

Case clearing DOH of liability in deadly crash brings jurisdiction argument before state Supreme Court

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CHARLESTON, W.Va. — The state Supreme Court is being asked to overturn a decision made by the state legislature’s Claims Commission in connection with a 2014 fatal DUI crash in Monongalia County.

The estate of Jonathan Ladanye filed a claim with the commission saying the state Division of Highways was partly at fault for the Interstate 79 crash because the agency had not cleared a pile of snow on a bridge near Westover. The truck Ladanye was riding in hit the snow and went over the bridge to a road beneath. He was killed in the crash. The driver James Coffman was later convicted of DUI with death.



Hartley Law Group

David Lunsford

Following a claims hearing, the state Claims Commission ruled in February 2018 the DOH was not at fault and the Ladanye estate was due no damages from the state. The estate [appealed](#) the decision to the state Supreme Court.

Oral arguments held earlier this month focused on whether the Court has jurisdiction over a decision made by the commission, which was created by the legislature.

Ladanye estate attorney David Lunsford told the Court the Commission ignored the facts of the case and the laws of the state in making its decision.

“Those laws should apply. That’s to ensure due process rights and to make sure that these hearings are consistent with what the law requires,” Lunsford said.

But Claims Commission attorney Dan Greear argued the appeal is wrongly targeted.

“The determinations of the Claims Commission without legislative action and action by the governor have absolutely no legal effect and this Court isn’t in the business of deciding issues that have no legal effect,” Greear said.

The legislature approves a Claims Commission bill each legislative session. It contains claims for payment that are moral obligations of the state. The information forwarded by the commission includes both the

claims the commission approved and didn't approve. The legislature also chose not to fund the Ladanye claim when it passed its bill earlier this year. Greear said those legislative decisions could be appealed.



File

Dan Greear

"We're not saying this Court can't review legislative action. We're saying the legislature has to act, because it's the legislature that makes this decision not the Claims Commission," Greear said.

At the center of the case is whether the DOH's own rules for snow removal required it to have the large pile of snow removed from the I-79 bridge before the crash occurred. Lunsford said the commission ignored the clear evidence that the DOH was liable. DOH Attorney Stacie Jakes disagreed during Wednesday's arguments.

"The Division of Highways has never disputed that all snow and ice must be removed immediately upon traffic being returned to normal. But what is disputed and what the Claims Commission found was that traffic wasn't returned to normal until two days later (after the accident)," Jakes said.

The case can also be viewed as the latest turf war between the legislature and the state Supreme Court. A Court made up of fill-in justices, appointed by then-Chief Justice Margaret Workman, ruled against the legislature in its 2018 impeachment of the elected Supreme Court justices included Workman. The Court said the House didn't follow its own rules for impeachment. The U.S. Supreme Court recently decided not to take up the legislature's appeal.

In its [supplemental brief](#) to the Court in the Claims Commission case, the legislature's attorneys argue, "Judicial intervention into an inchoate legislative proceeding encroaches on the constitutional principle of Separation of Powers and the Court lacks jurisdiction to review a matter that has not reached a final determination."

The Supreme Court is expected to make a decision on the case later this year.



Jeff Jenkins

jjenkins@wvradio.com

[@JeffJenkinsMN](https://twitter.com/JeffJenkinsMN)

The award-winning native of Pratt, W.Va, took over as head of the news division of MetroNews in August 2000.