

FILED
SUPREME COURT
STATE OF WASHINGTON
5/15/2024 8:00 AM
BY ERIN L. LENNON
CLERK

Petition for Review
Washington Supreme Court

Case # 859251

Court of Appeals Division 1, of the State of Washington

King County Superior Court
Case No. 22-2-18308-0
Christopher Fiegenbaum, Plaintiff

v.

State of Washington Department of Labor
& Industries and Board of Industrial Insurance Appeals

(I, Christopher Fiegenbaum, am a pro se litigant.)
5124 219th St SE, Woodinville, WA 98072
425-806-0358, cfiegenb@yahoo.com

(Ryan Gompertz, Defendant/Respondent)
Labor and Industries, Seattle WA Office of the Attorney
General
800 Fifth Avenue Suite 2000
Seattle, WA 98104
206-326-5499, ryan.gompertz@atg.wa.gov

I, Christopher Fiegenbaum, am filing a petition review to the Washington Supreme Court for the order I received on May 14, 2024, in the Court of Appeals Division 1. In the order it states that my previous motion (Motion for Reconsideration submitted on April 22, 2024) was denied for Case# 859251 in the Court of Appeals, Division 1.

I strongly disagree with this decision, and I think that it is truly wrong on many levels that my reputation is being destroyed based on false allegations. I was a victim of felony level crimes of assault and battery on March 13, 2021, at the Everet Mall by 2 individuals named Sajaad Alghazali and Margaret Marie Vilchis-Ashby. I suffered many injuries from this incident including 3 herniated discs to my cervical spine (neck), TMJ jaw damage (temporomandibular joints), tooth damage, concussion to my brain (post-concussion syndrome), multiple bruises to

my body, as well as psychological trauma including post-traumatic stress disorder (PTSD). It was already unbearably painful enough that I had all these expenses related to my injuries and being a victim of a crime, and not seeing the suspects face accountability for what they did. They were never even arrested or prosecuted. With all that pain, to add to this, The Department of Labor & Industries labeled me the suspect and used the real suspects false statements to paint a false narrative that I started an assault on someone. Department of Labor & Industries has made an incorrect conclusion that I incited violence on March 13, 2021, and therefore I am not entitled to crime victim's benefits. Not only that, they charged me \$200.00 in attorney fees. I am unemployed by the way and have very little money as I am borderline homeless. This is truly wrong, and I take offense to the fact that things are now being publicly said about me that are not true. One website on google that has my information public is <https://www.anylaw.com/>. Another one is <https://law.justia.com/>. Since these court documents are public, it's accessible to many different websites. It was hard enough to be denied for crime victims benefits because I believe I was entitled to them as a true victim, and now they are making false statements about me. Right now, anybody can look up my name on the internet and see this case. Any employer can search my name on google.com and see this case pop up. I believe there was a high potential that previous employers that I had applied to, looked up my name and found this case. Anybody not familiar with my case will easily make conclusions when a powerful agency like the department of labor & Industries makes statements about me that are incorrect. If the Department of Labor & Industries wanted to say that they can not give me crime victims benefits because of lack of proof, they have a right to say that, however they have no right to deny me and say that it was because I did something that I did not do. They have no beyond reasonable doubt proof that I committed any sort of crimes. If anyone truly believes I am guilty of a crime, then they should attempt to prosecute me because I want to prove that I am innocent of these allegations. The truth is, I was brutally assaulted by both Sajaad Alghazali and Margaret Marie Vilchis-Ashby on March 13, 2021 at the Everett Mall, and Daniela Pineda made false statements that I had started the fight when she admitted through her own testimony that Sajaad Alghazali "physically" put his hands on me first, which means he started the fight in actuality, which is precisely what happened, because I was there when he violently attacked me first. I don't have video to

prove who initiated the first punch, but I have enough video and audio evidence to prove that my side of the story makes more sense. I also did nothing wrong that day. I simply went up to talk to a female store employee for about 15 seconds, standing about a normal 3-5 foot talking distance from her, and I was attacked for no rational reason. Nothing I said or did was against the law as the Department of Labor is trying to create this illusion that I somehow was breaking laws. It is unbelievable, that you can get labeled a criminal for simply talking to a store employee for 15 seconds, and then get assaulted for it, what has this world come too.

