

23-6815
No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

FEB 19 2024

OFFICE OF THE CLERK

Martin Akerman, Pro Se

— PETITIONER
(Your Name)

vs.

Virginia State Corporation Commission — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF VIRGINIA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Martin Akeman, Pro Se, In Forma Pauperis

—
(Your Name)

2001 North Adams Street, Unit 440

—
(Address)

Arlington, Virginia, 22201

—
(City, State, Zip Code)

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—
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QUESTION(S) PRESENTED

Does the Supreme Court of Virginia's refusal to review the State Corporation Commission's (SCC) alleged introduction of fraudulent evidence and its premature closure of a complaint without issuing a cognizable, appealable order—actions claimed to deprive the petitioner of due process under the Fourteenth Amendment—constitute an exceptional circumstance that warrants the intervention and review of this Court, given the potential for significant jurisdictional and constitutional implications?

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:

The following parties to the proceeding are missing from the caption of the case within the meaning of Rule 14.1(b)(i):

- The case involves five reciprocal insurance companies (private corporations) operating in the State of Virginia, including Scottsdale Insurance, Nationwide Insurance, FEDS Protection, Starwind Insurance, and the Public Employees Purchasing Group.

RELATED CASES

- In the Supreme Court of Virginia, a related proceeding regarding impermissible spoliation of evidence in the Arlington Circuit Court, dismissed by the Court of Appeals of Virginia, No. 230670 (rehearing denied).

The Instant Case Involves Breach of Legal Insurance Coverage for the Following Related Cases:

1. In the Supreme Court of the United States: six multi-jurisdictional and related petitions for writ of certiorari addressing exhaustion for a justiciable 28 U.S. Code § 2241 petition for writ of habeas corpus, in the U.S. Supreme Court, under Case Nos. 23-623, 23M52, 23M53, 23A536, 23-6709, and 23-6710.
2. In the United States Court of Appeals for the District of Columbia, Case No. 0:23-cvus-01268: a related challenge to an alleged designation of the petitioner as an enemy combatant, allegedly suspending habeas corpus under 28 U.S. Code § 2241(e), is awaiting status conference.

INTERRELATED COLATERAL PROCEEDINGS

The following proceedings, requiring exhaustion in different federal appellate jurisdictions, are meeting for the first time in the U.S. Supreme Court. As it relates to case 23A536 below, the U.S. District Court for the Eastern District of Virginia found itself unable to fully review the case, citing separation of powers issues related to an alleged security clearance revocation, invoking national security immunities, and impacting the consideration of claims under Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination in Employment Act, and the Whistleblower Protection Act, among other. Interpreted under obsolete law, and in spite of defendants not making an appearance, the case was dismissed, barred by a missapplication of facts to the law, citing a required assessment of the Department of Defense's security clearance decision, deeming the case unreviewable.

3. In the Supreme Court of the United States: A related application to stay the mandate, Case No. 23A701, is pending renewed consideration before the Honorable Justice Gorsuch, raising pivotal legal questions in the wake of Congress enacting Public Law 117-103 on March 15, 2022, a legislative response aimed at curbing the misuse of security clearance decisions as tools for tyranny and retaliation. Specifically, in situations where Congress has provided explicit alternative directives, as was anticipated in *Department of the Navy v. Egan*, whether it is within the bounds of Chevron deference for the Merit Systems Protection Board (MSPB) to disregard its statutory obligations and duties, and destroy evidence without due appellate consideration or adverse inference.

INTERRELATED COLATERAL PROCEEDINGS (CONTINUED)

4. In the Supreme Court of the United States, Case No. 23A536 (Related to stay request 23A489) is awaiting petition for writ of certiorari. This case involves both a 28 U.S. Code § 2241 petition for writ of habeas corpus in want of jurisdiction and the interpretation and application of principles established in the landmark Egan decision, as modified by Public Law 117-103, as discussed in case 23A701. Claims of false imprisonment, indefinite suspension, and constructive discharge were dismissed, as evaluating their discriminatory basis were thought to necessitate a review of national security decision's merits.
5. In the United States Court of Appeals for the District of Columbia, Case No. 0:23-cvus-05309: a related Freedom of Information Act case is awaiting status conference and response to briefs filed.

