

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 23rd day of September, 2003, the following order was made and entered:

State of West Virginia ex rel. Cities of Charleston and Huntington and its Counties of Ohio and Kanawha, West Virginia, Petitioners

vs.) 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; West Virginia Economic Development Authority; City of Charleston; Kanawha County Commission; City of Huntington; and Ohio County Commission, 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 John Musgrave, its Director, Respondents

West Virginia Racing Association, Intervenor

On a former day, to-wit, September 16, 2003, came the petitioners, Greenbrier County Coalition Against Gambling Expansion and Cabell County Coalition Against Gambling Expansion, by Larry Harless, their attorney, and presented to the Court their petition praying for a writ of mandamus to be directed against the respondents, West Virginia Lottery Commission and John Musgrave, as therein set forth. Thereafter, on the 22nd day of September, 2003, came the petitioners, Greenbrier County Coalition Against Gambling Expansion and Cabell County Coalition Against Gambling Expansion, by Larry Harless, their attorney and presented to the Court their amended petition for writ of mandamus.

Thereafter, on the 22nd day of September, 2003, came the West Virginia Racing Association, by Rudolph L. DiTrapano, Sean P. McGinley and Richard S. Han, DiTrapano, Barrett & DiPiero, its attorneys, and presented to the Court its motion in writing for leave to intervene, in the above-captioned matter.

Finally, on the 23rd day of September, 2003, pursuant to a request for a response under Rule 14(b) of the Rules of Appellate Procedure, came the respondents, the West Virginia Lottery Commission and John Musgrave, by Thomas R. Goodwin and Johnny M. Knisely II, Goodwin & Goodwin, their attorneys, and presented to the Court their initial response thereto.

Upon consideration whereof, the Court is of opinion that a rule should be awarded herein.

It is further ordered that the above matter be, and it hereby is, consolidated with Supreme Court Docket Nos. 31540 and 31541, for purposes of consideration and decision.

It is therefore considered and ordered that a rule do issue directed against the respondents returnable before this Court at its courtroom in the City of Charleston, County of Kanawha, at nine o'clock, a. m., on Friday, the 10th day of October, 2003, commanding and directing the said respondents to show cause, if any they can, why a writ of mandamus should not be awarded against the the West Virginia Lottery Commission and John Musgrave, as prayed for by the petitioners in their said petition.

It is further ordered that the West Virginia Racing Association's motions for leave to intervene be, and they hereby are, granted.

On the 9th day of September, 2003, came the Affiliated Construction Trades Foundation, AFL-CIO, by Stuart Calwell and Vincent Trivelli, The Calwell Practice, its attorneys, and presented to the Court their motion in writing for leave to file an amicus curiae brief in the above-captioned matter, for the reasons stated therein, which being seen and inspected by the Court is hereby granted.

Thereafter, on the 12th day of September, 2003, came the West Virginia Lottery Commission and John C. Musgrave, by Thomas R. Goodwin and Johnny M. Knisely II, Goodwin & Goodwin, and presented to the Court their motion in writing for leave to intervene in Docket No. 31540, for the reasons stated therein, which being seen and inspected by the Court is hereby refused as moot in light of consolidation, and the West Virginia Lottery Commission has leave to participate as a party respondent in the consolidated cases.

Thereafter, on the 17th day of September, 2003, came the West Virginia Labor Federation, AFL-CIO, by Thomas P. Maroney, its attorney, and presented to the Court its

motion in writing for leave to file an amicus curiae brief in the above-captioned matter, for the reasons stated therein, which being seen and inspected by the Court is hereby granted.

Thereafter, on the 22nd day of September, 2003, came The West Virginia Business Roundtable, the West Virginia Business and Industry Council, and The West Virginia Hospitality and Travel Association, Inc., by Louis S. Southworth, II and Wendel B. Turner, Jackson Kelly PLLC; and Thomas A. Heywood, Bowles Rice McDavid Graff & Love, their attorneys, and presented to the Court its motion in writing for leave to file an amicus curiae brief in the above-captioned matter, for the reasons stated therein, which being seen and inspected by the Court is hereby granted.

Thereafter, on the 22nd day of September, 2003, came the West Virginia Amusement and Limited Video Lottery Operators Association, Inc., by Richard E. Boyle, Jr., Kay Casto & Chaney, its attorneys, and presented to the Court its motion in writing for leave to file an amicus curiae brief in the above-captioned matter, for the reasons stated therein, which being seen and inspected by the Court is hereby granted.

Thereafter, on the 22nd day of September, 2003, came the School Building Authority of West Virginia, by Roger D. Hunter, Neely & Hunter, its attorney, and presented to the Court its motion in writing for leave to file an amicus curiae brief in the above-captioned matter, for the reasons stated therein, which being seen and inspected by the Court is hereby granted.

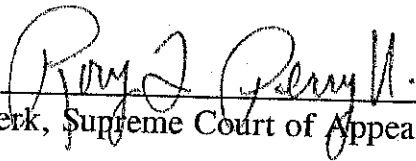
Finally, on the 23rd day of September, 2003, came the West Virginia High Technology Consortium Foundation, by Nancy E. Trudel, its attorney, and presented to the Court its motion in writing for leave to file an amicus curiae brief in the above-captioned matter, for the reasons stated therein, which being seen and inspected by the Court is hereby granted.

It is finally ordered that all parties herein are directed to file an original and nine copies of a brief on or before October 1, 2003, said briefs of respondents to serve as a response to the rule to show cause pursuant to Rule 14(d). Any party given leave to intervene or file a brief as amicus curiae shall also file an original and nine copies of a brief on or before October 1, 2003. No further responses or reply briefs will be required.

Service of a copy of this order upon the respondents aforesaid shall have the same effect as the service of a formal writ.

A True Copy

Attest:


Clerk, Supreme Court of Appeals