

No. 18-7027

IN THE
SUPREME COURT OF THE UNITED STATES

CRYSTAL NICOLE KURI a/k/a CRYSTAL NICOLE JONES,
Petitioner,

v.

ADDICTIVE BEHAVIORAL CHANGE HEALTH GROUP, LLC,
MATRIX CENTER, STEVE KAMAU, KELSEY STEPP,
and CHAD JACOBS,
Respondents.

On Petition for Writ of Certiorari to the
Kansas Supreme Court

BRIEF IN OPPOSITION TO
PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

There are no questions presented in the Petition appropriate for review by the U.S. Supreme Court. See the Argument section of this brief for an explanation.

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LIST OF PARTIES

Not all the parties appear in Petitioner's case caption. In addition to the Respondent listed in Petitioner's case caption (Addictive Behavioral Change Health Group, LLC ("ABC")), there are three individuals who Petitioner sued in this case: Steve Kamau, Kelsey Stepp, and Chad Jacobs. Petitioner had also named The Matrix Center as a Defendant, but The Matrix Center is merely a trade name under which ABC operates its drug addiction treatment clinic. Addictive Behavioral Change Health Group, LLC does not have a parent corporation and no publicly held corporation owns 10% or more of its stock.

OPINIONS BELOW

Kuri v. Addictive Behavioral Change Health Group, et al., Case No. 17-CV-0126, Journal Entry of Summary Judgment, April 14, 2017 (District Court, Sedgwick County, Kansas) (attached to Kuri's Petition as Appendix D).

Kuri v. Addictive Behavioral Change Health Group, et al., No. 117,589, 2017 WL 6396326 (Kan. App. 2d Dec. 15, 2017) (unpublished disposition). [Note: this is the highest state court to review the merits. The copy of that Memorandum Opinion presented by Petitioner as her Appendix C contains only the odd-numbered pages of the opinion. So attached hereto as Appendix C is a complete copy of that Memorandum Opinion.]

Kuri v. Addictive Behavioral Change Health Group, et al., No. 117,589, (Kan. Oct. 30, 2018) (unpublished denial of review, Petitioner’s Appendix A).

JURISDICTION

The date on which the Kansas Court of Appeals decided this case was December 15, 2017. A timely Petition for Review was filed with the Kansas Supreme Court, which was denied on October 30, 2018.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The primary constitutional provision identified by Petitioner is the Due Process Clause of the 14th Amendment to the U.S. Constitution: “nor shall any State deprive any person of life, liberty, or property, without due process of law.”

Petitioner also identified the Due Process Clause of the 5th Amendment: “nor shall any person ... be deprived of life, liberty, or property, without due process of law.”

Petitioner also identified the Equal Protection Clause of the 14th Amendment: “nor shall any State ... deny to any person within its jurisdiction the equal protection of the laws.”

Petitioner also identified a Kansas statute of limitation and statute of repose, K.S.A. 60-513. It provides, in relevant part, as follows:

- (a) The following actions shall be brought within two years:
 - (1) An action for trespass upon real property.
 - (2) An action for taking, detaining or injuring personal property, including actions for the specific recovery thereof.

- (3) An action for relief on the ground of fraud, but the cause of action shall not be deemed to have accrued until the fraud is discovered.
 - (4) An action for injury to the rights of another, not arising on contract, and not herein enumerated.
 - (5) An action for wrongful death.
 - (6) An action to recover for an ionizing radiation injury as provided in K.S.A. 60-513a, 60-513b and 60-513c, and amendments thereto.
 - (7) An action arising out of the rendering of or failure to render professional services by a health care provider, not arising on contract.
- (b) Except as provided in subsections (c) and (d), the causes of action listed in subsection (a) shall not be deemed to have accrued until the act giving rise to the cause of action first causes substantial injury, or, if the fact of injury is not reasonably ascertainable until some time after the initial act, then the period of limitation shall not commence until the fact of injury becomes reasonably ascertainable to the injured party, but in no event shall an action be commenced more than 10 years beyond the time of the act giving rise to the cause of action.

Petitioner failed to identify by citation the Kansas statute of limitation that applies to her case, K.S.A. 60-514. It provides in relevant part as follows:

The following actions shall be brought within one year:

- (a) An action for libel or slander.
- (b) An action for assault, battery, malicious prosecution, or false imprisonment.

Petitioner also refers to the principle of “standing” under Article III of the U.S. Constitution. But Respondents have not challenged Petitioner’s standing to bring her state court case.

In her Statement of the Case, Petitioner also claims that Respondents violated the “Civil Rights Act.” But she does not identify any particular civil rights act, and does not identify what civil rights she asserts were violated by the

Respondents. Her state court pleadings included no reference to a “Civil Rights Act.”

The Kansas statute providing for summary judgment motions is K.S.A. 60-256. Its full text is in Appendix A.

The Kansas Supreme Court rule providing additional procedures for summary judgment motions is Kansas Supreme Court Rule 141. Its full text is in Appendix B.

STATEMENT OF THE CASE

Petitioner (“Kuri”) was briefly employed by ABC in its drug addiction treatment clinic, The Matrix Center, as a nurse whose job was to dispense the daily prescription medication (usually methadone) to the patients. ABC has a “zero tolerance” policy for drug abuse by its employees. Kuri was working very slowly one day, and the clinic director suspected she was intoxicated. He ordered a saliva sample drug screen of all the employees. The results showed that Kuri had methadone in her saliva. Because she did not have a prescription for methadone, her employment with ABC was terminated. Kuri initially accused the clinic director of switching or tampering with her saliva sample so it would test positive for methadone, and then she asserted that one or two of her co-employees did not like her and must have surreptitiously put methadone in her drink four days earlier when the clinic bought lunch for its employees. The clinic director found these

assertions to lack credibility (for example, she had worked two other days after the asserted poisoning with no slow-down of her work speed).

Because methadone is a controlled substance, ABC is required to keep a precise pill count and to document any anomalies. So incident reports were written by the clinic director and a co-employee and provided to the U.S. Drug Enforcement Administration. An investigator from the DEA interviewed the clinic director about the incident. Kuri called the local police department and accused her co-workers of poisoning her. A police investigator then interviewed the clinic director and some co-employees about the incident. Neither the DEA nor the police took any further action. However, the Kansas State Board of Nursing (“KSNB”) started a proceeding and conducted its own investigation. It subpoenaed the incident reports from ABC and subpoenaed the clinic director to testify at its hearing. The KSNB eventually revoked Kuri’s Kansas nursing license as the result of its proceeding.

Kuri filed suit in federal district court against ABC, the two co-workers, and the clinic director, claiming that she had been poisoned, libeled and slandered. The federal district court dismissed the case for lack of federal subject matter jurisdiction. Kuri appealed the dismissal to the 10th Circuit, which affirmed the dismissal. After a long delay Kuri filed suit in the Kansas state court against the same parties making essentially the same allegations. On motion of the Defendants in that case, the court ordered Kuri to give a more definite statement of the claim she referred to as “retaliation” in her pleading. The court later determined that her “retaliation” claim was merely a restatement of her claims for battery (poisoning)