

No. 30671—*State of West Virginia ex rel. Jerry Shelton v. Honorable Robert A. Burnside, Jr., et al.*

**FILED**

January 6, 2003  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**RELEASED**

January 8, 2003  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

McGraw, Justice, dissenting:

The petitioner in this case argues that our rules of evidence prohibit the admission of the statements in question. As the applicable rule states, in part:

Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible.

W. Va. R. Evid. 408.

Although the respondent maintains otherwise, it appears the only reason for admitting the statements would be to show the “invalidity of the claim” made by the petitioner. I fear that allowing the disclosure of such evidence will impair settlement proceedings in future employment cases. Because I fear that this decision may discourage settlements and thereby further crowd court dockets, I respectfully dissent.