

No. 31147 – *Weirton Medical Center v. The Hon. James P. Mazzone, Judge*

FILED

July 3, 2003

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

McGraw, J., dissenting:

The trial judge in this case carefully reviewed the proffered evidence and decided that the views expressed by the doctor were well outside the scientific mainstream for this particular issue. This Court has often held that:

“The action of a trial court in admitting or excluding evidence in the exercise of its discretion will not be disturbed by the appellate court unless it appears that such action amounts to an abuse of discretion.” Syllabus point 10, *State v. Huffman*, 141 W. Va. 55, 87 S.E.2d 541 (1955), *overruled on other grounds*, *State ex rel. R.L. v. Bedell*, 192 W. Va. 435, 452 S.E.2d 893 (1994).

Syl. pt. 1, *State v. Calloway*, 207 W. Va. 43, 528 S.E.2d 490 (1999); *accord*, syl. pt. 4, *Riggle v. Allied Chem. Corp.*, 180 W. Va. 561, 378 S.E.2d 282 (1989); *State v. Copen*, 211 W. Va. 501, 566 S.E.2d 638 (2002) (per curiam). Because I do not believe that Judge Mazzone abused his discretion in this case, I must respectfully dissent.