

**FILED/ENDORSED**

NOV 8 2013

By S. Lee, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

Case No. 34-2012-80001092-CU-WM-GDS

**MARTIN STORY,**

**Petitioner,**

**v.**

**SACRAMENTO COUNTY BOARD OF  
SUPERVISORS; SACRAMENTO  
COUNTY DEPARTMENT OF HUMAN  
ASSISTANCE; PAUL LAKE, Director,  
Sacramento County Department of  
Human Assistance**

**Respondents.**

**RULING ON SUBMITTED MATTER:  
PETITION FOR WRIT OF MANDATE  
AND WRIT OF ADMINISTRATIVE  
MANDATE**

**I. Introduction**

This matter arises out of petitioner Martin Story's application for General Assistance benefits in July, 2011. Respondent County Department of Human Assistance denied petitioner's application on the ground that he was employable. Petitioner appealed that determination, and an evidentiary hearing was held before an Administrative Hearing Officer on December 8, 2011. The Administrative Hearing Officer issued a written decision denying petitioner's appeal and upholding the County's employability determination on December 22, 2011.

The petition in this matter includes a request for issuance of a writ of traditional mandate under Code of Civil Procedure section 1085 and a request for issuance of a writ of administrative mandate under

1 Code of Civil Procedure section 1094.5.

2 In connection with the petition for writ of traditional mandate, petitioner alleges that respondents  
3 have a policy of refusing to consider evidence, including medical evidence, that does not make an express  
4 conclusion about whether a General Assistance benefit claimant is employable, and that is not verified by  
5 a qualified, licensed medical or mental health professional. Petitioner contends that this policy led to the  
6 adverse result in his case, and violates his due process rights.

7 In connection with the petition for writ of administrative mandate, petitioner alleges that the  
8 weight of the evidence in his case supports a determination, contrary to the decision the Administrative  
9 Hearing Officer made, that he was not employable for purposes of evaluating his claim for General  
10 Assistance benefits.

## 11 **II. Standard of Review**

12 The parties agree that the applicable standard of review in this case is the independent judgment  
13 standard. The issue of whether respondent's action violated petitioner's due process rights, as raised by  
14 the petition for writ of traditional mandate, is a question of law which is reviewed *de novo*. (See, *Duncan*  
15 *v. Department of Personnel Administration* (2000) 77 Cal. App. 4<sup>th</sup> 1166, 1174.) In the petition for writ of  
16 administrative mandamus, because this is a matter that involves petitioner's fundamental vested right to  
17 welfare benefits if found eligible for such benefits, the Court reviews the entire record and weighs the  
18 evidence to determine whether the decision of the respondent was correct. (See, e.g., *Frink v. Prod* (1982)  
19 31 Cal. 3<sup>rd</sup> 166, 180.) The administrative decision is entitled to an initial presumption of correctness, and  
20 the burden rests upon the challenger to demonstrate that the decision is contrary to the weight of the  
21 evidence. (See, *Fukuda v. City of Angels* (1999) 20 Cal. 4<sup>th</sup> 805, 817.)

## 22 **III. Traditional Mandate: Due Process**

23 Having reviewed the administrative record and the other evidence in this case under the  
24 independent judgment standard of review, the Court concludes that respondents have a policy, as  
25 petitioner contends, of refusing to consider evidence, including medical evidence, that does not make an  
26 express conclusion about whether a General Assistance benefit claimant is employable, or that is not  
27  
28

1 verified by a qualified, licensed medical or mental health professional.

2 The Court finds that this policy arises out of at least two written documents issued by the County  
3 Department of Human Assistance relating to the General Assistance program.

4 In the document entitled "Employability Determination and Case Plans", respondents set forth a  
5 policy that acceptable verification of medical, mental health or functional limitations affecting the ability  
6 of an applicant to work must include the ability to work, degree, duration and nature of the incapacity, or  
7 the verification will be considered incomplete and unacceptable. This policy also requires that medical,  
8 mental health or functional limitation verification must be completed, signed and dated by appropriate  
9 licensed and/or trained medical or mental health professionals.<sup>1</sup>

10 Additionally, in the document entitled "Administrative Hearings", respondents set forth a policy  
11 that Hearing Officers must sustain an employability determination based on medical or psychiatric  
12 findings of licensed health professionals absent contrary findings by similarly qualified licensed health  
13 care professionals.<sup>2</sup>

