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WATCH: Rhode Island Doctor Returns to Practice After NCLA Challenges Covid-19 Order

Dr. Stephen Skoly, Jr. v. Daniel McKee, Gov. of Rhode Island, and James McDonald, Interim Dir. of RIDOH



Photo: Dr. Stephen Skoly, plaintiff in Skoly v. Daniel McKee and James McDonald

Washington, DC (May 2, 2022) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil liberties group, released a [case video](#) today explaining the lawsuit it has brought on behalf of its client, Rhode Island oral and maxillofacial surgeon Dr. Stephen Skoly. The Rhode Island Department of Health (RIDOH) shut down Dr. Skoly’s practice because he refused to comply with the state’s Covid-19 vaccine mandate for health care workers and spoke out against the mandate. Dr. Skoly has a history of Bell’s Palsy facial paralysis and risked a paralysis recurrence if vaccinated. In addition, Dr. Skoly has naturally acquired immunity to Covid, having recovered from a prior Covid-19 infection. Nonetheless, in October 2021, RIDOH shuttered Dr. Skoly’s 11-person medical facility, preventing him from providing care to hundreds of private patients, as well as to the state’s most vulnerable public patients—the residents of the state’s psychiatric hospital and prison where Dr. Skoly was employed as the only dental surgeon.

The purpose of the vaccine mandate for health care workers was to protect vulnerable patients from being infected, but Dr. Skoly’s patients were at no more risk from him than from a vaccinated oral surgeon for two reasons. First, he already has the antibodies to Covid-19 that a vaccine would provide him. Second, he always fully masks when treating his patients. Even though Rhode Island exempted from the mandate hundreds of health care workers (who had other medical reasons to not be vaccinated) and allowed them to work in close physical proximity to patients (so long as the workers wore N95 masks), the state refused to exempt Dr. Skoly. Rhode Island had no rational basis to treat the masked, unvaccinated Dr. Skoly differently from the masked, unvaccinated exempt health care workers, allowing them to be employed, while forcing him to become unemployed. Bizarrely, Rhode Island even allowed vaccinated health care workers *with an active Covid-19 infection* to treat vulnerable patients so long as the infected worker wore an N95 mask, but it still refused to allow Dr. Skoly to treat anyone.

On Dr. Skoly’s behalf, NCLA filed a lawsuit against Governor Daniel McKee and Dr. James McDonald, RIDOH’s Interim Director, to force Rhode Island to permit Dr. Skoly to resume practice. In March 2022, after over five months of suspension, and three days before a court hearing where medical experts were to testify to the irrationality of Rhode Island’s conduct, Rhode Island finally relented. It agreed to treat the N95 masked Dr.

Skoly the same as other unvaccinated N95 masked workers. Dr. Skoly was permitted to re-assemble his ten-person dental team and return to practice.

However, Dr. Skoly's [case](#) is not over. The lawsuit, *Skoly v. Daniel McKee and James McDonald*, seeks declaratory relief that Rhode Island violated Dr. Skoly's constitutional rights, a permanent injunction to prevent Rhode Island from violating his rights again, and damages in part for denying him unemployment insurance during the period of time when he was prevented from practicing. NCLA filed the Second Amended Verified [Complaint](#) in Dr. Skoly's case this past week, laying out his ongoing claims against Governor McKee and Director McDonald.

Excerpts from the video:

“We stayed right through the pandemic. ... I caught Covid in December of 2020. But after the appropriate quarantine, we came right back and did what we're trained to do, which is what health care workers did around the country. Unfortunately, when the vaccine mandate started, these health care workers, once heroes, were now being criticized for questioning the vaccine status, no matter how legitimate their concerns would be.”

— **Dr. Stephen Skoly, Plaintiff, *Skoly v. Daniel McKee and James McDonald***

“Dr. Skoly did not fit into the medical exemptions as currently written, although he has very good reason [to not be vaccinated] It is a violation of due process to make Dr. Skoly take this risk The state made the decision that vaccination and N95 masking is equivalent for the purpose of patient protection. He is a maxillofacial surgeon. He wears an N95 mask, he wears a surgical mask, he wears gloves. When he is in the operating room with the patient, he looks like an astronaut. He engages in so much more to protect the patient [than mere N95 masking.]”

— **Brian Rosner, 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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