I would like to request that this petition for review be with oral argument. I would like to have a zoom video conference. My best contact email is cfiegenb@yahoo.com. The reason I would like to request that this case be with oral argument is because I have not had one chance to speak with oral argument to defend myself after requesting it multiple times since the beginning of this entire case. I requested an opportunity to speak with oral argument in both the King County Superior Court and Washinton Court of Appeals Division 1 and was denied. Because I was not given a chance to speak with oral argument, I believe important facts seemed to be easily misunderstood. This case is very big and complicated because it involves 3 defendants that made false statements, which made the case incredibly confusing for someone not aware of the details. I believe it is important for me to explain it in person to make sense. The last thing I want is for there to be any misunderstandings about the truth of what really happened. In prior hearings involving zoom, my father was sometimes present and I would like him to have the opportunity to speak as a witness in this upcoming hearing. My father witnessed my assault injuries from the very day I was assaulted by two of the three defendants on March 13, 2021 at the Everett Mall.

I also request permission to send the exhibits that I attempted to use in the King County Superior Court and Washington Court of Appeals Division 1. I have a USB flash drive that includes very important video and audio evidence pertaining to this case (Assault that happened to me on March 13, 2021, at the Everett Mall). The King County Superior Court and the Washington Court of Appeals did not review this important information. I attempted to have this important video and audio evidence submitted and served to the Court on a USB flash drive. Because

it is video and audio evidence, it can only be submitted via a USB flash drive. I would like to be able to submit these as an exhibit, the same way I submitted it into Washington Court of Appeals, where I mailed the USB flash drive to the court, so that the Judge can review it beforehand. I had mentioned this video and audio evidence multiple times in my previous motions. These exhibits included very important relevant audio and video that would prove my explanations of what I was trying to argue against false statements that were made of me. This video evidence includes surveillance video of the “suspects running away from the scene to escape” as well as audio where you hear the suspects attacking me. There is even audio of a witness calling in on 911 audio describing the attack in live motion. There is also a portion of another video where you see the suspect attack me. This is incredibly important relevant evidence that needs to be a part of this petition for review. I feel that this has been ignored.

Lastly, one of the things that I believe negatively affected my case from the beginning when my hearings were held at the Board of Industrial Insurance Appeals, was the fact that I didn’t request accommodation for my disability. At the time, I did not know that a disability accommodation existed as this was my first time going to court and representing myself. I have multiple disabilities that I have been medically diagnosed with since I was a child including attention deficit disorder, Tourette syndrome, and a learning disability and as an adult obsessive compulsive disorder (OCD). I plan to request a medical accommodation for the supreme court as well when I plan to speak with oral argument. I have had struggles in the past speaking with oral argument. During the hearings I had with the Board of Industrial Insurance Appeals, I felt like I was being rushed and had to do an overwhelming amount of mental work just to speak the right words. My father, Timothy Fiegenbaum, witnessed this, and even wrote a declaration himself on September 4, 2023, to Judge Brian M. Mc Donald who oversaw the King County Superior Court hearings (I will submit a copy of this as an attachment with this motion). I submitted my father’s declaration as part of my motion for reconsideration in King County. I agree with my father’s statement. It was incredibly hard for me to cross examine 3 people with a goal of impeaching them on the stand and then testifying myself all in a limited time frame. Imagine what it was like for me to cross examine and talk face to face to the very person who assaulted me on March 13, 2021. It was an extremely stressful experience, not

being able to impeach them on the stand. However, I do believe there was only one thing I accomplished that day, and that was exposing contradictory statements from all 3 of the witnesses that I voluntarily requested to come up. One of the biggest contradictory statements, was Sajaad Alghazali making false statements that he never physically touched me first and that he claimed I was chasing him. That contradicts, Daniela Pineda's statement that he did physically put his hands on me first, and a witness statement by Krista Adams who testified that the suspects were chasing me, along with video and audio evidence that supports that statement. I was already mentally exhausted after cross examining 3 people. In fact, I had technically run out of time to have a sufficient testimony, which was the last thing to be done after the 3 cross examinations. You even hear me on the transcripts saying that I am concerned that I am running out of time.

These false allegations were not only hurtful to me and my reputation, but it hurt my family as well, because everyone in my family identifies with the last name Fiegenbaum, and we all believe in doing the right thing and having integrity in this life. The costs accumulated from this entire incident of being a victim on March 13, 2021, is a significant amount of money. It includes loss of wages for 3 straight years, multiple long-term injuries, total costs of going to court, and future surgeries. This was very hard for not only me, but my family did not enjoy seeing me suffer. Imagine what it would be like if someone you care or loved for was viciously assaulted and injured, and then falsely labeled the suspect. This happened to me, and I have been fighting every day to not give up my fight for pursuing justice and trying to survive as a human being in this hard and complicated world we live in today.

Respectfully, Christopher Fiegenbaum

Certificate of Compliance pursuant to RAP 18.17(b)A: Word Count is 2,029

I am serving Ryan Gompertz a copy of this Petition for Review via US mail.

I, Christopher Fiegenbaum, certify and declare under penalty of perjury, under the laws of the state of Washington, that these statements are true and accurate.

Christopher Fiegenbaum

5/15/24

In the Superior Court for the County of King

In the State of Washington

Christopher Fiegenbaum,)	Case No. : 22-2-18 308-0 SEA
Petitioner,)	Declaration from Timothy Fiegenbaum
v.)	
State of Washington Department)	
of Labor & Industries and Board)	
of Industrial Insurance Appeals,)	
Respondent.)	
_____)	

I, Timothy Fiegenbaum am Christopher Fiegenbaum's father and I have sat with him in Zoom during most of his court appearances. I would like to make a brief statement concerning who started the fight since his denial of benefits hinges on that finding. During his recent court appearance (August 13, 2023 in front of Judge Brian M. McDonald) nearly all of the input surrounding this question came from the testimony of the three hostile witnesses, Sajjad Alghazali, Margaret Marie Vilchis-Ashby, and Daniela Pineda.

During the crime victims hearing, Christopher called the three that testified against him. Christopher represented himself, which in retrospect was a mistake. It was a very challenging three hours in which the judge and Ryan Gompertz (Division of Labor and Industries) challenged many of his questions and left him with little success. After a short break, Christopher had to give his testimony. He didn't know that his testimony should question what the three said under oath. Instead, he presented a lot of additional info that didn't address challenging what they had said in regard to who started the fight.

During the recent hearing (August 13, 2023 in front of Judge Brian M. McDonald) almost everything that Ryan Gompertz presented addressing who started the fight was based on the testimony of the three. Christopher's lawyer had told him he would request that he be given an opportunity to speak since Christopher disagreed with some of aspects of what his lawyer was going to present. Chris patiently waited but his lawyer did not make the request. His lawyer was not adequately prepared to refute much of what Ryan Gompertz presented regarding who started the fight and again his side of the question of who started the fight was not heard.

Sadly, though he had two court appearances, neither heard his testimony refuting what the three hostile witnesses said about who started the fight. The blame for this fall to both Christopher and his lawyer. Christopher is not a lawyer and simply didn't know he needed to refute the testimony of the three during the crime victims hearing. During the recent hearing (August 13th), Christopher's lawyer failed to do what he had promised (request Christopher be given an opportunity to speak) and simply was not familiar enough with the incident to challenge Ryan Gompertz's version.

I, Timothy Fiegenbaum, certify and declare under penalty of perjury, under the laws of the state of Washington, that these statements, are true and accurate.

I, Timothy Fiegenbaum, certify and declare under penalty of perjury, under the laws of the state of Washington, that these statements, are true and accurate.