14 In the hearing in this case, the Administrative Hearing Officer permitted petitioner to offer  
15 evidence relevant to the issue of whether he was employable, including recent prison medical records,  
16 prior medical opinions regarding petitioner's employability from 2007-2009<sup>3</sup>, and petitioner's own  
17 testimony regarding his current condition and inability to work. That evidence was admitted and is present  
18 in the administrative record. However, because the record also contained an opinion from a licensed  
19 physician (Dr. Lipscomb) stating that petitioner was employable<sup>4</sup>, the Administrative Hearing Officer did  
20 not consider or weigh petitioner's evidence at all in making her decision.

21 The decision made this explicit, stating: "The Hearing Officer has neither the expertise *nor the*  
22 *authority* to overturn the 08/17/11 medical evaluation. As Dr. Lipscomb's evaluation provides the most  
23

24  
25 <sup>1</sup> See, Exhibit 2 to petitioner's opening brief, page 4 of 16.

26 <sup>2</sup> See, Exhibit 1 to petitioner's opening brief, page 13 of 14.

27 <sup>3</sup> See, Administrative Record, pages 72-80. The Court notes that these prior determinations had been accepted by  
28 respondents in determining that petitioner was unemployable and thus eligible for General Assistance benefits in  
these earlier periods.

<sup>4</sup> See, Administrative Record, pages 12-13.

1 recent evidence of the claimant's medical conditions, *and the Hearing Officer must sustain employability*  
2 *determinations based on medical findings of licensed health care professionals*, it is concluded that the  
3 county correctly determined the claimant to be employable."<sup>5</sup> The italicized portions of this statement  
4 make it clear that the Administrative Hearing Officer was applying an official policy that precluded her  
5 from considering petitioner's evidence, solely on the ground that it did not meet the verification standards  
6 set forth above.

7 In a letter to petitioner's counsel dated March 9, 2012, Paul G. Lake, the Director of the  
8 Department of Human Assistance, confirmed the existence of such a policy.<sup>6</sup> The letter specifically  
9 addressed petitioner's case, and acknowledged that petitioner had submitted "records...from different  
10 medical and mental health professionals", but pointed out that "none of these records appear to make any  
11 determination as to whether or not he is employable. As such, there is no basis on which the hearing  
12 officer could have changed Mr. Story's employability status. [...] DHA Hearing Officers are not  
13 qualified to make independent determinations as to which medical or mental health conditions may or may  
14 not impact a client's employability status."

15 The effect of respondents' policy in this case was clear: potentially relevant evidence regarding  
16 petitioner's employability simply was not considered. In effect, if not explicitly, respondents excluded  
17 potentially relevant evidence regarding employability, including recent prison medical records, prior  
18 medical determinations of unemployability made between 2007 and 2009, and petitioner's own testimony  
19 regarding his current condition and ability to work.

20 The Court finds that the application of the policy in this manner violates the procedural due  
21 process rights of General Assistance claimants in general, and specifically violated the procedural due  
22 process rights of petitioner in this case.

23 The due process clauses of Article I, Sections 7 and 15 of the California Constitution apply to  
24 cases involving a statutorily conferred benefit or interest, and focus on freedom from arbitrary adjudicative  
25

26  
27 <sup>5</sup> See, Administrative Record, page 120. (Emphasis added.)

28 <sup>6</sup> See, Exhibit 3 to petitioner's opening brief.

1 procedures. (See, *Gresher v. Anderson* (2005) 127 Cal. App. 4<sup>th</sup> 88, 104-105.) It is undisputed that this  
2 case involves a statutorily conferred benefit, specifically, General Assistance benefits. The existence of  
3 that interest triggers application of the California due process clauses in this case. Analysis of whether  
4 respondents' actions violated due process rights in this case involves consideration of four factors, as  
5 follows:

6  
7 (1) the private interest that will be affected by the official action, (2) the  
8 risk of an erroneous deprivation of such interest through the procedures  
9 used, and the probable value, if any, of additional or substitute procedural  
10 safeguards, (3) the dignitary interest in informing individuals of the  
11 nature, grounds and consequences of the action and in enabling them to  
12 present their side of the story before a responsible governmental official,  
13 and (4) the governmental interest, including the function involved and the  
14 fiscal or administrative burdens that the additional or substitute  
15 procedural requirement would entail. (See, *People v. Ramirez* (1979) 25  
16 Cal. 3<sup>rd</sup> 260, 269.)

