign immunity from their debt is a discourse and a detriment to this policy, and could have an adverse impact on the general public conducting business here. (Trans, pg. 6, lines 16-25) (App. 201)

“...I was a vendor of the school board, so they had my fees...\$250 and hour...) (Trans, pg. 8, lines 9-13) (App. 203 -204; App. 214 - 216; App. 217-219)

“...removing Congress’ authority which it comes to IDEA, and expense of these independent evaluations at the expense of the public and not the parent...” (Trans, pg. 9, lines 19-23) (App. 205 -206)

On June 2, 2022, Supreme Court of Va. denied the Petitioner’s appeal determining that there was no reversable error. (App. 16) On October 3, 2022, Supreme Court of Virginia refused the Petitioner’s request for rehearing. (App. 17) Supreme Court of Va. erred in it decision because the Court was in conflict with IDEA (federal educational action governing the education of children with disabilities), in conflict with Virginia Codes governing public policies, in conflict with rulings of this Court and other State Courts, and in conflict with its own court rules.

XI. IN CONCLUSION, if this Court agrees with the Petitioner, she respectfully requests that it utilizes its authority and reverse the ruling of the

Supreme Court of Va. and or remand this case back
to the Supreme Court of Va. to be assigned to a full
panel.

ORAL ARGUMENT REQUEST

Petitioner respectfully requests
oral argument.

Respectfully submitted,

/s/ Dr. Marla Faith Crawford
Dr. Marla Faith Crawford, pro se