No. 21-1287

IN THE
Supreme Court of the United States

IN RE W. A. GRIFFIN, M.D.

Petitioner,

v.

HEALTH AND WELFARE COMMITTEE OF SAVANNAH RIVER NUCLEAR SOLUTIONS, LLC; SAVANNAH RIVER NUCLEAR SOLUTIONS, LLC; BLUE CROSS AND BLUE SHIELD OF SOUTH CAROLINA; BLUE CROSS BLUE SHEILD HEALTHCARE PLAN OF GEORIGA, INC.COMPANY

Respondents,

On Petition for **Emergency** Writ of Mandamus to the United States District Court for the Northern District of Georgia, Atlanta Division

---

PETITION FOR EMERGENCY WRIT OF MANDAMUS

W. A. Griffin, M.D.
Pro Se
550 Peachtree Street
N.E.Suite 1490
Atlanta, Georgia 30308
(404) 523-4223
wagriffinerisa@hotmail.com

QUESTIONS PRESENTED

Whether the anti-assignment provision in the health benefit plan apply to W. A. Griffin, MD ("Dr. Griffin"), a Georgia provider, who obtained a written assignment of benefit from her patient in accordance with Georgia State mandatory assignment of benefit law (Georgia § 33-24-54). Anti-assignment and anti-alienation provisions contained in employer sponsored group health benefit plans subject to the Employee Retirement Investment Security Act of 1974 ("ERISA") are usually not applicable to an assignee who is the provider of the services which the plans are maintained to furnish. Dr. Griffin provided health services to Patient K.R., an individual covered by the Savannah River Nuclear Solutions, LLC, employer-sponsored group health benefit plan ("Savannah River Nuclear Plan"), and Patient K. R. executed a written assignment benefit to Dr. Griffin that states this assignment is a "direct legal assignment of [Patient K.R.'s] rights and benefits under" the Plan. The District Court and the Eleventh Circuit have repeatedly stated that the language "rights and benefits" does not cover rights to statutory penalties and/or breaches of fiduciary duty claims and that Dr. Griffin does not have a valid assignment of benefit, because the state assignment law is pre-empted by ERISA.

QUESTIONS PRESENTED

Even though Dr. Griffin has shown the District Court this Court's instructive authority that clearly illustrates that the Georgia assignment of benefit statue is not pre-empted by ERISA in Rutledge, it refuses to acknowledge that Dr. Griffin has a valid assignment (or any rights) that pertain to an assignment of benefit obtained in accordance with Georgia law. *Rutledge v. Pharm. Care Mgmt. Ass'n*, No. 18-540, 2020 WL 7250098 (S. Ct. 10 Dec. 2020)

The question is whether a writ of mandamus should be issued directing the District Court to halt the unlawful blockade of Dr. Griffin's payment and non-payment related ERISA rights. Rutledge clearly directs every court to enforce the U.S. Supreme Court's order.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page except Honorable William M. Ray II.

RELATED WRIT OF MANDAMUS PETITION

Case	Writ of Mandamus Pending
IN RE: W.A. Griffin, M.D. v. Motion Picture Industry Health Plan; Board of Directors; Motion Picture Industry Health Plan; Anthem Blue Cross Life ~~and Blue~~ vs Health Insurance Company; Blue Cross Blue Shield Healthcare Plan of Georgia Inc. Company/	Filed 3/18/2022 in U.S. Supreme Court

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

CASES

TABLE OF AUTHORITIES

Page(s)

Petitioner respectfully prays that an Emergency Writ of Mandamus is issued to force the District Court and Judge William M. Ray, II to enforce the Supreme Court Order and Georgia Law.

OPINIONS BELOW

The Order of the United States District Court for the Northern District of Georgia was issued on March 7, 2022 by Judge William M. Ray II. and is published. It is included with this Petition as Appendix A.

JURISDICTION

This Court's jurisdiction is timely invoked under the All Writs Act, 28 U.S.C. § 1651, and Rule 20 of the Rules of the Supreme Court of the United States.

