Summary of VOPA v Reinhard II

In 1975, Congress established the first of several Protection and Advocacy (P&A) systems in order to protect individuals with disabilities or mental illness from abuse and neglect. Over the years, the P&A systems were also authorized to investigate abuse and neglect allegations, and were granted the right to access any records that might aid these investigations—even where state law would otherwise prohibit access to this information.

The P&A system in Virginia is the Virginia Office for Protection and Advocacy (VOPA). In 2006, VOPA sought records relating to three incidents of deaths and injuries to residents of the Central Virginia Training Center (CVTC) and Central State Hospital (CSH) that occurred while these residents were in the custody of the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) (now called the Department of Behavioral Health and Developmental Services). When DMHMRSAS refused to provide the records, VOPA sought a declaration that this refusal violated federal law.

In its arguments, VOPA primarily relied on a court case titled Ex Parte Young, which was decided over a century ago. In Ex Parte Young, the court held that a federal court may decide cases against state officers who violate federal law, even if the State would have immunity under the Eleventh Amendment. Essentially, state officers who violate federal law no longer represent the state—and those officers must then be held accountable for their actions. For example, if an official in a state-run institution abused or neglected his patient, then the official could be held accountable under the theories of Ex Parte Young.

A judge of the United States District Court for the Eastern District of Virginia ruled in favor of VOPA. The state then appealed that decision to the United States Court of Appeals for the Fourth Circuit.

Unfortunately, the Fourth Circuit Court of Appeals stated that the Ex Parte Young decision was relevant only to private P&A systems, and not to a state agency like VOPA. Attorneys for VOPA then filed for appeal before the Supreme Court of the United States, and the U.S. Solicitor General also filed a brief on behalf of the United States supporting VOPA's arguments.

Specifically, the Solicitor General noted that the Court of Appeals failed to acknowledge VOPA's status as an independent state agency. The federal funding that supports P&A systems

across the country requires this independence from state governmental control, since these agencies must occasionally take adversarial positions against other state entities. Thus, the Solicitor General noted, VOPA is merely following the federal guidelines—and not treating this as merely an "intramural dispute."

Additionally, the Fourth Circuit Court of Appeals is in conflict with a recent federal case decided by the U.S. Court of Appeals for the Seventh Circuit in Indiana, who noted that states cannot be allowed to shield their state hospitals and institutions from investigation and oversight—especially not the investigation and oversight created by Congress to fund some of the state's most vulnerable citizens.

The Virginia decision has effectively rendered VOPA unable to fully exercise its federal authority to protect vulnerable citizens throughout the Commonwealth, even though Congress specifically created P&A systems for protection purposes. Without access to the records from state-run facilities, VOPA has no way of completing an investigation—and without a complete investigation, VOPA has no way of protecting Virginians with disabilities from abuse and neglect.

The role of the Supreme Court is to resolve this type of disagreement, and on June 21, 2010, the Supreme Court of the United States granted certiorari to VOPA's case, so that the issue may be resolved.