

District Judge Daybook Entry

United States District Court - Southern District of West Virginia at Charleston

Date: 12/28/2011

Case Number 2:11-cv-989

Case Style: Jefferson County Commission, et al. vs. Natalie E. Tenant, et al.

Type of hearing Oral Arguments

Before the honorable: 2516-Berger

Court Reporter Lisa Cook

Courtroom Deputy Kierstin Tudor

Attorney(s) for the Plaintiff or Government see appearances below

Attorney(s) for the Defendant(s) see appearances below

Law Clerk Ray Franks & Jarod Douglas

Probation Officer

Trial Time

Three-Judge Court. Day No: 1

Non-Trial Time

Court Time

11:55 am to 12:03 pm

2:49 pm to 4:33 pm

4:46 pm to 5:49 pm

1:15 pm to 2:36 pm

9:33 am to 11:37 am

Total Court Time: 6 Hours 20 Minutes Court actively conducting trial proceedings/Contested proceedings

Courtroom Notes

APPEARANCES:

Three Judge Panel:

Circuit Judge Robert B. King (4th Cir)

Chief District Judge John P. Bailey (NDWV)

District Judge Irene C. Berger (SDWV)

Counsel:

David M. Hammer & Stephen G. Skinner

(Plaintiffs)

Stuart Thornton Cooper

(Intervenor Plaintiff)

Thomas W. Rodd

(Defendants Tennant & Tomblin)

George E. Carenbauer & Adam B. Tomlinson

(Defendant Kessler)

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Anthony J. Majestro
(Defendant Thompson)

SCHEDULED START 9:30 a.m.
ACTUAL START 9:33 a.m.

Counsel note appearances on the record.
Mr. Skinner makes argument on behalf of Plaintiffs.
Mr. Skinner proposes remedy.
Mr. Skinner makes motion that Plaintiffs prevail on the first prong of Karcher and that the burden shift to the Defendants.
Mr. Cooper makes argument on behalf of Intervenor Plaintiff.
Mr. Cooper joins in Mr. Skinner's motion for remedy.
Mr. Majestro makes argument on behalf of Defendant Thompson.
Mr. Majestro agrees that Plaintiffs have meet burden regarding the first prong of Karcher.
Mr. Carenbauer makes argument on behalf of Defendant Kessler.
Mr. Carenbauer agrees that Plaintiffs have meet burden regarding the first prong of Karcher.
Mr. Majestro responds regarding remedy.
Court takes recess at 11:37 a.m.

Court resumed at 11:55 a.m.
Court FINDS that first prong of Karcher has been satisfied.
Court takes recess at 12:03 p.m.

Court resumed at 1:15 p.m.
Plaintiff calls KENNETH MARTIS; oath given.
Direct by Mr. Hammer.
Witness tendered as expert without objection.
Plaintiff Ex. 1 marked.
Plaintiff Ex. 2 marked and admitted.
Plaintiff Ex. 3 marked and admitted.
Plaintiff Ex. 4 marked and admitted.
Plaintiff Ex. 5 marked and admitted.
Plaintiff Ex. 6 marked and admitted.
Plaintiff Ex. 7 marked and admitted.
Plaintiff Ex. 1 admitted.
Cross by Mr. Majestro.
Cross by Mr. Cooper.
Redirect by Mr. Hammer.
Plaintiff Ex. 8 marked and admitted.
Plaintiff Ex. 9 marked and admitted.
Recross by Mr. Majestro.
Intervenor Ex. 1 marked and admitted.
Intervenor Ex. 2 marked and admitted.
Intervenor Ex. 3 marked and admitted.
Court takes recess at 2:36 p.m.

Court resumed at 2:49 p.m.
Defendant Thompson calls HERB SNYDER; oath given.
Direct by Mr. Majestro.
Cross by Mr. Cooper.
Defendant Thompson calls JOHN UNGER II; oath given.

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Direct by Mr. Majestro.
Cross by Mr. Hammer.
Plaintiff Ex. 10 marked and admitted.
Plaintiff Ex. 11 marked and admitted.
Cross by Mr. Cooper.
Redirect by Mr. Majestro.
Court takes recess at 4:33 p.m.

Court resumed at 4:46 p.m.
Defendant Thompson calls COREY PALUMBO; oath given.

Direct by Mr. Majestro.
Cross by Mr. Skinner.
Cross by Mr. Cooper.
Redirect by Mr. Majestro.
Recross by Mr. Skinner.

Previously filed Defense Exhibits addressed:

- Exhibits A, B, C, D, E & F admitted;
- Exhibit G excluded;
- Exhibits H, I, J & K admitted;
- Exhibit L withdrawn;
- Exhibits M, N, O, P, Q, R, S, T, U, V, W, X,
Y, Z and AA admitted.

Defense Exhibits contained in the previously filed reply brief are deemed submitted to the Court.

Defendant Thompson rests.

No rebuttal.

Court recessed at 5:49 p.m.