

Workman, C.J., Concurring Opinion, Case No.23380 Delbert Martin v. West Virginia Division of Labor Contractor Licensing Board

No. 23380 - Delbert Martin v. West Virginia Division
of Labor Contractor Licensing Board

Workman, C. J., concurring:

I reluctantly must agree with the decision reached by the majority only because the law, as presently written, compels such a result. I write separately to emphasize the pressing need for legislative consideration of the issue presented by the facts of this case.

Under existing statutory law, the majority opinion makes clear that the figurative hands of the West Virginia Division of Labor Contractor Licensing Board are tied with regard to taking disciplinary action against a licensee absent a final adjudication in a court of record. See W. Va. Code 21-11-14(h). In most instances, small claims against inept or dishonest contractors are filed in magistrate court. Since a magistrate court is, by statute, not a court of record, there exists no final adjudication upon whether such a contractor's license can be revoked. The Legislature should seriously consider amending the statutory language to remove this prohibition. Otherwise, the laudable statutory objective of authorizing and in fact, facilitating disciplinary action against contractors who harm this State's citizens will be thwarted in every similar case. Most of West Virginia's contractors are honest and perform skilled work. I hope they and the West Virginia Division of Labor Contractor Licensing Board will consider seeking legislative change to correct this problem.