

Supreme Court of United States Office of the Clerk

Washington, DC 20543

Date February 1, 2023

Civil Action

Case #2021-2235

Gennett M. Holmes-Smith

Plaintiff

VS

Department of Veterans Affairs-Department of Labor-OWCP

Defendants


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To The Honorable Judges of The Supreme Court,

I Gennett Holmes-Smith is asking the court to please reconsider my case (Case #2021-2235). I have new evidence to backup my claim. I have new MRI's, CT-scans, and new doctor notes. I also had another procedure done on my spine, which made me be even more immobile. Along with six deaths in my family, which made me unable to meet my deadline. So, I am pleading with the court to reconsider hearing my case.

Sincerely yours,

A handwritten signature in cursive script that reads "Gennett M. Holmes-Smith". The signature is written in black ink and is positioned below the typed name.

Gennett Holmes-Smith

To Honorable Judge:

22-5933 and

This response is in reference to my 2021-2235 case. My argument against VAMC/OWCP is due to their negligence which has caused me severe injuries. I endured my first injury at Salisbury VA in North Carolina in the behavioral unit dated for February in the year of 2011. During my visit with Dr. T Adman, he informed me that I had carpal tunnel. I ended up having to get surgery to remove some of the fluid out of my left wrist. After two weeks of being out I was informed that I could return to work. The pain did not appear to go away but only to worsen. When I went back to mention the pain that I was experiencing, it was stated to me that I had carpal tunnel. I asked the doctor if an MRI could be performed on my wrist, left arm, left shoulder, and spine because of the severe pain that I was experiencing. Both doctors Dr. T Adman, and Tonya Barber from OWCP denied my request for the MRI.

February of 2011 my co- worker Ron Pierce, John the charge nurse and myself were trying to put on our patient's underwear. During the time the patient grabbed my left arm and placed my arm behind my back causing my arm to crack. My entire arm was swollen to the point that I had to leave work to see a doctor. February 3, 2013, I endured a second injury. My co-worker Ron Pierce, and I were trying to reposition the patient in the behavioral unit in building 422B. When I went to lift the patient up the patient was holding on to the bottom of the chair which in return caused me injury to the shoulder, spine, and reinjury to my arm. The charge nurse seen that my arm was swollen and sent me to employee health doctor. Once this

took place, I was informed that I needed to make a claim which was conducted by Tonya Barber. Dr. Craig Dates said that I had a spine injury and referred me to Rowan Regional Medical Center to get a CT scan. She sent me to get a CT scan because she thought I had a stroke. I then was provided a referral to see Dr. Stephen Furr. The date of my visits was for Feb. 15<sup>th</sup>, May 29<sup>th</sup>, and Feb. 17<sup>th</sup> of 2013. Dr. Furr recommended EMO testing and an MRI so that he could be able to see what was taking place. My results came back to show that I had nerve damage. He wanted me to have surgery to fix my nerve damage. However, Tonya Barber denied my request twice. Tonya and April Ford the claim examiner along with VAMC kept denying my claim despite the serve stenosis, weakness, numbness, and tingling in my left arm, hand, and neck. Dr. Furr stated that my significance of pain was always high between 8 to out of 10/10 pain. I was proven to have a left arm EMG that showed a left sided C6 radiculopathy. My diagnostic testing included cervical MRI's and other testing. The MRI was conducted on 04/28/2013 which revealed disc herniations or changes C4/C5, C5/C6, C6/C7 with severe Central Canal Stenosis at multiple levels. Since my visits with Dr. Furr I have been seen by other physicians and had other diagnostic testing and continued symptomatology. He stated that his last visit with me I was disabled from activity of the use of my spine and left arm. This alone was enough to be able to hinder me from my ability to work. Please see Exhibit "A".

As time went on, I asked April Ford if I could obtain an referral to see a doctor. I was informed that I could not due to the Federal shutdown. She told me that I would have to wait until the shutdown was over. In the year of 2013 I was able to visit Dr. Murray Robinson. He stated that I also needed surgery based on what he observed from my MRI. This request was also denied by April Ford and Tonya Barber in November of 2013. I was also denied by Vernell

Razor in the year of 2014. My claim was cancelled on January 31, 2014 through September 9, 2014 due to Dr. Alexander Doman stating that I was not injured on February 3, 2013. The doctor mentioned that I was born with this spine condition, which caused Vernell Razor to cancel my surgery and deny cancel my claim. Being that Vernell Razor and Tonya Barber represent VAMC and workers comp (OWCP) they did not feel as though any medical care or financial help was needed. I then submitted an appeal to ECAB which overturned the decision of Vernell Razor on May 14, 2017.