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Georgia § 33-24-54. Payment of benefits under accident and sickness policies to licensed nonparticipating or nonpreferred providers [1]

[1]Notwithstanding any provisions of Code Sections 33-1-3, 33-1- 5, and 33-24-17 and Chapter 20 of this title or any other provisions of this title which might be construed to the contrary, whenever an accident and sickness insurance policy, subscriber contract, or self-insured health benefit plan, by whatever name called, which is issued or administered by a person licensed under this title provides that any of its benefits are payable to a participating or preferred provider of health care services licensed under the provisions of Chapter 4 of Title 26 or of Chapter 9, 11, 30, 34, 35, or 39 of Title 43 or of Chapter 11 of Title 31 for services rendered, the person licensed under this title shall be required to pay such benefits either directly to any similarly licensed nonparticipating or nonpreferred provider who has rendered such services, has a written assignment of benefits, and has caused written notice of such assignment to be given to the person licensed under this title or jointly to such nonparticipating or nonpreferred provider and to the insured, subscriber, or other covered person; provided, however, that in either case the person licensed under this title shall be required to send such benefit payments directly to the provider who has the written assignment. When payment is made directly to a provider of health care services as authorized by this Code section, the person licensed under this title shall give written notice of such payment to the insured, subscriber, or other covered person.

STATEMENT OF THE CASE

I. Course of Proceedings and Disposition Below

On February 16, 2021, Dr. Griffin, appearing pro se, filed a complaint against Health and Welfare Committee of Savannah River Nuclear Solutions LLC; Savannah River Nuclear Solutions, LLC Welfare Benefits Plan; Blue Cross and Blue Shield of South Carolina; Blue Cross Blue Shield Healthcare Plan of Georgia, INC. (collectively, "Respondents") in the State Court of Fulton County, Georgia, asserting claims under ERISA, 29 U.S.C.
§ 1001, *et seq.*

Respondents timely removed the case to the United States District Court for the Northern District of Georgia, Atlanta Division, on March 11, 2021, and promptly moved to dismiss Dr. Griffin's Amended Complaint under Fed. R. Civ. P. 12(b)(6). Respondents argued, among other things, that Dr. Griffin lacked standing to sue because of an anti-assignment provision contained in the Plan documents and/or the language in the assignment did not cover statutory penalties. On March 7, 2022, more than a year after fully considering written arguments of both parties, the District Court entered an order and final judgment dismissing all Dr. Griffin's claims against Respondents.

II. STATEMENT OF FACTS

a. *Dr. Griffin treats Patient K.R.. and receives an assignment of Patient K.R.'s "rights and benefits" under the Savannah Plan.*

Dr. Griffin is a practicing dermatologist in Atlanta, Georgia. She is an "out-of-network" provider under the terms of the Savannah Plan. On September 17, 2014, Patient K.R. presented to Dr. Griffin for medical care and executed an assignment to Dr. Griffin that states the assignment is a "direct legal assignment of [Patient K.R.'s] rights and benefits under" the Plan. After treating Patient K.R., Dr. Griffin submitted a claim to the Blue Cross, the claims fiduciary for the Savannah Plan, which Blue Cross only partially paid.

b. Blue Cross ignores two appeals sent via certified mail, and does not produce requested Savannah Plan documents.

Dr. Griffin submitted a First Level Appeal to Blue Cross on November 17, 2014. The First Level Appeal instructed that "should this ERISA plan contain an unambiguous anti-assignment clause prohibiting assignment of rights, benefits, and causes of action in the Summary Plan Description, the plan administrator is required to timely notify or disclose to the assignee of such prohibition by disclosing such SPD....".

STATEMENT OF FACTS

The First Level Appeal also specifically included requests to the "plan administrator or appropriate name[d] fiduciary" for, among other things, "copies of the plan documents under which [the Savannah Plan] isoperated and upon which the [subject] claim denial is based" including the Summary Plan Description. The First Level Appeal also requested the identification of the"Plan Administrator of [the Savannah Plan], including name, telephone number and postal mailing address," and the "Appropriate Named Fiduciary, including specific name, telephone number, and postal mailing address..."

Because Respondents require that all out of areas claims and appeals are submitted to the local Blue Cross plan, the First Level Appeal and document requests filed by certified mail stated and emphasized " this appeal is filed with the Plan Administrator of the above captioned plan, or appropriate named fiduciary or insurer of the plan. Any individual who is not designated as plan administrator or appropriate named fiduciary by this plan is required by ERISA and your fiduciary duty, to forward this legal document to such appropriate individual. .."

