

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

FILED

September 25, 2026

DARREN JACKSON,
Plaintiff Below, Petitioner

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

v.) No. 25-ICA-482 (Cir. Ct. Berkeley Cnty. Case No. CC-02-2024-C-191)

HEALTH CARE ALLIANCE, INC.
d/b/a TEAM HEALTH ATLANTIC,
RONALD BEST, D.O., ERIC
GLASS, D.O., and JEFFREY DEBORD, D.O.,
Defendants Below, Respondents

MEMORANDUM DECISION

Petitioner Darren Jackson appeals the Circuit Court of Berkeley County's November 13, 2025, order granting summary judgment to Respondents Health Care Alliance, Inc. d/b/a Team Health Atlantic ("HCA"), Ronald Best, D.O., Eric Glass, D.O., and Jeffrey DeBord, D.O., on the issue of statutory immunity under the COVID-19 Jobs Protection Act, West Virginia Code §§ 55-19-1 to -9 (the "Act"). HCA filed a response, Dr. Best and Dr. Glass filed a joint response, and Dr. DeBord filed a response.¹ Mr. Jackson filed a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2026). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the circuit court's order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

Mr. Jackson first sought medical treatment on January 20, 2022, at Valley Health Urgent Care in Martinsburg, reporting flu-like symptoms. He tested positive for COVID-19 and was discharged. On January 23, 2022, he went to the Emergency Department of Berkeley Medical Center ("BMC"), again tested positive for COVID-19, and again was discharged with instructions to follow up or return if symptoms worsened.

¹ Mr. Jackson is represented by Christopher T. Nace, Esq. HCA is represented by Barry M. Taylor, Esq., Charlotte H. Norris, Esq., and Jason D. Bowles, Esq. Dr. Best and Dr. Glass are represented by Tamela J. White-Farrell, Esq., J. Ben Shepard, Esq., and Austin T. Lewis, Esq. Dr. DeBord is represented by J. Dustin Dillard, Esq.

On January 29, 2022, Mr. Jackson returned to BMC with a fever, rash, mouth lesions, and watery eyes. Dr. Best evaluated him, confirmed that he remained COVID-19 positive, and documented a suspected infectious cause for the rash and lesions. Dr. Best performed an assessment for a Nikolsky sign, which was negative. He discharged Mr. Jackson with prescriptions and instructions to seek follow-up care or return if needed. The next day Mr. Jackson again presented to BMC complaining of shortness of breath. Dr. Glass evaluated him in BMC's triage area because the emergency department was operating under limited resources due to the COVID-19 pandemic. Dr. Glass consulted respondent hospitalist Dr. DeBord, who concluded that admission was not warranted for what remained a viral illness.

On January 31, 2022, Mr. Jackson sought treatment at Jefferson Medical Center ("JMC"), reporting worsening symptoms and an inability to take anything by mouth. JMC confirmed that he was still COVID-19 positive and admitted him. Several days later, a dermatologist noted concern for Stevens-Johnson Syndrome ("SJS"), and a Nikolsky sign became positive. JMC providers documented substantial difficulty securing transfer to a burn unit due to Mr. Jackson's active COVID-19 status and the diagnostic uncertainty surrounding SJS. Mr. Jackson was eventually transferred first to WVU-Ruby and then to MetroHealth Medical Center in Ohio, where he remained hospitalized through February 26, 2022.

Mr. Jackson filed his complaint on April 8, 2024, later amending it to allege negligence by Drs. Best, Glass, and DeBord in failing to timely diagnose, consult, treat SJS, or admit him to the hospital. He further alleged that HCA was vicariously liable under a respondeat superior theory. Each respondent denied liability and raised affirmative defenses, including immunity under the Act.

Drs. Best and Glass filed a motion to dismiss or for summary judgment, asserting immunity under West Virginia Code § 55-19-4 (2021) because Mr. Jackson's claims resulted from COVID-19, arose from "COVID-19 care," or involved "impacted care" as defined in the Act. HCA and Dr. DeBord joined. Although Drs. Best and Glass moved to stay discovery, the circuit court did not rule on that motion. Instead, on July 30, 2024, the parties submitted, and the circuit court entered, an agreed order holding in abeyance the discovery previously served by Mr. Jackson pending resolution of the immunity motions.

