

Justice Prevails: Bailey Glasser Wins One for Governor and WV Department of Health and Human Resources

09.25.2020

Representing West Virginia Gov. Jim Justice and the West Virginia Department of Health and Human Resources (WVDHHR), Bailey Glasser secured a dismissal of a Charleston lawyer/parent's lawsuit challenging the state's restrictions of in-person schooling aiming to prevent the spread of Covid-19.

The lawsuit, the first to challenge the State's response to the pandemic, complained that the Governor's emergency orders dealing with reopening the State's schools amidst Covid-19 violated the West Virginia Constitution's guarantee of a "thorough and efficient system of free schools."

Gov. Justice and the WVDHHR have established a color-coded map tracking the spread of covid-19 within the state, which is used by the State's Board of Education to determine which counties' schools can open and remain open for in-person instruction. Kanawha County has a relatively high rate of infection, and its schools have been closed for in-person instruction since September 8, moving students to remote learning until the Covid-19 numbers get lower.

Bailey Glasser partner Benjamin Bailey argued that the Governor's emergency orders were a proper exercise of his emergency powers and that the preliminary injunction was not warranted, since the risk of harm to the public would be too great, due to the likely increased spread of Covid-19 if schools were reopened in high-risk counties.

After a two-hour hearing, Kanawha County Circuit Judge Tod J. Kaufman denied the petitioner's motion for a preliminary injunction and then also granted Bailey Glasser's motion to dismiss the case and a similar motion filed by the State's Board of Education.

Bailey Glasser attorney Benjamin Hogan also contributed to the case by participating in all the strategy and writing of the briefs before the hearing.

JUSTICE PREVAILS: BAILEY GLASSER WINS ONE FOR GOVERNOR AND WV DEPARTMENT
OF HEALTH AND HUMAN RESOURCES

Attorneys

Benjamin L. Bailey

Benjamin J. Hogan