

No. 32512 – *Heeter Construction, Inc. v. West Virginia Human Rights Commission and Peter Kelly, Octavia E. Binder, Kerry L. Walker, Timothy E. Boykins, Sherrie Thomas and Andrew Thomas-Pauley*

FILED

July 12, 2005

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**RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

Starcher, J., concurring:

I concur in the majority's ruling that a new hearing should occur. But I do not join in the majority opinion's selective quotations from the record.

The full record in the instant case shows that two intelligent and zealous lawyers worked hard over a number of long days to adduce important evidence and make solid arguments. Both lawyers fought hard for their positions. (The record also shows an ALJ who mistakenly tolerated several angry exchanges by the lawyers. Most judges would not have been so tolerant.)

To excerpt from a lengthy record a few pages of embarrassing "slips" by these lawyers is unnecessary. I would have simply characterized and summarized the lawyers' exchanges.

Accordingly, I concur.