

*No. 24975: Ohio Valley Medical Center, Inc., v. Cathy S. Gatson, Clerk of Kanawha County; The Board of Review of the West Virginia Department of Employment Security; Phyllis H. Carter, Chairman; Harold E. Starr and Susan W. Hastings, Members; and Mary K. Bleifus*

McCuskey, Justice, dissenting:

Judges can be reasonable people and reasonable people can disagree. That being said, it is difficult to understand how, after examining the conduct of the appellant, a registered nurse, the majority could reasonably conclude that her life-threatening errors did not constitute gross misconduct justifying her termination. After making five separate patient medication errors in a short period of time, the appellant was warned and suspended by the hospital that employed her. This rather lenient discipline failed to reform her behavior and she subsequently committed a number of similar errors, including failing to administer intravenous antibiotics to a post-operative surgical patient.

Only then was she terminated. Would this Court be as sympathetic to the hospital if it had not discharged this employee and were then sued by the loved ones of a patient who died as a result of her misconduct?

Based on the foregoing, I dissent from the majority's opinion. I am authorized to state that Justice Maynard joins me in this dissent.