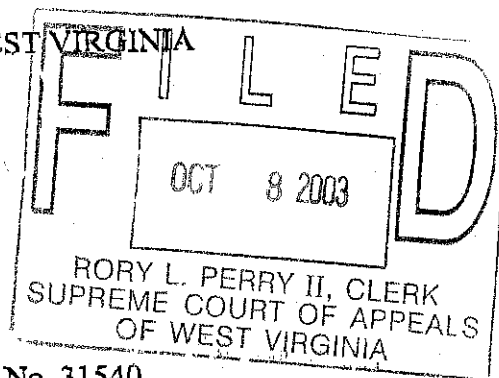


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA



STATE OF WEST VIRGINIA, ex rel. CITIES OF CHARLESTON AND HUNTINGTON AND COUNTY COMMISSIONS OF KANAWHA AND OHIO COUNTIES,

Petitioners,

v.

No. 31540

WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY, A PUBLIC CORPORATION,

Respondent.

AND

STATE OF WEST VIRGINIA ex rel. REV. JIM LEWIS AND JOHN COONEY,

Petitioners,

vs.

No. 31541

WEST VIRGINIA ECONOMIC DEVELOPMENT GRANT COMMITTEE, et al.,

Respondents.

AND

GREENBRIER COUNTY COALITION AGAINST GAMBLING EXPANSION; AND CABELL COUNTY COALITION AGAINST GAMBLING EXPANSION, UNINCORPORATED ASSOCIATIONS,

Petitioners,

vs.

No. 31564

WEST VIRGINIA LOTTERY COMMISSION; AND ITS DIRECTOR, JOHN MUSGRAVE,

Respondents.

MOTION FOR DISMISSAL

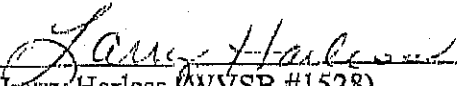
The petitioners, Rev. Jim Lewis, et al., and Greenbrier Coalition Against Gambling Expansion, et al., hereby move as follows:

1. The would-be petitioners, City of Charleston, Kanawha County Commission, City of Huntington, and Ohio County Commission, simply lack standing in Case No. 31540 to bring the claims for the Court judicially to approve any of the "certified" projects other than their own projects in these particular cities and counties, and this Court lacks jurisdiction over them in this regard.
2. For these would-be petitioner cities and county commissions purporting to sue in mandamus on behalf of other cities and counties throughout the state, as well as for various private entities, and in some instances on behalf of the State itself lack the required standing since none of them is a State citizen, a State taxpayer or a voter. *Smith v. State Board of Education*, 295 S.E.2d 680, 683 (W. Va. 1982). This Court thus lacks jurisdiction in this regard. *Youngblood v. Sanders*, 575 S.E.2d 864 (W. Va. 2002).
3. To allow these "petitioners" to proceed to participate in this regard would paint any judicial decision, and violate the due process rights of petitioners, Rev. Jim Lewis and John Cooney, under the *U. S. Const.*, Amend. 14 and the *W. Va. Const.* Art. 3, § 10.
4. Since counsel for the West Virginia Economic Development Authority in his Brief filed on October 1 explicitly declared that the interests of the Authority were totally adverse to the interests of the movants that so-called respondents cannot be aligned as a co-party with the 100% adverse movants. Indeed, the "respondent" Authority and its director, Mr. David Satterfield, avidly want to lose this case more than the would-be petitioners want to win it.
5. Since the petitioner cities and counties have no standing in this matter, and since the Authority may not be a respondent, Case No. 31540 must be dismissed.

WHEREFORE, these "petitioners" and this "respondent" must in this regard be barred from any further participation in this matter.

**STATE OF WEST VIRGINIA ex rel. REV. JIM
LEWIS AND JOHN COONEY AND
GREENBRIER COUNTY COALITION
AGAINST GAMBLING EXPANSION;
AND CABELL COUNTY COALITION
AGAINST GAMBLING EXPANSION,
UNINCORPORATED ASSOCIATIONS
PETITIONERS**

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CERTIFICATE OF SERVICE

I hereby certify that this **Motion for Dismissal** was served by facsimile transmission on
October 8, 2003, upon the following:

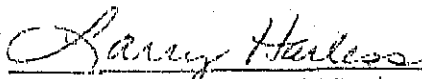
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