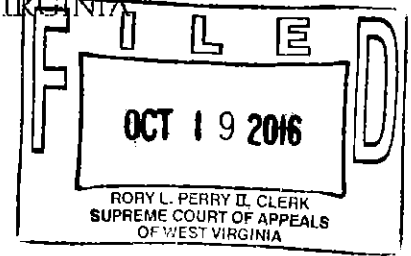


16-BCD-17

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

STATOIL USA ONSHORE
PROPERTIES, INC.,

Petitioner,



Ohio County Circuit Court
Civil Action No. 16-C-246
Honorable David J. Sims

THE HONORABLE MARK MATKOVICH,
West Virginia State Tax Commissioner,
THE HONORABLE KATHIE HOFFMAN,
Assessor of Ohio County, and
THE COUNTY COMMISSION OF OHIO COUNTY,

Respondents.

REPLY MEMORANDUM OF
THE COUNTY COMMISSION OF OHIO COUNTY
TO STATOIL USA ONSHORE PROPERTIES, INC.'s
MOTION TO REFER CASE TO BUSINESS COURT DIVISION

NOW COMES the County Commission of Ohio County by its Solicitor, Donald J. Tennant, Jr., and responds to Statoil USA Onshore Properties, Inc.'s (hereinafter referred to as "Statoil") Motion to Refer the subject case currently filed in the Circuit Court of Ohio County to the Business Court Division under Trial Court Rule 29. The subject Circuit Court case is an appeal of the decision of the Ohio County Commission denying Statoil's request for a tax exoneration in the amount of \$2,838,725.04 alleging a "clerical error" under W.Va. Code §11-3-27.

The Ohio County Commission objects to Statoil's Motion to Refer this matter to Business Court Division on the following two grounds:

- (1) This case is not "complex" and;
- (2) This case does not present commercial and/or technology issues where "specialized treatment" is necessary to improve the expectation of a fair and reasonable resolution of the controversy and no specialized knowledge or expertise is necessary to apply the law or legal principles to decide the issue and the case does not involve "business entities" on both sides under Trial Court Rule 29 (a) (1). Here, the principal claim does not involve matters of significance to the transactions, operations, or governance between business entities. Here we have a multi-national business and government of Ohio County.

While it appears that at least two reported cases at the West Virginia Supreme Court dealt with tax issues that emanated from tax assessments at the County level (see Lee Lingo, LLC v Hess (14-0962) (Nov. 20, 2015) and Matkovich v. University Healthcare, 15-0597 and 15-0599 (Oct. 11, 2016)). Based upon information and a report from a party participant, neither case referral to Business Court Division was contested or objected to by the parties

A formal hearing with a certified court reporter was held by the Ohio County Commission on June 14, 2016 wherein Statoil brought forward testimony that the company "self-reported" to the Ohio County Assessor the working gas/oil production estimates rather than the actual production amounts reported to it by third party producers. Statoil's interest in the oil/gas is a

"non-operating, working interest" referred to as a "take-in-kind" interest under which Statoil receives a portion of the natural gas produced.

Here, Statoil admitted that it had "erroneously submitted" the estimates it had in its computer rather than the actual production numbers it had received from the third party producers.

On cross examination, the County Assessor put forward evidence that Statoil was not free of negligence in submitting the wrong numbers or said submission was exercised by poor judgment and this exoneration should not be granted under § 11-3-27 since any "clerical error" must have been committed free of negligence.

The Ohio County Commission denied the Statoil request for exoneration. Statoil appealed to the Circuit Court of Ohio County.

Thus, the evidence to be reviewed by the Court has already been preserved at the evidentiary exoneration hearing and no new evidence should be received for decision on the Appeal.

Certainly, the Circuit Court of Ohio County (Honorable David J. Sims) is competent to apply the law to the facts as preserved given the transcript of the evidentiary hearing is of record.

It is a simple question: Was it a "clerical error" under W.Va. Code § 11-3-27 committed without negligence by Statoil?

This is not complex or in need of a specialized Court.

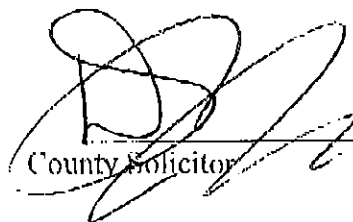
While Statoil has a multiple Counties at issue, there are rules that would allow for joinder for purposes of a solitary decision.

Wherefore, the Ohio County Commission requests this Court deny Statoil's request to have the case referred to the Business Court Division.

Respectfully submitted,

The County Commission of Ohio
County,

By


County Solicitor

Donald J. Tennant, Jr., Esq.
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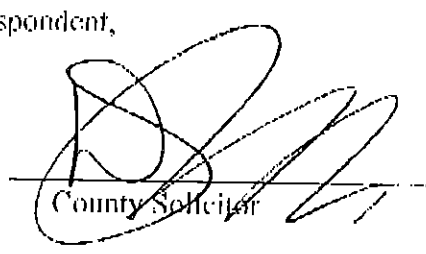
CERTIFICATE OF SERVICE

Service of the foregoing Reply Memorandum of the County Commission of Ohio County to Statoil USA Onshore Properties, Inc.'s Motion to Refer Case to Business Court Division was had by United States mail, postage prepaid, of a true and complete copy thereof on the 19th day of October, 2016, to the following:

Craig A. Griffith, Esq.
John J. Meadows, Esq.
Steptoe & Johnson, PLLC
P.O. Box 1588
Charleston, WV 25326
Counsel for Statoil USA Onshore Properties, Inc.

THE OHIO COUNTY COMMISSION
Respondent,

By


County Solicitor

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