In May 2019 I saw Dr. Alexander Doman again, this time he stated I did in fact get restrictions, even though he knew Dr. John Rhee had reported that I had non-union of the spine and adjacent joint syndrome. This report was sent over to OWCP on September 22, 2018. After Dr. Doman insisted that I return to work, I went and retrieved three other doctor opinions. After visiting the three doctors they agreed with Dr. John Rhee report that I did have a non-union of the spine and adjacent joint syndrome. Each doctor gave me a report stating that my injury was non-union and adjacent joint syndrome which was sent to OWCP. OWCP forwarded my report to Dr. Doman, even after reading the reports he still insisted that I was to return to work with my full responsibilities and no restrictions. He misdiagnosed me and I was informed by the medical board agent Smith that he has multiple complaints and that they would address this without anyone knowing about it they would not publicly discipline him but discipline behind closed doors. Due to this my claim was canceled again on May 14, 2019, to July 2020. I did receive my schedule award during December 20, 2019, to March 7, 2020. I returned to work in March of 2015. I was then re-injured again with the same left arm, shoulder, and spine on March 9, 2015.

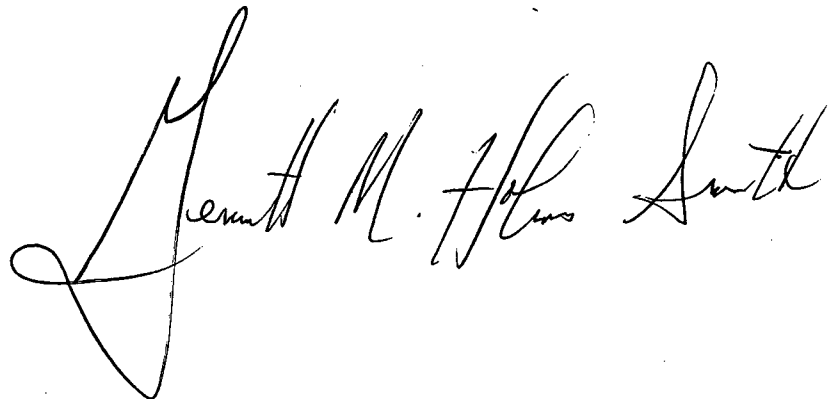
On March 6, 2020, and August 14, 2020, I discovered that I had non-union and adjacent joint syndrome. I found this out by Dr. John Rhee who conducted my MRI. Dr. Elshihabi diagnosed me with adjacent joint syndrome with my CT scan. Due to this diagnosis my health problems are related to the injuries sustained and was not known until both doctors completed the MRI and CT scan. Please see Exhibit "B".

Since February of 2011, I have been in excruciating pain every day, all day, all night. I was not approved to get any MRI's or CT scans, or X-rays in 2011. If I was able to and not denied I would have been aware to what was taking place with me. The doctors would have been aware that I have a hard time walking and standing. Both of my arms have encountered nerve damage. The left arm, hand, and fingers are numb because of the severe nerve damage. The right-hand fingers are numb, the left shoulder, and spine is damaged due to the negligence of not getting the proper medical treatment as needed for six years. Letters and emails were sent off to Antonio Iros, Tonya Taylor, Tisha Carter, Patrick Pizzillo, and Julia Healthway. I wrote and emailed them to receive my back pay and any other damages that were incurred from the VA. My current adjusted Ivy T. Supervisor contacted me in March of 2020 and state that someone was looking into it on my behalf. As of today, I have yet to hear from someone concerning these issues. Letters were sent off to executive secretary Patrick Pizzella, Martin J. Walsh, Julie Healthway, Christopher Godfrey who was the director in the years if 2019-2021.

In October 12, 2017 I had surgery on my spine after my surgery she stated my neck was still crooked and if I would have gotten my surgery years ago then it could have been prevented from it worsening. Dr. Davis who conducted my IME rating stated that if I did not get surgery soon, I could lose sensation in both of my arms and become paralyzed. I was informed by Dr.

John Rhee and Dr. Davis due to me prolonging the surgery it would be a very high risk for me to have the surgery. Therefore, I would like to hold VA and OWCP liable for bodily injuries sustained, and the negligence on ensuring that I retrieve the proper medical treatment needed. I am seeking punitive damages, compensatory damages, pain and suffering, disfigurement, impairment, loss of income, enjoyment of life, mental depression, emotional distress, and related economic damages.

I am still experiencing a lot of pain, I no longer can work, my normal activities in which I could perform I no longer can perform them, my sexual life is no longer the same, I cannot stand long or yet alone walk. Dr. Brian Adams has informed me I will get worse and has ordered me a wheelchair because I am slouched over. Due to these underlying issues, I am asking the court to grant me \$50,000,000 in the number of damages. I am stressed, depressed, and I hate not being able to function on my own without someone having to accommodate me all the time. I have been treated unfairly and I do feel if I had not been denied so many times then the problem would have not worsened and could have been prevented from carrying on this long. Here we are in the year of 2022, and I am I still facing challenges and struggles from this situation. I also battle with anxiety, and I have nightmares of the situation that took place in my workplace.

A handwritten signature in black ink, reading "Kenneth M. Jones Smith". The signature is written in a cursive style with a large, looping initial "K" and "S".

To Honorable Judges,

1. The grounds are limited to Intervening Circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

2. The Petition for rehearing is presented in good faith and not for delay.

Sincerely,

Lennett M. Holmes Smith