17 The private interest at stake here is the interest applicants for General Assistance benefits have in  
18 having their claims correctly decided on the basis of all relevant evidence regarding employability, and not  
19 only on evidence formally verified by medical or mental health professionals. The Court considers this  
20 interest to be one of significant weight, because General Assistance benefits are an essential resource for  
21 the indigent and unemployable, and because evidence that does not formally meet respondent's  
22 verification standards nonetheless may be relevant to and probative of the issue of whether a particular  
23 applicant is employable.

24 The risk of erroneous deprivation of benefits through application of the policies used by  
25 respondents is high, as illustrated by the result in this case. Respondent found petitioner to be employable,  
26 and thus ineligible for General Assistance benefits, solely on the basis of Dr. Lipscomb's opinion. Yet  
27 that opinion consisted only of a box checked on a form stating that petitioner "Can work", without  
28 including any foundational facts or analysis supporting that bare conclusion.<sup>7</sup>

Dr. Lipscomb's report is subject to the principle that an expert's opinion rendered without a  
reasoned explanation of why the underlying facts lead to the ultimate conclusion has no evidentiary value

<sup>7</sup> See, Administrative Record, page 12.

1 because an expert opinion is worth no more than the reasons and facts upon which it is based. (See,  
2 *Bushling v. Fremont Medical Center* (2004) 117 Cal. App. 4<sup>th</sup> 493, 510; *Kelley v. Trunk* (1998) 66 Cal.  
3 App. 4<sup>th</sup> 519, 524.) It thus should have been given no weight in this proceeding, yet in the final analysis it  
4 outweighed other evidence to such an extent that the other evidence was not even considered in reaching  
5 the ultimate decision. Basing a decision on an expert opinion that has no evidentiary value, as was done  
6 in this case, while refusing to evaluate and weigh other relevant evidence, creates an unacceptably high  
7 risk of error. It also creates the risk of an arbitrary result. The value of an additional procedural safeguard  
8 that would be established by requiring respondents to evaluate and consider all evidence related to  
9 employability, regardless of whether it meets respondents' verification standards, is clear.

10 The application of respondents' policy in this case infringed petitioner's dignitary interest in being  
11 able to present his side of the story to the responsible governmental officials. While petitioner admittedly  
12 was allowed to offer evidence of his employability at the hearing that did not meet respondents'  
13 verification standards, the Administrative Hearing Officer simply refused to consider that evidence in  
14 making the ultimate decision. Refusing to recognize or analyze a claimant's side of the story is  
15 tantamount to not allowing that side of the story to be presented in the first place. Such an approach to  
16 relevant evidence violates basic concepts of fair procedure and amounts to arbitrary decision-making.

17 Finally, the Court finds that the governmental interests underlying respondents' policy are of little  
18 weight. Respondents simply assert that Administrative Hearing Officers are not qualified to make  
19 independent determinations of employability based on medical evidence, and therefore must be permitted  
20 to rely solely on the opinion of a licensed medical professional. Respondents have not established,  
21 however, that it would be impossible, impractical, or unduly burdensome to train their Administrative  
22 Hearing Officers to evaluate all relevant evidence in employability cases. As petitioner argues  
23 persuasively, hearing officers in other types of cases, such as Social Security disability cases, evaluate  
24 such evidence on a regular basis.

25 The Court therefore concludes that respondents have a policy regarding the consideration of  
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1 evidence in General Assistance cases involving employability that violates state due process standards.<sup>8</sup> It  
2 is clear that the application of that policy in petitioner's case violated his state due process rights, because  
3 it prevented the consideration of potentially relevant evidence, and led to a decision being entered solely  
4 on the basis of a summary medical opinion that was not entitled to any evidentiary weight.

