

No. 27911 - State of West Virginia ex rel. Nathaniel Lowe v. Honorable David W. Knight,
Judge of the Circuit Court of Mercer County, and William Sadler, Prosecuting
Attorney for Mercer County

FILED

January 5, 2001
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

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Starcher, J., concurring:

I concur with the result of the majority opinion -- because, as the majority holds, prosecutors should not threaten criminal prosecution to get people to give up custody of their children.

However, I am concerned that this particular defendant may have suffered prejudice in his criminal case, as a result of his good-faith reliance upon the custody agreement. Upon remand, the circuit judge should be certain that nothing that the state obtained, by virtue of the invalidated custody agreement, is used against the defendant in any criminal case.