

No. 35734 – *State of West Virginia ex rel. The Lincoln Journal, Inc., Thomas A. Robinson, Individually, and Ron Gregory, Individually v. The Honorable Jane F. Hustead, Timothy Butcher, and Bobby Adkins*

FILED

May 2, 2011

released at 3:00 p.m.
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

Ketchum, J., concurring:

I completely agree with the majority’s opinion. I write separately to emphasize that speech like that used by the Lincoln Journal is entitled to special protection in the courts.

Debate on matters of public concern should be “uninhibited, robust, and wide-open.”¹ This is because “speech concerning public affairs is more than self-expression; it is the essence of self-government.”² The U.S. Supreme Court has therefore repeatedly emphasized that speech on matters of public issues occupies the “highest rung of the hierarchy of First Amendment values,”³ and is entitled to special protection.

“Speech is powerful. It can stir people to action, move them to tears of both joy and sorrow, and . . . inflict great pain. . . . [But] as a Nation we have chosen . . . to protect even hurtful speech on public issues to ensure that we do not stifle public debate.”⁴

I therefore whole-heartedly concur with the majority’s decision.

¹*New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

²*Garrison v. Louisiana*, 379 U.S. 64, 74-75 (1964).

³*Connick v. Myers*, 461 U.S. 138, 145 (1983).

⁴*Snyder v. Phelps*, 562 U.S. ___, ___ (March 2, 2011) (Slip Op. at 15).