Timothy E Fiegenbaum
9/4/2023

CHRISTOPHER FIEGENBAUM - FILING PRO SE

May 15, 2024 - 1:57 AM

Filing Petition for Review

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: Case Initiation
Appellate Court Case Title: Christopher Fiegenbaum, Appellant v. Department of Labor & Industries, Respondent (859251)

The following documents have been uploaded:

- PRV_Other_20240515015524SC958770_9225.pdf
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The Original File Name was Declaration from Timothy Fiegenbaum.pdf
- PRV_Petition_for_Review_20240515015524SC958770_5261.pdf
This File Contains:
Petition for Review
The Original File Name was petition for review supreme court.pdf

A copy of the uploaded files will be sent to:

- LNISeaReader@ATG.WA.GOV
- ryan.gompertz@atg.wa.gov

Comments:

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Sender Name: Christopher Fiegenbaum - Email: cfiegenb@yahoo.com

Address:

5124 219th St SE

Woodinville, WA, 98072

Phone: (425) 806-0358

Note: The Filing Id is 20240515015524SC958770

CHRISTOPHER FIEGENBAUM - FILING PRO SE

May 15, 2024 - 1:57 AM

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

CHRISTOPHER FIEGENBAUM,

Appellant,

v.

STATE OF WASHINGTON,
DEPARTMENT OF LABOR AND
INDUSTRIES,

Respondent.

No. 85925-1-I

DIVISION ONE

UNPUBLISHED OPINION

BIRK, J. — Christopher Fiegenbaum challenges the Department of Labor and Industries' administrative decision denying him benefits under Washington's crime victims compensation act (the Act), chapter 7.68 RCW, because it found he incited the physical altercation that led to his injuries. Fiegenbaum petitioned for judicial review, and the superior court affirmed. Because there was substantial evidence that Fiegenbaum incited the incident and the superior court did not err in denying relief, we affirm.

I

On March 13, 2021, 35 year old Fiegenbaum was at the Everett Mall when he approached 16 year old M.V.-A. and asked for her phone number. M.V.-A. informed Fiegenbaum of her age and left to go to the bathroom. She then called her boyfriend, Sajaad Alghazali, to tell him about the encounter. M.V.-A. attempted

to inform mall security about the incident, but could not locate them. Alghazali arrived at the mall and met M.V.-A.

After the encounter with M.V.-A., Fiegenbaum approached 15 year old D.P. D.P. testified Fiegenbaum asked her what time she was off work because he “wanted to get [her] number” and “do something after.” D.P. testified that while Fiegenbaum was talking with her, he started “to get very, very close to me,” and “[b]y the end of the conversation, he was like about one foot away from me, right in front of my face, really, really close to me. And then, by that point, I was feeling very scared and very harassed by him.” Alghazali and M.V.-A. saw Fiegenbaum talking to D.P. Alghazali approached the two because D.P. “looked very scared and frightened.” Before physically intervening, Alghazali confirmed D.P.’s age and that she did not know Fiegenbaum. D.P testified,

And then the guy, since he was really, really close to me, the other guy came and like pushed him back. And he was like ^{[“]Hey, that’s not right. She’s a minor.[”]} And then that’s when the—they start—the fight started because the other guy came and pushed him back because he was so close to me.

Fiegenbaum punched Alghazali, causing a physical fight to ensue. The fight ended when mall security arrived. Fiegenbaum sustained numerous injuries from the incident. No charges were filed.

Fiegenbaum filed a claim for crime victim benefits with the Department of Labor and Industries under the Act. After the department denied his claim, Fiegenbaum appealed the order to the Board of Industrial Insurance Appeals. An industrial appeals judge (IAJ) issued a proposed decision and order affirming the department’s order. Fiegenbaum filed a petition for review. During the board’s

review, it discovered that one of the exhibits was no longer in the board's electronic record. Because the record was incomplete, the board vacated the IAJ's proposed decision and order and remanded the matter to the IAJ to address the missing exhibit and issue a new order based on a complete record. After consideration of the evidence, including the missing exhibit, the IAJ denied Fiegenbaum's request for benefits under the Act, finding "a preponderance of the evidence showed that [Fiegenbaum] provoked and/or incited the incident that resulted in his injuries, making him ineligible for benefits under [chapter 7.68 RCW]."