TWO RELATED URGENT ADMINISTRATIVE CASES

6. In the Merit Systems Protection Board, Case No. DC-0752-23-0457-I-1 (Related to Petitions 23-6710 and 23M52): This administrative case is pertinent given the background of Akerman's efforts to access benefits through the Office of Workers' Compensation Programs (OWCP) and the Office of Personnel Management (OPM) disability retirement processes, which continue to be significantly hindered by substantial interference from the National Guard Bureau (NGB). This situation is further exacerbated by the Department of the Army's act of obstruction on June 13, 2022, when it sent false information to the Virginia unemployment commission, thereby interfering with Akerman's state right to unemployment benefits following his constructive dismissal. These actions underscore a pattern of agency obstruction and cruel and unusual punishment against Akerman.
7. In the Virginia Workers Compensation Commission, Case No. JCN: VA02000039708, Martin Akerman v. National Guard Bureau: This case was initiated amidst Akerman's ongoing struggle to navigate the complexities of the federal compensation system, particularly highlighted by his attempts to secure benefits through the Office of Workers' Compensation Programs (OWCP) and the Office of Personnel Management (OPM) disability retirement processes. The filing directly addresses the interference and obstruction tactics employed by the National Guard Bureau (NGB) and the Department of the Army, particularly their efforts to leverage federal supremacy arguments to invalidate Akerman's state-level claim.

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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 A 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 STATE CORPORATION COMMISSION 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. and not available to be appealed.

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 November 21, 2023. A copy of that decision appears at Appendix A .

A timely petition for rehearing was thereafter denied on the following date: January 29, 2024, and a copy of the order denying rehearing appears at Appendix B .

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

"To bereave a man of life or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore A MORE DANGEROUS ENGINE of arbitrary government."¹

Constitutional Question: Does the State Corporation Commission's (SCC) action of introducing what is alleged to be fraudulent evidence and prematurely closing a complaint without issuing a cognizable, appealable order violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution, particularly when such actions prevent a petitioner from obtaining a fair and impartial review of their claims?

Statutory Question: In light of the specific actions taken by the SCC and the subsequent refusal of the Supreme Court of Virginia to review these actions, what is the role and responsibility of state supreme courts under federal law to ensure that state commissions adhere to constitutional standards, especially regarding due process and the right to appeal?

Jurisdictional Question: Does the refusal by the Supreme Court of Virginia to review the SCC's actions, deemed exceptional by the petitioner for involving alleged fraudulent evidence and the lack of a formal appealable order, present a case of sufficient federal constitutional question to warrant the Supreme Court of the United States' exercise of jurisdiction over this matter?

¹ Alexander Hamilton, Federalist 84

STATEMENT OF THE CASE

In June 2021, Martin Akerman procured a Federal Employee Professional Liability insurance policy, ostensibly designed to provide legal defense and coverage against professional liabilities, including administrative and criminal proceedings. This insurance policy was intended to mitigate the financial and professional risks associated with legal actions arising from Akerman's employment.

However, in the face of legal challenges, including a proposed indefinite suspension and disciplinary actions, Akerman's reliance on his insurance for coverage and legal representation was met with significant resistance from the insurers. The insurers' denial of Akerman's claims, without providing a timely and adequate explanation or denial letter, constitutes the core of the dispute. This denial was perceived by Akerman as not only a breach of the contractual obligations stipulated in the insurance policy but also indicative of bad faith on the part of the insurers.

