

WEST VIRGINIA

WV SUPREME COURT HANDS DOWN A MEMORANDUM DECISION



On March 23, 2022, the West Virginia Supreme Court of Appeals handed down a memorandum decision affirming Martinsburg Member Jim Marshall and Associate Adam Strider's summary judgment win in *Hamstead v. Harvey*, No. 21-0410.

In that case, the Plaintiff brought an Invasion of Privacy claim against Jefferson County Prosecuting Attorney, Mr. Harvey and the Jefferson County Commission, alleging that Mr. Harvey had transmitted a state police report to a newspaper reporter which contained the Plaintiff's social security number and alleged confidential medical information.

In affirming the Circuit Court of Jefferson County's order granting summary judgment on behalf of our clients, the Supreme Court held that Mr. Harvey was entitled to absolute statutory & qualified immunity, and that the County Commission was entitled to absolute statutory immunity. The document at issue had been subpoenaed

by the Plaintiff's criminal defense attorney in the course of a misdemeanor prosecution for Disorderly Conduct, Destruction of Property, and Obstructing an Officer, and had been filed unredacted into the public record by the Magistrate.

The Court held that, because the document was publicly available at the time it was transferred – and thus could have been accessed by the reporter even if Mr. Harvey had not sent it to him – that no invasion of privacy could arise from its transmission. Thus, not only was Mr. Harvey protected by qualified immunity because no recognized legal standard had been violated, there was no underlying tort even absent applicable immunities. Further, the County Commission was entitled to absolute statutory immunity, because communicating with a reporter about a case in progress is a prosecutorial function, which is absolutely protected under the West Virginia Tort Claims and Insurance Reform Act. The result was a complete dismissal of all claims and a complete win for our clients.



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