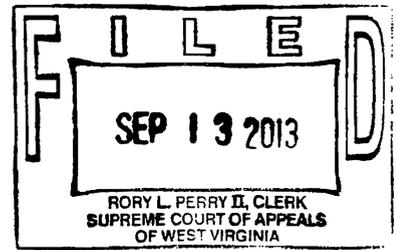


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September 12, 2013

Rory L. Perry, II, Clerk
WV Supreme Court of Appeals
State Capitol, Room E-317
1900 Kanawha Boulevard, East
Charleston, WV 25305

Re: *WVRJA v. A.B.*
Case No.: 13-0037

Dear Mr. Perry:

Since Respondent submitted her *Respondent's Brief* to the Court, there has been a decision in United States District Court which is directly related to the issues in this matter. To that end, pursuant to Rule 10(i) of the West Virginia Rules of Appellate Procedure, Respondent submits this letter to the Court.

Rule 10(i) of the West Virginia Rules of Appellate Procedure, *Notice of additional authorities*, reads as follows:

Whenever a party desires to present late authorities, newly enacted legislation, or other intervening matters that were not available in time to have been included in the party's brief, the party may briefly inform the Court by letter, with copy provided to opposing parties. If the Court desires any further briefing or argument, it will so instruct by order.

In keeping with his earlier rulings which are addressed in *Respondent's Brief*, the Honorable John T. Copenhaver, Jr., made a ruling concerning qualified immunity and other related issues in the matter of Krein v. West Virginia State Police, et al., U.S.D.C., Civil Action No.: 2:11-cv-0962. In his June 11, 2013 ruling, Judge Copenhaver held that defendant West Virginia State Police's Motion for Summary Judgment in regard to qualified immunity was denied. Judge Copenhaver further held that the factfinder perhaps may find that defendant West Virginia State Police could be vicariously liable for the actions of the troopers involved in the shooting.

While Judge Copenhaver granted summary judgment in regard to negligent supervision, that plaintiff presented no evidence to substantiate that claim. In this matter, the record reflects that there is plenty evidence to support Respondent's negligent supervision and

retention claims concerning the correctional officer. Namely, the evidence shows that at least one of the correctional officer's superior officers and additional officers were aware of Respondent's allegations against him and little, if any, investigation or inquiry was done to curb or alleviate additional alleged acts of sexual misconduct towards the Respondent after Petitioner WVRJCFA learned of these allegations by and through a disinterested third party.

Finally, Judge Copenhaver denied West Virginia State Police's motion for summary judgment in regard to the plaintiff's claim of intentional infliction of emotional distress.

For your convenience I have included a copy of the aforementioned decision.

Thank you for your attention to this matter. Please do not hesitate to contact me with any questions.

Very Truly Yours,



Kerry A. Nessel

cc: M. Andrew Brison, Esquire
John P. Fuller, Esquire
Amanda Belcher