SUPREME COURT OF APPEALS OF WEST VIRGINIA

# Ryan Cunningham v. Ronald F. LeGrand and Mountain Country Partners, LLC

237 W. Va. 68 (2016) · No. 11-1613 · Decided March 15, 2016

## SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the circuit court's confirmation of an arbitration award against Ryan Cunningham. The court held that "manifest disregard of the law" is not a valid statutory basis for challenging an arbitration award governed by the Federal Arbitration Act. It also rejected challenges based on the arbitrator's consideration of hearsay evidence and refusal to reopen the proceedings for rebuttal evidence.

## CASE DETAILS

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| COURT | Supreme Court of Appeals of West Virginia |
| WRITING FOR THE COURT | Justice Loughry |
| JURISDICTION | West Virginia |
| DECIDED | March 15, 2016 |
| DOCKET | 11-1613 |
| DISPOSITION | affirmed |
| PROCEDURAL POSTURE | Appeal from an order of the Circuit Court of Kanawha County confirming an arbitration award and entering judgment on the award. The petitioner sought to vacate the award based on alleged manifest disregard of law, consideration of hearsay evidence, and refusal to reopen the arbitration for rebuttal evidence. |
| STANDARD OF REVIEW | Judicial review of an arbitration award is exceedingly narrow. Courts determine whether the arbitrators performed the task submitted to them and whether a statutory or otherwise recognized basis for vacatur exists; they do not review the merits or correct even grave errors of law. Greater deference applies to arbitral procedural decisions. |
| PRECEDENTIAL VALUE | Published West Virginia Supreme Court of Appeals opinion; precedential. |
| PARTIES | Ryan Cunningham v. Ronald F. LeGrand, Mountain Country Partners, LLC |

## TOPICS

appellate procedure · standard of review · evidence · limited liability companies · contracts

## PRACTICE AREAS

arbitration · appellate procedure · limited liability companies · commercial litigation · evidence

## QUESTIONS PRESENTED

1. Whether manifest disregard of the law is a valid statutory basis for vacating an arbitration award governed by the Federal Arbitration Act.
2. Whether the arbitrator's consideration of hearsay evidence constituted a basis for vacating the award.
3. Whether the arbitrator improperly refused to reopen the arbitration proceeding to permit rebuttal evidence.

## HOLDINGS

1. Manifest disregard of the law is not recognized as a valid statutory basis for challenging an arbitration award made pursuant to the Federal Arbitration Act.
2. The arbitrator's consideration of hearsay evidence did not provide a basis for vacating the award because the arbitration rules did not require application of formal judicial rules of evidence and the petitioner failed to show misconduct or prejudice recognized under the FAA.
3. The arbitrator's refusal to reopen the proceeding did not justify vacatur because the decision was a procedural matter within the arbitrator's discretion and Cunningham had not been deprived of the opportunity to present evidence.

## KEY QUOTATIONS

> *"Manifest disregard of the law is not recognized as a valid statutory basis for challenging an arbitration award made pursuant to the provisions of the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (2012)."* (Syllabus)

> *"Awards by arbitration are to be favored and liberally construed and are not to be set aside unless they appear to be founded on grounds clearly illegal."* (at 6)

> *"Finding the request "unreasonable and improper under the circumstances," the arbitrator concluded that the request was "not appropriate, as it will not further the needs of the parties and will not make discovery in this matter expeditious and cost effective.""* (at 11)

## FACTUAL BACKGROUND

Mountain Country Partners, LLC was formed to acquire and develop oil and gas properties, and Cunningham, LeGrand, and other individuals executed an Operating Agreement containing a mandatory arbitration clause governed by the Federal Arbitration Act. Cunningham sought access to company records and attempted to obtain control of Mountain Country, while the respondents asserted counterclaims alleging conversion, misuse of company funds, falsification of asset values, and spoliation. After a three-day arbitration hearing, the arbitrator denied Cunningham's claim and awarded Mountain Country $113,717.50 in damages and $162,442 in attorney's fees and costs. Cunningham did not attend the final hearing day, did not present a defense to the counterclaims, and sought to reopen the proceeding only after the award issued.

### PROCEDURAL HISTORY

Cunningham filed a civil action seeking access to Mountain Country's records and control of the company. Because the Operating Agreement required arbitration under the Federal Arbitration Act, the circuit court stayed the action pending arbitration. The arbitrator denied Cunningham's claim, awarded Mountain Country damages and attorney's fees on counterclaims, and denied his post-award request to reopen the proceedings. The circuit court denied Cunningham's motion to vacate, confirmed the award, and entered judgment; the Supreme Court of Appeals affirmed.

### DISPOSITION

affirmed

### CASES CITED

- CDS Family Trust, LLC v. ICG, Inc., No. 13-0375, 2014 WL 184441 (W. Va. Jan. 15, 2014)
- MCI Constructors, LLC v. City of Greensboro, 610 F.3d 849, 857 (4th Cir. 2010)
- Board of Education v. W. Harley Miller, Inc., 160 W. Va. 473, 236 S.E.2d 439 (1977)
- Hughes v. National Fuel Co., 121 W. Va. 392, 3 S.E.2d 621 (1939)
- Wilko v. Swan, 346 U.S. 427, 436, 438 (1953)
- Rodriguez de Quijas v. Shearson/American Express, Inc., 490 U.S. 477 (1989)
- Hall Street Associates, L.L.C. v. Mattel, Inc., 552 U.S. 576, 587, 590 (2008)
- PNGI Charles Town Gaming, L.L.C. v. Mawing, 2015 WL 898559, at *1 n.1 (4th Cir. 2015)
- Sheet Metal Workers' International Association v. Beckley Mechanical, Inc., 803 F. Supp. 2d 511, 516 (S.D. W. Va. 2011)
- Ramos-Santiago v. U.P.S., 524 F.3d 120, 124 n.3 (1st Cir. 2008)
- Oxford Health Plans LLC v. Sutter, 133 S. Ct. 2064, 2070-71 (2013)
- Barber v. Union Carbide Corp., 172 W. Va. 199, 203, 304 S.E.2d 353 (1983)
- Clinton Water Association v. Farmers Construction Co., 163 W. Va. 85, 87, 254 S.E.2d 692 (1979)
- Remney v. PaineWebber, Inc., 32 F.3d 143, 146 (4th Cir. 1994)
- First Options of Chicago, Inc. v. Kaplan, 514 U.S. 938, 942 (1995)
- ARMA, S.R.O. v. BAE Systems Overseas, Inc., 961 F. Supp. 2d 245, 263 (D.D.C. 2013)
- Board of Education v. W. Harley Miller, 159 W. Va. 120, 221 S.E.2d 882 (1975)