After retaining counsel, Fiegenbaum filed a second petition for review, which the board denied. Fiegenbaum filed a petition for review of the board's order in the King County Superior Court. Following oral argument, the superior court affirmed the board's ruling. Fiegenbaum moved for reconsideration "with oral argument" and attempted to submit new exhibits to the court. The superior court did not consider the motion due to its violation of numerous court rules, and granted Fiegenbaum additional time to re-file. Fiegenbaum re-filed his motion for reconsideration, which the superior court denied because the new submission "contain[ed] no argument or citations to any legal authorities" and "fail[ed] to establish a basis for this Court to reconsider its prior ruling." Fiegenbaum appeals.

II

Although not challenged by the State, we first address the lack of assignments of error in Fiegenbaum's opening brief.

RAP 10.3(a)(4) requires an appellant to include a "separate concise statement of each error a party contends was made by the trial court, together with

the issues pertaining to the assignments of error.” Generally, this court will review only an alleged error a party has included in an “assignment of error or clearly disclosed in the associated issue pertaining thereto.” RAP 10.3(g). Fiegenbaum’s briefing fails to conform to the Rules of Appellate Procedure in that he does not provide assignments of error, authority, or citations to the record. RAP 10.3.

We “hold pro se litigants to the same standards as attorneys.” In re Vulnerable Adult Pet. for Winter, 12 Wn. App. 2d 815, 844, 460 P.3d 667 (2020). However, the rules of appellate procedure are to “be liberally interpreted to promote justice and facilitate the decision of cases on the merits. Cases and issues will not be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands.” RAP 1.2. We wield discretion to consider cases and issues on the merits under RAP 1.2. State v. Olson, 126 Wn.2d 315, 323, 893 P.2d 629 (1995). This discretion should be exercised unless there are compelling reasons not to do so. Id. Where the nature of the appeal is clear, the relevant issues are argued, and the respondent is not prejudiced, there is no compelling reason for an appellate court to not consider the merits of the case or issue. Id. In the interests of promoting justice, and in the absence of an objection from the State, we exercise our discretion and consider the assignments of error that are properly before us.

III

Fiegenbaum argues the IAJ erred in finding that “[o]n March 13, 2021, [Fiegenbaum] provoked or incited the physical altercation that resulted in his injuries.”

The Washington Administrative Procedure Act, chapter 34.05 RCW, governs our review of the board's decision. We "look to the administrative record, and not the superior court findings or conclusions, when conducting review." Waste Mgmt. of Seattle, Inc. v. Utils. & Trans. Comm'n, 123 Wn.2d 621, 633, 869 P.2d 1034 (1994). We review an agency's findings of fact for substantial evidence. Wenatchee Sportsmen Ass'n v. Chelan County, 141 Wn.2d 169, 176, 4 P.3d 123 (2000). Substantial evidence exists when there is a sufficient quantity of evidence to persuade a fair-minded, rational person that a finding is true. Spencer v. Badgley Mullins Turner, PLLC, 6 Wn. App. 2d 762, 794-95, 432 P.3d 821 (2018). Even where the evidence conflicts, we need only determine "'whether the evidence most favorable to the prevailing party supports the challenged findings.'" State v. Living Essentials, LLC, 8 Wn. App. 2d 1, 14, 436 P.3d 857 (2019) (quoting Prostov v. Dept. of Licensing, 186 Wn. App. 795, 820, 349 P.3d 874 (2015)). We do not reweigh the evidence or the credibility of the witnesses on appeal. Id. at 15.

