

SUPREME COURT OF APPEALS OF WEST VIRGINIA

In re: The Remains of Chester Howard West

In re West · No. No. 16-0410 · Decided June 7, 2017

SUMMARY

This document is a dissenting opinion by Chief Justice Loughry in a West Virginia Supreme Court of Appeals case concerning a petition to exhume and reinter the remains of Medal of Honor recipient Chester Howard West. The dissent argues that the petitioner lacked standing, that the circuit court lacked statutory authority to order disinterment, and that honoring West's military service did not require disturbing his remains.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Loughry, Chief Justice
JURISDICTION	West Virginia
DECIDED	June 7, 2017
DOCKET	No. 16-0410
DISPOSITION	other
PROCEDURAL POSTURE	Dissent from a Supreme Court of Appeals of West Virginia decision concerning a circuit court order permitting the exhumation and reinterment of Chester Howard West's remains.
PRECEDENTIAL VALUE	Nonbinding dissenting opinion

TOPICS

[standing](#) [probate procedure](#) [estate litigation](#) [military law](#) [equitable relief](#)

PRACTICE AREAS

[Civil procedure](#) [Probate and estate law](#) [Military and veterans law](#) [Remedies](#)

QUESTIONS PRESENTED

1. Whether a person with no familial or legal relationship to a decedent has standing to seek judicial disinterment and reinterment of the decedent's remains.

2. Whether the circuit court possessed statutory or inherent equitable authority to order disinterment and reinterment under the circumstances.
3. Whether a laudable purpose of honoring a deceased veteran justifies disturbing the decedent's chosen or established final resting place.

HOLDINGS

1. In the dissent's view, Williams lacked standing because he could not identify an invasion of a legally protected interest, a causal connection between any injury and the challenged conduct, or redressability under West Virginia's standing test.
2. In the dissent's view, the circuit court lacked statutory authority to grant the petition, and its inherent equitable power did not justify ordering disinterment under these circumstances.

KEY QUOTATIONS

“Standing is comprised of three elements: First, the party attempting to establish standing must have suffered an “injury-in-fact”—an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent and not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct forming the basis of the lawsuit. Third, it must be likely that the injury will be redressed through a favorable decision of the court.” (at 2)

“Yet, we cannot lose sight of the fact that, both legally and equitably, the highest honor that can be bestowed on those who have fought for our freedoms is one which protects, not disrespects, their chosen final resting place.” (at 6)

FACTUAL BACKGROUND

Chester Howard West, a World War I veteran and Medal of Honor recipient, was murdered in 1935 and buried at the request of his widow in her family's cemetery in Mason County, West Virginia. Hershel Woodrow Williams, who had no familial or legal relationship to West, sought to exhume West's remains because the cemetery and burial monument were allegedly not adequately maintained. Members of the VanSickle family opposed disturbing the remains, but the circuit court ordered reinterment in a state veterans cemetery to preserve West's memory.

PROCEDURAL HISTORY

Hershel Woodrow Williams petitioned the circuit court to exhume Chester Howard West's remains and reinter them in a state veterans cemetery so that West's Medal of Honor service would be honored. Despite opposition from members of West's wife's family, the circuit court held an evidentiary hearing and ordered exhumation and reinterment, invoking inherent equitable authority. Chief Justice Loughry dissented from the majority's disposition, arguing that the petition should have been dismissed for lack of standing and lack of statutory authority.

DISPOSITION

other

CASES CITED

- Haudenschilt v. Haudenschilt, 129 W. Va. 92, 121, 39 S.E.2d 328, 343 (1946)
- Motorists Mut. Ins. Co. v. Huron Rd. Hosp., 653 N.E.2d 235, 239 (Ohio 1995)
- Findley v. State Farm Mut. Auto. Ins. Co., 213 W. Va. 805, 76 S.E.2d 807 (2002)
- Grisso v. Nolen, 554 S.E.2d 91, 95-96 (Va. 2001)
- In re Elman, 578 N.Y.S.2d 95 (N.Y. Sup. Ct. 1991)
- In re Estate of Puder, 2011 WL 112424 (N.J. Super. Ct. App. Div. Jan. 14, 2011)
- Sacred Heart of Jesus Polish Nat. C. Church v. Soklowski, 199 N.W. 81, 82 (Minn. 1924)

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