In response to these challenges, Akerman initiated a series of legal actions:

- 1. State Corporation Commission (SCC) Complaint:** Akerman filed a complaint with the SCC on April 26, 2023, seeking a review of the insurers' refusal to provide coverage. The complaint aimed to address the insurers' alleged introduction of fraudulent evidence and their premature closure of his complaint without issuing a cognizable, appealable order. However, on May 15, 2023, the SCC closed the complaint without such an order, prompting Akerman to seek further legal recourse.
- 2. Appeal to the Supreme Court of Virginia:** Following the SCC's decision, Akerman appealed to the Supreme Court of Virginia (case number 230684) to challenge the SCC's actions. His appeal raised critical questions regarding the due process rights under the Fourteenth Amendment to the United States Constitution and the statutory responsibilities of state commissions and courts to adhere to constitutional standards.

STATEMENT OF THE CASE (CONTINUED)

3. **Filing in Arlington Circuit Court:** To preserve the substance of his claims of breach of contract and bad faith, Akerman filed a case in the Arlington Circuit Court (case number 23CL2240). This action was taken to ensure a comprehensive judicial review of the disputes between him and the insurers, beyond the procedural and jurisdictional limitations encountered in the SCC proceedings.

REASONS FOR GRANTING THE PETITION

Exceptional Circumstance for Supreme Court Intervention

The principles outlined in Little Bay Corp. v. VEPCO, 216 Va. 406, 219 S.E.2d 677 (1975), demonstrate the exclusive jurisdiction of the Supreme Court of Virginia over appeals seeking review or reversal of SCC orders. This case establishes that the prohibition of Article IX, § 4 of the Virginia Constitution applies whether the SCC action is directly or collaterally attacked. If the challenge requires review leading to reversal, correction, or annulment of an SCC action, jurisdiction is limited to the Supreme Court of Virginia. This precedent underscores the exceptional circumstance criterion, suggesting that the Supreme Court may intervene when a case involves significant constitutional implications, especially regarding due process rights.

Constitutional and Statutory Questions

Gahres v. Phico Ins. Co., 672 F. Supp. 249 (1987), and Atlas Underwriters, Ltd. v. SCC, 237 Va. 45 (1989), further elucidate the exclusive jurisdiction of the Supreme Court of Virginia over SCC-related appeals. These cases affirm the lack of jurisdiction in other courts, including federal district courts, over actions that would require reviewing, correcting, or annulling SCC orders. This framework is pivotal when considering the statutory responsibility of state supreme courts to ensure adherence to constitutional standards.

Moreover, the due process considerations are aligned with the requirements of the due process clause of the Virginia Constitution and the Fourteenth Amendment to the U.S. Constitution, as noted in Howell v. SCC, 214 Va. 128 (1973). This alignment reinforces the importance of ensuring that procedural actions by state commissions do not infringe upon constitutional due process rights.

Jurisdictional Question

The jurisdictional exclusivity is a fundamental aspect of the legal landscape when addressing SCC decisions. The precedent set by *Virginia Citizens Consumer Council v. C & P Tel. Co.*, 247 Va. 33 (1994), which recognizes the right of appeal from any final order of the SCC to the Supreme Court of Virginia, underscores the pathway for challenging SCC decisions that may have significant constitutional implications.

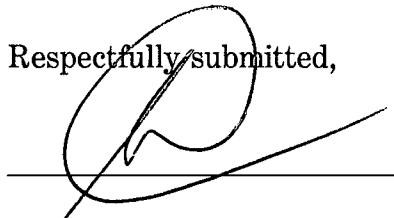
The legal framework and precedents established by the Supreme Court of Virginia provide a clear basis for arguing that exceptional circumstances, particularly those involving potential due process violations, warrant the Court's review.

CONCLUSION

The exclusive jurisdiction over SCC appeals, the emphasis on adhering to constitutional standards, and the protection of due process rights under the Fourteenth Amendment collectively suggest that the Supreme Court's intervention is necessary.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: February 19, 2024

County/City of Arlington
Commonwealth/State of Virginia
The foregoing instrument was acknowledged
before me this 19 day of Feb,
2024, by
Robert Sanchez
(name of person seeking acknowledgement)
Notary Public
My Commission Expires: 30 April 2024