5 The Court further concludes that respondents' decision in petitioner's case must be vacated in  
6 order to address the due process violation. At the hearing on this matter, the Court asked the parties  
7 whether the case should be remanded to the Administrative Hearing Officer for further proceedings, or  
8 whether the Court should decide the case itself in the exercise of its independent judgment. The Court  
9 concludes that the evaluation of evidence regarding employability in General Assistance cases is a matter  
10 that should be undertaken by the Administrative Hearing Officers in the first instance. The Administrative  
11 Hearing Officer has discretion to evaluate the relevant evidence, but application of the invalid evidentiary  
12 policy in this case prevented the Administrative Hearing Officer from fully exercising that discretion. The  
13 matter therefore should be remanded to permit the full exercise of administrative discretion. Such a result  
14 affords due deference to the legitimate exercise of administrative discretion in General Assistance  
15 employability cases.  
16

17 The petition for writ of traditional mandate under Code of Civil Procedure section 1085 is  
18 therefore granted. A writ of mandate shall issue as follows: (1) directing respondents to cease applying  
19 their policy of refusing to consider evidence, including medical evidence, that does not make an express  
20 conclusion about whether a General Assistance benefit claimant is employable, or that is not verified by a  
21 qualified, licensed medical or mental health professional; (2) directing respondents to vacate their decision  
22 in petitioner's case; (3) remanding the matter to the Administrative Hearing Officer for reconsideration of  
23 all of the evidence admitted at petitioner's hearing; (4) directing the Administrative Hearing Officer to  
24 give no evidentiary weight to Dr. Lipscomb's opinion; and (5) directing the Administrative Hearing  
25 Officer to enter a new decision on petitioner's appeal based on an evaluation of all the evidence admitted  
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27 <sup>8</sup> In light of this conclusion, the Court finds it unnecessary to address federal due process requirements separately.  
28 As noted by the court in *Gresher v. Anderson* (2005) 127 Cal. App.4<sup>th</sup> 88, 104-105, procedural due process under the  
California Constitution is "much more inclusive and protects a broader range of interests than under the federal  
Constitution".

1 at petitioner's hearing. Other than as stated above with regard to Dr. Lipscomb's opinion, the writ shall  
2 not restrict or control the Administrative Hearing Officer's exercise of discretion in the evaluation and  
3 weighing of the evidence in the record that is relevant to the issue of petitioner's employability.

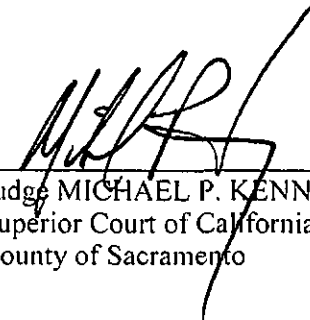
4 **IV. Administrative Mandate**

5 In light of the Court's ruling that petitioner is entitled to issuance of a writ of mandate under Code  
6 of Civil Procedure section 1085 that directs respondents to vacate the decision in his case and that remands  
7 the case for reconsideration based on all of the evidence received at the hearing, the Court finds that it is  
8 unnecessary to address petitioner's administrative mandate claim under Code of Civil Procedure section  
9 1094.5. The petition for writ of administrative mandate is therefore denied.

10 **V. Conclusion**

11 The petition for writ of mandate under Code of Civil Procedure section 1085 is granted for the  
12 reasons set forth above. The petition for writ of mandate under Code of Civil Procedure section 1094.5 is  
13 denied. Counsel for petitioner is directed to prepare the order, judgment and writ of mandate in  
14 accordance with this ruling. The writ shall provide that respondents shall make a return within 60 days,  
15 setting forth what they have done to comply with the writ. The Court shall retain jurisdiction over this  
16 matter to enforce compliance with the writ as necessary.  
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20 DATED: November 8, 2013

21   
22 Judge MICHAEL P. KENNY  
23 Superior Court of California,  
24 County of Sacramento  
25  
26  
27  
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**CERTIFICATE OF SERVICE BY MAILING**  
**(C.C.P. Sec. 1013a(4))**

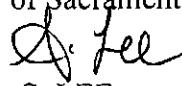
I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do declare under penalty of perjury that I did this date place a copy of the above-entitled **RULING ON SUBMITTED MATTER** in envelopes addressed to each of the parties, or their counsel of record as stated below, with sufficient postage affixed thereto and deposited the same in the United States Post Office at 720 9<sup>th</sup> Street, Sacramento, California.

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Superior Court of California,  
County of Sacramento

Dated: November 8, 2013

By:   
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Deputy Clerk