

W.Va. High Court Orders Judge Disqualified From EQT Suits

By **Morgan Conley**

Law360 (April 15, 2021, 7:39 PM EDT) -- EQT Corp. has prevailed in its efforts to get a West Virginia state court judge barred from presiding over three oil and gas royalty lawsuits against the company in light of the judge's own oil and gas interest ownership.

West Virginia Supreme Court Chief Justice Evan H. Jenkins on Monday ordered Judge Timothy Sweeney disqualified from suits alleging that EQT shorted oil and gas lease owners on royalty payments through improper deductions. Chief Justice Jenkins said in the ruling that the high court has agreed to disqualify Judge Sweeney, although it does not believe the judge acted improperly or demonstrated an inability to fairly oversee the matters.

EQT alleged that Judge Sweeney failed to disclose improper financial and personal interests in the outcome of royalty disputes due to owning and overseeing oil and gas interests in the counties he presides over.

"Upon review of the above-referenced motions, Judge Sweeney's response thereto, [EQT's] reply, and the supplemental appendix, and in accordance with [trial court rules governing motions for disqualification], the Chief Justice has determined that there is no reason to doubt the sincerity or credibility of Judge Sweeney in his ability to fairly sit on these cases," Chief Justice Jenkins wrote. "However, under the specific facts presented and to avoid even an appearance of impropriety, he should be disqualified."

Judge Sweeney told Law360 Thursday that he was gratified that the state Supreme Court said it believed he could be fair even though they removed him from the suits.

"I'm not sure how they arrived at the conclusion, inasmuch as they acknowledged that I could be fair and impartial. But that's their call, and I understand that," Judge Sweeney said. "I am just reassured and glad that they realized I could give them a fair trial and be fair in the trial."

The state high court appointed Judge Michael D. Lorensen of the Twenty-Third Judicial Circuit to preside over the suits going forward.

EQT is pleased with the state high court's ruling and impressed with the court's speedy resolution of its concerns, which "provides clarity for the parties going forward and allows the cases to proceed," Lauren W. Varnado of McKool Smith PC, an attorney for the company, told Law360 Thursday.

EQT told the West Virginia Supreme Court in a January letter that Judge Sweeney could not be impartial when assessing oil and gas lease owners' allegations because his family also holds leases and his interpretation of lease provisions could benefit himself or his family members' bottom line.

EQT added in the letter that Judge Sweeney's response to its bid to disqualify him from royalty disputes only heightened its concerns about the judge's impartiality, arguing that his "hyperbolic language and animus towards EQT's counsel" is cause for alarm.

Judge Sweeney denied having any improper lease holdings, saying in his own January letter to the state high court that neither he nor his family had "ever received a royalty payment." He said EQT's logic for his disqualification was like if all insured judges were unable to rule on insurance coverage disputes because their ruling could personally benefit them one day. Such hypotheticals are far too "tenuous" and speculative to warrant disqualification, the judge said.

The company has claimed that Judge Sweeney and another West Virginia state court judge both failed to disclose financial and personal interests in the outcome of royalty disputes they hear, claiming both judges own oil and gas interests in a significant amount of land in the counties they preside over.

In Judge Sweeney's case, the company also argued that his role overseeing an educational trust obligates him to maximize the earnings from the trust's oil and gas assets, some of which are operated by EQT. That responsibility directly conflicts with his obligations as a judge, EQT said.

The three suits were brought by plaintiffs Mary Farr Secrist, Carl L. Goff, and Philip K. Williams.

An attorney for the Groff and Williams royalty owners, Scott A. Windom of Windom Law Offices PLLC, told Law360 Thursday that he found the state high courts' ruling "confusing" and feared it could have significant consequences because Judge Sweeney is the sole judge overseeing three counties, all of which house a significant number of oil and gas operations.

Windom said it was unclear from the state Supreme Court's ruling whether Judge Sweeney can rule on any oil and gas cases in the circuit. He estimated that roughly two-thirds of the civil docket in the three counties implicate oil and gas issues.

"I think it just really throws a monkey wrench into the workings of the Third Judicial Circuit," Windom said.

Counsel for the Secrist plaintiffs did not immediately respond to requests for comment Thursday.

The Groff and Williams plaintiffs are represented by Rodney C. Windom and Scott A. Windom of Windom Law Offices PLLC.

The Secrist plaintiffs are represented by John F. McCuskey of Shuman McCuskey & Slicer PLLC.

EQT is represented by Lauren W. Varnado, David R. Dehoney, Justin P. Tschoepe and Kristin L. Leveille of McKool Smith PC; and Jennifer J. Hicks and Mark K. Dausch of Babst Calland Clements & Zomnir PC.

The underlying state court suits are Carl L. Goff vs. EQT Production Co., case number 16-C-22, and Phillip K. Williams v. EQT Production Co., case number 20-C-23 in the Circuit Court of West Virginia, Ritchie

County and Mary Farr Secrist et al. v. EQT Production Co. case number 14-C-19, in the Circuit Court of West Virginia, Doddridge County.

--Editing by Peter Rozovsky.

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