The Act provides "benefits to innocent victims of criminal acts." RCW 7.68.030(1). "Each victim injured as a result of a criminal act . . . or the victim's family or beneficiary in case of death of the victim, are eligible for benefits." RCW 7.68.070(1). However, "[n]o person or spouse, child, or dependent of such person is eligible for benefits under this chapter when the injury for which benefits are sought was: (a) The result of consent, provocation, or incitement by the victim." RCW 7.68.060(2)(a). To "provoke" under the Act "'may center attention on the fact of rousing to action or calling forth a response' and 'is often used in connection

with angry or vexed reactions.’ ” Hansen v. Dep’t of Lab. & Indus., 27 Wn. App. 223, 226, 615 P.2d 1302 (1980) (quoting WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY (1969)). “Incite” is defined as “ ‘to move to a course of action: stir up: spur on: urge on.’ ” Id. (quoting WEBSTER’S)

D.P. testified that during their conversation, Fiegenbaum “was like about one foot away from me, right in front of my face, really, really close to me. And then, by that point, I was feeling very scared and very harassed by him.” Alghazali testified he approached D.P. and Fiegenbaum because D.P. “looked very scared and frightened.” D.P. was clear that Alghazali pushed Fiegenbaum in an attempt to get Fiegenbaum away from her because he was “very, very close to [her] . . . [s]o [Alghazali] only pushed [Fiegenbaum.] [A]nd [Fiegenbaum] punched him back.” Although Fiegenbaum disputes these accounts, a reviewing court does not reweigh the evidence and this testimony is substantial evidence supporting the agency’s finding that Fiegenbaum provoked the situation by putting himself in very close proximity to D.P. and frightening her, thus inciting intervention by others.

IV

Fiegenbaum argues the superior court erred in refusing to allow him to submit additional exhibits on appeal and asks this court to consider these exhibits in our review.

RCW 34.05.562(1) sets the parameters for court consideration of additional evidence. A court reviewing an agency decision “may receive evidence in addition to that contained in the agency record for judicial review, only if it relates to the validity of the agency action at the time it was taken and is needed to decide

disputed issues regarding” (a) improper constitution of the decision-making body; (b) the unlawfulness of the procedure; or (c) “[m]aterial facts in rule making, brief adjudications, or other proceedings not required to be determined on the agency record.” Id. A court may not allow additional evidence where the proponent of the evidence alleges only that the record is incomplete. Lewis County v. Pub. Emp’t Rels. Comm’n, 31 Wn. App. 853, 861, 644 P.2d 1231 (1982).

Fiegenbaum requests admission of additional evidence because the “exhibits included very important relevant audio and video that would prove [his] explanations of what [he] was trying to argue.” Because Fiegenbaum fails to show the evidence meets any of the permissible reasons for additional evidence under RCW 34.05.562(1), the superior court did not err in declining to admit or consider the additional exhibits. For the same reasons, we cannot review the additional evidence.

V

Fiegenbaum argues the superior court erred in denying his motion for reconsideration. We disagree.

We review a superior court’s decision to grant or deny a motion for reconsideration under an abuse of discretion standard. Rivers v. Wash. State Conf. of Mason Contractors, 145 Wn.2d 674, 685, 41 P.3d 1175 (2002). A court abuses its discretion when its decision is manifestly unreasonable, or exercised on untenable grounds or for untenable reasons. Gildon v. Simon Prop. Grp., Inc., 158 Wn.2d 483, 494, 145 P.3d 1196 (2006). The superior court denied Fiegenbaum’s motion for reconsideration because it “contain[ed] no argument or citation to any

legal authorities” and “fail[ed] to establish a basis for this Court to reconsider its prior ruling.” Fiegenbaum provides no argument as to how this ruling was exercised on untenable grounds or for untenable reasons. The superior court did not abuse its discretion.

VI

Fiegenbaum argues his counsel “failed to address inaccurate statements and in a way made [him] look bad” with regard to counsel’s performance in the superior court. However, Fiegenbaum cites no authority supporting relief in a civil action based on his perception that his counsel made inaccurate statements during a hearing. Cf. Seventh Elect Church In Israel v. Rogers, 34 Wn. App. 105, 120, 660 P.2d 280 (1983) (constitutional right to effective assistance of counsel applies to criminal proceedings, and “[n]o similar right is given to parties in civil actions”).

Affirmed.



WE CONCUR:




