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VOPA WINS POWER TO PROTECT INDIVIDUALS WITH DISABILITIES IN FEDERAL COURT

The United States Supreme Court today affirmed the power of the Virginia Office for Protection and Advocacy to pursue any necessary legal remedies in fulfilling their duty to advocate for people with disabilities. The watchdog agency is independent of both the executive branch and the legislative branch, and the High Court today ruled that VOPA could go to federal court when necessary to enforce federal laws against another state agency. VOPA had sued in federal court to obtain investigative records. The Court today ruled that federal court is an available option for enforcement of federal rights by the state agency.

“We are obviously very pleased with the decision. We are humbled by the wisdom of the Court and grateful to have had the highest court in the land consider our situation,” said Colleen Miller, the Executive Director of the Virginia Office for Protection and Advocacy. “Sadly, this simply means that our case can now begin.”

“We express our deepest thanks to Seth Galanter and the law firm of Morrison and Foerster for their excellent representation in this matter, and well as the many amici who joined in support of our cause,” Miller added. “Without this unwavering support, today’s decision could never have been possible.”

In 2007, VOPA sought investigative records in a suspicious death at Central State Hospital in Petersburg and a possibly negligent death and a negligent injury at Central Virginia Training Center in Lynchburg. When the agency now known as the Department of Behavioral Health and Developmental Services refused to produce the records, VOPA, through lead attorney Paul Buckley, brought suit in federal court. The trial court denied the Commonwealth’s motion to dismiss the suit, but the 4th Circuit Court of Appeals granted it, noting, for the first time, consideration of “special sovereignty interests” that would bar one state agency from suing another.

Today, in a 6-2 decision, the Supreme Court reversed the Court of Appeals decision.

VOPA was established in 2002 by the Virginia General Assembly to be the state’s designated protection and advocacy system, part of a nationwide network of such agencies. In many states, the protection and advocacy system is a private not-for-profit organization; Virginia is one of a small handful of protection and advocacy agencies located in state government. When the Virginia state legislature established the independent agency, it vested it with all authority necessary to carry out federal statutes to investigate abuse and neglect and to be able to use all available legal remedies. As a result of that decision by the legislature, the Supreme Court today stated that the state agency could exercise the legal remedy of suing another state agency in federal court.