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Rhode Island Oral Surgeon Continues Battling Government Retaliation over Opposing Vaccine Mandate

Dr. Stephen Skoly, Jr. v. Daniel McKee, Gov. of Rhode Island, et al.

Washington, DC (January 30, 2023) – The State of Rhode Island unlawfully prevented Dr. Stephen Skoly from practicing critically needed dental care in retaliation for his public opposition to the temporary emergency regulation mandating that “all health care workers and health care providers be vaccinated against COVID-19.” Statements by and behavior of state officials make clear that administrative actions against Dr. Skoly were taken *precisely because* he publicly voiced his opposition and would not have been taken but for Dr. Skoly’s speech. Today, the New Civil Liberties Alliance filed a [response](#) to the government’s Motion to Dismiss *Skoly v. McKee, et al.*, in the U.S. District Court for the District of Rhode Island. The First Amendment prohibits government officials from subjecting someone to retaliatory actions, like singling them out for investigation, for speaking out.

Dr. Skoly, an oral and maxillofacial surgeon, had been practicing his profession in Rhode Island for over two decades when, in response to the Covid pandemic, the Rhode Island Department of Health unlawfully, and in contravention of several constitutional provisions, essentially shuttered his practice. Because of Dr. Skoly’s prior experience being stricken with Bell’s Palsy and his acquisition of natural immunity from his own Covid infection, he declined vaccination. Despite Dr. Skoly’s condition, his commitment to patient safety (including robust masking protocols), and lack of any evidence of patients becoming infected at his office, Rhode Island refused to provide Dr. Skoly with a medical exemption from the vaccine requirement for over five months.

Dr. Skoly sought an administrative hearing on the compliance order, but this request was resolved through a stipulation of dismissal. On March 11, 2022, Rhode Island replaced the original vaccine mandate with a revised one that did not apply to Dr. Skoly’s practice within his office. But Dr. Skoly’s First Amendment claim in this lawsuit has not been resolved. The question of whether Defendants retaliated against Dr. Skoly for exercising his First Amendment rights remains live and the Court should furnish the requested relief.

Because retaliatory prosecution for exercising one’s First Amendment rights is unequivocally prohibited, courts have denied qualified immunity to officials who have brought such prosecutions. Here, government officials—per their own admission—prohibited Dr. Skoly from practicing dentistry in retaliation for his public opposition to the state’s vaccine mandate. With NCLA’s help, through this litigation, Dr. Skoly won the ability to resume his medical practice, but the violation of his First Amendment rights must be addressed. The Court should also award declaratory and injunctive relief inhibiting the State from repeating this unlawful conduct in the future.

NCLA released the following statement:

“While unlawfully prohibiting Dr. Skoly from seeing patients, the State of Rhode Island permitted individuals with active, ongoing Covid infections to work in hospitals and other healthcare facilities. This disparate treatment and the fact that no other healthcare provider, vaccinated or not, was treated similarly to Dr. Skoly shows that the actions taken against him were not done for any public health reasons, but purely in retaliation for Dr. Skoly’s speech. While NCLA and Dr. Skoly are gratified that Rhode Island has rescinded some of its unjustifiable restrictions and mandates, we still intend to hold Rhode Island accountable for its unlawful and unconstitutional actions.”

— **Greg Dolin, M.D., Senior Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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