

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Martinka Coal Co. v. West Virginia Division of Environmental Protection

214 W. Va. 467 (2003) · Decided November 24, 2003

SUMMARY

The West Virginia Supreme Court of Appeals held that the West Virginia Surface Coal Mining and Reclamation Act and implementing regulations permit an award of reasonable attorneys' fees for successfully defending an administrative fee award on judicial appeal. The court reversed the Marion County Circuit Court's denial of the Vincents' request for additional fees and remanded for determination of eligibility and the amount reasonably incurred.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Albright
JURISDICTION	West Virginia
DECIDED	November 24, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Vincents appealed a final order of the Circuit Court of Marion County denying additional attorneys' fees and costs incurred in successfully defending a Surface Mine Board award of fees and costs.
STANDARD OF REVIEW	Questions of law concerning the interpretation and application of an administrative agency regulation are reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Ralph Vincent, Brenda Vincent v. Martinka Coal Co.

TOPICS

administrative law

judicial review of agency action

appellate procedure

remedies

mining law

PRACTICE AREAS

administrative law

environmental law

attorneys' fees

appellate procedure

mining law

QUESTIONS PRESENTED

1. Whether West Virginia Code § 22-3-25 and the implementing Surface Mining Reclamation Legislative Rule permit an award of reasonable attorneys' fees for legal services rendered in successfully defending a Surface Mine Board award of fees and costs on appeal.
2. Whether the fee-shifting authority extends to fees incurred in appealing the merits of a Surface Mine Board order as well as fees incurred in defending an award of costs, attorneys' fees, or expert witness fees.

HOLDINGS

1. The express fee-shifting authority in West Virginia Code § 22-3-25, subject to the applicable regulation, includes reasonable attorneys' fees for legal services provided to a litigant who successfully appeals or defends an appeal from a Surface Mine Board order, including an order awarding costs and fees.
2. Recovery of appellate attorneys' fees is discretionary and limited; the claimant must prevail, the court must find a significant contribution to the full and fair determination of the issues on appeal, and the amount must be reasonably incurred.

KEY QUOTATIONS

“On appeal of an administrative order from a circuit court, this Court ... reviews questions of law presented de novo_” (214 W. Va. at 468)

“Interpreting a statute or an administrative rule or regulation presents a purely legal question subject to de novo review.” (214 W. Va. at 468)

“Therefore, we conclude that the award of reasonable attorneys’ fees, available through the express authority of West Virginia Code § 22-3-25 (1994) and subject to the terms and conditions of the West Virginia Surface Mining Reclamation Legislative Rule, includes legal services provided to a party litigant on a successful appeal of an order of the SMB.” (214 W. Va. at 470-471)

FACTUAL BACKGROUND

The DEP issued Martinka Coal Co. a notice of violation under the West Virginia Surface Coal Mining and Reclamation Act concerning acid mine drainage. Ralph and Brenda Vincent intervened in Martinka's appeal before the Surface Mine Board and were granted full party status. After prevailing, they obtained a partial award of costs, attorneys' fees, and expert witness fees, which the circuit court affirmed; they then sought additional fees for defending that award on appeal.

PROCEDURAL HISTORY

The West Virginia Department of Environmental Protection issued Martinka a notice of violation under the West Virginia Surface Coal Mining and Reclamation Act. The Vincents intervened in Martinka's administrative appeal, prevailed before the Surface Mine Board, and received an award of costs and fees. After the circuit court affirmed that award, the Vincents sought fees for defending the award on appeal; the circuit court denied the request, and the Supreme Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must determine whether the Vincents are eligible for an award and, if appropriate, award reasonable attorneys' fees, including fees incurred in the appeal to the Supreme Court of Appeals.

CASES CITED

- Muscatell v. Cline, 196 W. Va. 588, 474 S.E.2d 518 (1996)
- Appalachian Power Co. v. State Tax Department, 195 W. Va. 573, 466 S.E.2d 424 (1995)
- Sally-Mike Properties v. Yokum, 179 W. Va. 48, 365 S.E.2d 246 (1986)
- Loudon v. Division of Environmental Protection, 209 W. Va. 689, 551 S.E.2d 25 (2001)
- Orndorff v. West Virginia Department of Health, 165 W. Va. 1, 267 S.E.2d 430 (1980)
- Weisenberger v. Huecker, 593 F.2d 49 (6th Cir. 1979), cert. denied, 444 U.S. 880 (1979)