

No. 24-661 – *Corotoman, Inc. v. Central West Virginia Regional Airport Authority, Inc.*

WHITE, Judge, concurring:

I concur in the Court’s opinion to the extent that it addresses the doctrine of gross disproportionality within the context of a construction contract. I write separately, however, to emphasize the limited scope of my concurrence. The contractual relationship at issue critically informs the principles governing the corresponding gross disproportionality analysis. Construction contracts present distinct considerations, including delay-related risks, project coordination concerns and damages that are often difficult to ascertain at the time of contracting.

As framed by the Fourth Circuit, the certified question arises from “a breach of a construction contract dispute.” The analysis adopted by the Court is therefore properly confined to that context. I do not read the certified question as asking this Court to determine, in the first instance, whether the agreement at issue constitutes a construction contract, nor would I extend the Court’s reasoning beyond that premise.