

DOCKET NO. _____

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

WEST VIRGINIA FAMILY
FOUNDATION, INC. a West Virginia Corporation.

Petitioner,

v.

JOHN C. MUSGRAVE, Director,
West Virginia Lottery Commission,

Respondent.

**PETITION OF THE WEST VIRGINIA FAMILY FOUNDATION,
FOR WRIT OF MANDAMUS**

The Petitioner, West Virginia Family Foundation, Inc., by and through counsel, Barry L. Bruce, Barry L. Bruce & Associates, L.C., respectfully petition this Honorable Court for Writ of Mandamus. In support of this Petition, Petitioner states as follows:

I. PARTIES

Petitioner is the West Virginia Family Foundation, Inc., a West Virginia corporation being a conservative Christian organization located in Charleston, West Virginia.

Respondent is John C. Musgrave, Director of the West Virginia State Lottery Commission. Respondent Musgrave and/or the West Virginia Lottery Commission have taken steps to promulgate rules and regulations under West Virginia Code §29-22C-1, *et seq.*, “West Virginia Lottery Racetrack Table Games Act,” to implement the lottery authorized thereunder.

II. ISSUES PRESENTED

A. West Virginia Code §29-22C-1, *et seq.*, “West Virginia Lottery Racetrack Table Games Act,” is unconstitutional because it does not meet the requirements of the West Virginia Constitution, Article VI, Section 36 exception that the State must “own the lottery” for any lottery to be constitutional.

B. West Virginia Code §29-22C-1, *et seq.*, “West Virginia Lottery Racetrack Table Games Act,” is unconstitutional because it does not meet the requirements of the West Virginia Constitution, Article VI, Section 36 exception that the State must “operate the lottery” for any lottery to be constitutional.

C. West Virginia Code § 29-22C-1, *et seq.*, “West Virginia Lottery Racetrack Table Games Act,” is unconstitutional because table games as authorized by said Act were not contemplated when the amendment to Article VI, Section 36 of the West Virginia Constitution was passed.

III. RELIEF REQUESTED

Wherefore, because the West Virginia code § 29-22C-1, *et seq.*, “West Virginia Lottery Racetrack Table Games Act,” is unconstitutional Petitioner seeks a Writ of Mandamus holding:

- (a) That West Virginia Code § 29-22C-1, *et seq.*, “West Virginia Lottery Racetrack Table Games Act,” is unconstitutional ;
- (b) That the operation of any table games authorized under West Virginia Code § 29-22C-1, *et seq.*, “West Virginia Lottery Racetrack Table Games Act,” be prohibited;
- (c) That any activities by the West Virginia Lottery Commission to implement the table games authorized under West Virginia Code § 29-22C-1, *et seq.*, “West Virginia

Lottery Racetrack Table Games Act,” be prohibited;

Pursuant to the West Virginia Rules of Appellate Procedure, Petitioner requests oral argument on their position. Further, Petitioner respectfully directs this honorable Court’s attention to the Memorandum of Law in Support of its Petition. Should this Court issue a “Rule to Show Cause,” a list of those persons and/or entities to be served has been submitted with this Petition, as required by West Virginia Rule of Appellate Procedure, Rule 14(a). Finally, Petitioner respectfully directs this Court to their Motion for Expedited Consideration Due to Exigent Circumstances, which is submitted with this Petition.

Respectfully submitted,

WEST VIRGINIA FAMILY FOUNDATION, INC.,

Petitioner,

By Counsel.

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