Mr. Jackson filed an omnibus opposition to dismissal or summary judgment, including an affidavit from his expert, Dr. Uriel Sandkovsky, who opined that COVID-19 did not cause Mr. Jackson's SJS. Dr. Sandkovsky, however, did not dispute that Mr. Jackson remained COVID-19 positive during all relevant treatment by respondents.

The circuit court later conducted an evidentiary hearing via TEAMS, at which the parties presented testimony from medical experts. Respondents' experts testified that Mr.

Jackson was receiving “COVID-19 care” within the meaning of the statute and that no dispute existed concerning his active COVID-19 infection during each of his encounters with respondents. No expert testimony was offered to the contrary.

On November 13, 2025, the circuit court granted summary judgment to all respondents. Relying on undisputed foundational facts, including Mr. Jackson’s repeated COVID-19-positive test results and the nature of his treatment, the circuit court concluded that respondents were entitled to immunity under the Act’s “COVID-19 care” provisions. Due to that dispositive conclusion, the court found it unnecessary to address whether immunity also applied under the Act’s “impacted care” provisions.

On appeal, Mr. Jackson raises a single assignment of error. He argues that the circuit court conflated the Act’s distinct immunity provisions, improperly stayed discovery, and then relied on factual determinations that, he contends, additional discovery would have allowed him to challenge. We find this argument unpersuasive.

First, the record demonstrates that the stay of discovery originated not from a statutory provision but from the parties’ own agreed order. Mr. Jackson voluntarily consented to holding discovery in abeyance pending resolution of the immunity motions and did not seek relief under Rule 56(d) of the West Virginia Rules of Civil Procedure or object at the circuit court level. Under the well-established doctrine of invited error, he cannot now claim reversible error based on a stay he requested and agreed to. *See* Syl. Pt. 1, *Maples v. W. Va. Dep’t of Commerce*, 197 W. Va. 318, 475 S.E.2d 410 (1996) (“A litigant may not . . . acquiesce to an alleged error . . . and then raise that error as a reason for reversal on appeal.”).

Secondly, even setting aside the parties’ agreement, respondents expressly invoked immunity under the Act’s “impacted care” provision. Under West Virginia Code § 55-19-3(10) (2024), the filing of such an assertion automatically requires the circuit court to stay the proceedings, including discovery. Importantly, the statutory mandate applies upon the *assertion* of impacted-care immunity, not upon the court’s ultimate reliance on that specific subsection. Thus, once respondents invoked § 55-19-3(10), the circuit court was statutorily required to stay discovery regardless of whether the court later resolved the case solely under “COVID-19 care” immunity. This Court has previously recognized that the Act affords no discretion to permit discovery until a hearing regarding “impacted care” is held once “impacted care” immunity is invoked. *See Price v. Raleigh Gen. Hosp.*, 251 W. Va. 508, 914 S.E.2d 743 (Ct. App. 2025). The circuit court’s ability to decide the matter under the Act’s “COVID-19 care” subsection was not limited by the origin or basis of the discovery stay. Accordingly, the circuit court did not err by resolving respondents’ separate “COVID-19 care” immunity while discovery remained stayed.

Finally, although Mr. Jackson does not meaningfully challenge the circuit court's conclusion that respondents were immune under the Act's "COVID-19 care" provisions, we find no error in that conclusion. The undisputed record supports the circuit court's application of the Act's "COVID-19 care" immunity provision. West Virginia Code § 55-19-4 bars claims arising from "COVID-19 care," defined in § 55-19-3(3) to include the assessment, testing, diagnosis, or treatment of individuals with confirmed or suspected COVID-19. It is undisputed that Mr. Jackson remained actively COVID-19 positive throughout the relevant period and that respondents were assessing and treating him during his infection. These foundational facts cannot be changed through further discovery and fall squarely within the Act's definition of "COVID-19 care."

Because Mr. Jackson had confirmed COVID-19 during each encounter with respondents, and because respondents were providing care encompassed by the Act's immunity provisions, we find no error in the circuit court's determination that West Virginia Code § 55-19-4 barred the claims.

For these reasons, we affirm the circuit court's November 13, 2025, order granting summary judgment in favor of respondents.

Affirmed.

ISSUED: September 25, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge S. Ryan White

Judge Charles O. Lorensen, not participating