STATEMENT OF FACTS

Blue Cross never answered the appeal and Dr. Griffin did not receive any of the requested documents. As such, Dr. Griffin submitted a Second Level Appeal to Blue Cross on December 29, 2014. Just like the First Level Appeal, the Second Level Appeal included the same content regarding any applicable anti-assignment provision, the same request for plan documents, and the same request for identification of the plan administrator and claims fiduciary. It was also sent via certified mail.

Blue Cross did not answer the appeal and Dr. Griffin never received a response about the plan documents or other requested information about the plan operations.

c. The Savannah Plan documents contain anti-assignment clauses.

Patient K.R. is a beneficiary of the Savannah Plan as defined by 29 U.S.C. § 1002(1). The Savannah Plan provides its employee participants with a variety of medical-related benefits. The Savannah Plan, as set out in the Plan of Benefits, includes clauses which purport to prohibit the alienation and assignment of benefits by an enrolled beneficiary such as Patient K.R. The Plan of Benefit states: "Payment for Covered Expenses may not be assigned to Non-Participating Providers."

d. The district court grants Respondents' Motion to Dismiss.

Respondents' Motion to Dismiss argued that Dr. Griffin did not have a valid assignment due to anti-assignment provisions in the plan and that Dr. Griffin's assignment did not reach to cover non-payment related claims. The court relied heavily on the published opinion by the 11th Circuit " in hopes of resolving this recurring litigation." *Griffin v. Coca-Cola Refreshments USA, Inc.*, 989 F.3d 923, 927 (11th Cir. 2021).

The District Court did not give this Court's recent decision in *Rutledge* any docket time. It was ignored, just like Dr. Griffin's ERISA appeals and document requests. The entire process has been a sham. It is time for the Justices to step-up and do something to help a relentless, law-abiding citizen like Dr. Griffin that has been the ***only*** party in the matter that complies with both state and ERISA laws. There is nothing good about justice when the only party that follows the law consistently loses.

REASONS FOR GRANTING THE PETITION

Petitioner recognizes that the writ of mandamus is an extraordinary remedy reserved for extraordinary circumstances. Those circumstances exist here, where for nearly seven years, lower courts have repeatedly disregarded state law, consistently upheld illegal opinions, and the abuse of discretion is the status quo with all of Dr. Griffin's cases. Petitioner has no other means to compel the District Court to follow the rule of law under which this case should have concluded. Under these circumstances, the grounds for issuing the writ are clear and indisputable, and the record fully supports this Court's exercise of its discretion to issue the writ.

"The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28U.S.C. § 1651(a). Issuance of an extraordinary writ, such as a writ of mandamus or prohibition, "is not a matter of right, but of discretion sparingly exercised" and, to justify granting such a writ, "the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court." SUP. CT. R. 20.1.

REASONS FOR GRANTING THE PETITION

A writ of mandamus or prohibition is appropriate where a lower court's action constitutes a "judicial usurpation of power" or amounts to a "clear abuse of discretion." *Cheney v. U.S. Dist. Ct. for D.C*, 542 U.S. 367, 380 (2004) (quotations omitted); see also, e.g., *Mallard v.U.S. Dist. Ct. for S.D. of Iowa*, 490 U.S. 296, 309 (1989). This Court considers three factors when determining whether to grant such a petition: 1) the party seeking the writ must "have no other adequate means to attain the relief he desires—a condition designed to ensure that the writ will not be used as a substitute for the regular appealsprocess"; 2) the party seeking the writ must show a "clear and indisputable" right to the writ's issuance; and 3) this Court must decide, in its discretion, that the writ is appropriate under the case's circumstances. *Cheney*, 542U.S. at 380–81 (quotations and citation omitted); see also *Kerr v. U.S. Dist. Ct. for the N.D of Cal.*, 426 U.S. 394, 403 (1976).

REASONS FOR GRANTING THE PETITION

I. The District Court has blatantly disregarded that Dr. Griffin has had valid written assignment of benefits and rights in accordance with Georgia state law for nearly seven years.

