

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

FREEDOM FROM RELIGION
FOUNDATION, INC., et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 1:17-00642

MERCER COUNTY BOARD OF
EDUCATION, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On June 19, 2017, the court held a hearing on defendants' motion to dismiss. At that hearing, the court questioned the parties regarding whether this action was ripe given the suspension of the Bible In the Schools Program. Given that the parties were not aware of the court's concerns regarding ripeness prior to the hearing, they have not yet had the opportunity to research ripeness as it pertains to this case and address the issue in a written submission with the court. Accordingly, the parties are hereby **DIRECTED** to file briefs with the court, if they wish, on the issue of ripeness. In particular, the parties should address:

- 1) whether this case is ripe for decision; and
- 2) whether the court need decide the issue of standing prior to considering ripeness. See Toca Producers v. F.E.R.C., 411 F.3d 262, 265 n.* (D.C. Cir. 2005)("[B]ecause the ripeness requirement, even in its

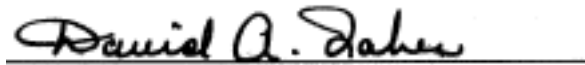
prudential aspect, likewise calls for a threshold inquiry that does not involve an adjudication on the merits, it likewise may be resolved without first addressing whether the producers have Article III standing.").

The parties' submissions, if any, are due no later than **August 4, 2017**.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record and unrepresented parties.

IT IS SO ORDERED this 6th day of July, 2017.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge