

No. 30000 – Patrick B. Belcher v. Wal-Mart Stores, Inc., Joyce Hoover, and David Walker

FILED

July 11, 2002

**RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

RELEASED

July 12, 2002

**RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

Starcher, Justice, dissenting:

I dissent because the majority opinion fails to address the demeaning, defamatory effect of Wal-Mart’s interrogation of Patrick Belcher, in full view of twenty to thirty other customers. Mr. Belcher was repeatedly questioned by several Wal-Mart employees and store managers, and a local police officer, in a main aisle of the store and at the customer service desk.

The record reflects that other store customers were staring at the interaction between the store managers, the police officer and Mr. Belcher “like, he was talking to a criminal or wondering what this guy has done.” In the middle of the store, Mr. Belcher was accused of counterfeiting the receipt for the computer, and was told by the store managers that he was presenting “a fake, felonious receipt.” The police officer assured Mr. Belcher that he was not being detained – but also told him he could not leave because the store managers were awaiting the arrival of their loss prevention manager. Wal-Mart also refused to refund his money.

The record plainly presents triable issues of fact regarding whether Mr. Belcher was defamed and unlawfully detained. The majority opinion holds that Mr. Belcher – even

though he was essentially accused of thievery – was not defamed. The majority opinion also holds that because Mr. Belcher was questioned and treated like a thief in front of total strangers, he could not prove he suffered any loss of his reputation in the community. I wholly disagree with these holdings.

Wal-Mart could have easily taken Mr. Belcher aside, into an office, and spoken with him privately. Had it done so, the instant lawsuit would likely never have been filed. Wal-Mart's concerns about a stolen computer were perfectly legitimate – but castigating a customer in plain view of the public, and treating him as guilty until proven innocent is just wrong. I would have allowed a jury to hear the evidence and decide whether Wal-Mart's concerns outweighed Mr. Belcher's dignity and reputation – even his reputation with total strangers.

I therefore respectfully dissent.