For seven years, Dr. Griffin has had dozens cases filed in Georgia dismissed due to plan anti-assignment provisions and/or lack of standing sited in Physicians. See *Physicians* (See *Physicians Multispecialty Grp. v. Health Care Plan of Horton Homes, Inc.*,371 F.3d 1291 (11th Cir. 2004). Those cases were dismissed because the 11th Circuit held that the state assignment law was pre-empted by ERISA and/or the assignment purportedly did not reach to non-payment related ERISA claims.

Recently, this Court indirectly terminated the application of anti-assignment provisions against Dr. Griffin in *Rutledge* when it held that Arkansas Act 900 was not pre-empted by ERISA. Justice Sotomayor wrote the opinion and explained that ERISA pre-empts state laws that govern a "central matter of plan administration" or that "interfere with nationally uniform plan administration." However, ERISA does not pre-empt state laws that "merely increase costs or alter incentives for ERISA plans without forcing plans to adopt any particular scheme of substantive coverage." Neither does it pre-empt state laws that act immediately and exclusively upon ERISA plans or "where the existence of ERISA plans is essential to the law's operation." The instructive outcome of Rutledge, makes it clear that Georgia's assignment law is not pre-empted by ERISA.

REASONS FOR GRANTING THE PETITION

II. Petitioner lacks an adequate alternative means to challenge the District Courts Order.

Petitioner cannot obtain the relief she seeks from another court. *SUP. CT. R. 20.1*; *Cheney*, 542 U.S. at 380–81. Over the past seven years, most active Eleventh Circuit judges, the District Court, and state courts have agreed that Dr. Griffin is doomed by anti- assignment provisions, regardless of waiver and/or estoppel, and state law—now, it does not care even care what the Supreme Court Justices held in Rutledge. This has to stop. Additionally, prior to the 11th Circuit published opinion in *Griffin v. Coca-Cola,* the Supreme Court's guidance in Rutledge had already been published.[2] This is a clear sign that even the 11th Circuit is not willing to abide by Supreme Court precedent either. Appealing this matter is not an option for Dr. Griffin.

---

[2]In *Griffin v. Coca-Cola,* Dr. Griffin was not aware of the decision in Rutledge and did not provide that authority to the 11th Circuit. She only recently came across it while doing legal research for current litigation. Granted, it was not the 11th Circuit's duty to provide litigation support for Dr. Griffin. However, it should have because it took it upon itself to appoint her an attorney (that she did not request) in Griffin v. Coca-Cola and it has been awarding legals fees against Dr. Griffin to health plans under case law deemed illegal in accordance with the Rutledge precedent (even worse, this District Court has asked Blue Cross to add up its legal fees for Dr. Griffin to pay in *this* matter!)

REASONS FOR GRANTING THE PETITION

III. The circumstances warrant granting the petition.

This Court's intervention is necessary to halt the routine destruction of provider rights provided under Georgia law, ERISA, and Supreme Court law. This Court should exercise its discretion to grant the requested writ. The course of conduct of the District Court over the years is clear that it is not willing to enforce the law in *certain* cases. Dr. Griffin is fed-up and demands that something is done about this District Court. Additionally, if this is not stopped now, eager-to-cheat-the-system Blue Cross attorneys will copy and paste the District Court's Order and use it against other provider, assignees like an evil magic wand.

Dr. Griffin has been legally beaten to death by the judiciary, and still has not stopped pursing her rights. This entire order reads like a fiction novel, not a real time court. If this court can not find a way to make the District Court behave, it would deter other providers from suing, further erode the trust in our judiciary, make it more difficult for lawyers that want to uphold the law take on clients with a good, lawful causes of action (because it is a pre-meditated loss), and encourage insurers like Blue Cross to keep on with its status quo: willful, blatant violations of the laws. ***If there are no consequences from the Blue-friendly District Court, there will be no change in its actions.***

15.
CONCLUSION

For the reasons set forth above, the PETITION FOR EMERGENCY WRIT OF MANDAMUS.

Respectfully Submitted,

3/16/2022

W. A. GRIFFIN, M.D.
PETITIONER
Pro Se
550 Peachtree Street
N.E.Suite 1490
Atlanta, Georgia 30308
(404) 523-4223
wagriffinerisa@hotmail.com