

No. 30902 – *In Re: Russell Morgan Williams, et al. v. GMAC Mortgage, et al.*

FILED

July 7, 2003

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

McGraw, J., dissenting:

Though the improper conduct at the center of this case might seem minor or trifling to some, the requirement that deeds be acknowledged properly is nonetheless the law of the land in West Virginia. Moreover, our Legislature has seen fit to make misconduct by a notary a crime:

(a) A notary public who knowingly and willfully commits any official misconduct is guilty of a misdemeanor, and, upon conviction, shall be fined not more than five thousand dollars or imprisoned in the county jail not more than one year or both fined and imprisoned.

(b) A notary public who recklessly or negligently commits any official misconduct is guilty of a misdemeanor, and, upon conviction, shall be fined not more than one thousand dollars.

W. Va. Code § 29C-6-202 (1984). Likewise, the Legislature has made it a crime to impersonate a notary public:

Any person who acts as, or otherwise willfully impersonates, a notary public while not lawfully appointed and commissioned to perform notarial acts is guilty of a misdemeanor, and, upon conviction, shall be fined not more than five thousand dollars or imprisoned in the county jail not more than one year, or both fined and imprisoned.

W. Va. Code § 29C-6-203 (1984). The laws are on the books for a reason, and I believe that ignoring the wrongful conduct in this case undermines our traditional system of recording ownership of real property. Accordingly, I must respectfully dissent.