

No. 30629 - David Stanley, dba L & D Contractors, Limited Liability Company, v.
Harrison County Bank, Allegheny Power, Bank One, West Virginia, NA

FILED

December 10, 2002

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

RELEASED

December 11, 2002

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

Starcher, Justice, concurring:

I write separately to point out that the appellant presented a legally thorough case, relying effectively on the statute, to justify his claim to the proceeds from the mining of the coal in question. Unfortunately, however, the appellant's claim must fail because the financing scheme for businesses like Linn Mining is dependent on initial lenders having a prioritized security interest in a business' accounts and inventory. There are no allegations of any improper collusion, fraud, or other equitable misconduct involving Bank One or Linn Mining that could undo the Bank's priority. On this basis, I applaud the efforts of the appellant, but must concur in the Court's judgment.