

NEELY DERIDES COURT COAL TAX RULING

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AP Justice **Richard Neely** on Wednesday chided his state Supreme Court colleagues on a tax case, saying the majority's ruling effectively bars most property tax reappraisal appeals.

The majority opinion to which Neely dissented affirmed a tax assessment by the Mingo County Commission against three natural resources companies. The commission was sitting as the Board of Equalization and Review, which hears appeals of tax assessment cases. The justices ruled Monday that the companies had to file a written transcript of the board's proceedings with the circuit court within 30 days of the board's adjournment in order to have the circuit court hear the appeal.

Since that was not done in the current case, the Supreme Court wrote the three companies were not entitled to have the tax assessment reviewed.

Neely said the deadlines were not realistic since "it is hard enough to get a court reporter to attend and transcribe a first-degree murder trial, but a tax hearing is almost impossible." "County commissions, if left unsupervised, are tempted to inaugurate in fact that philosophy ... in the proposed revision to federal income tax Form 1040 that, so far, is only discussed in theory," Neely wrote.

"Under the proposed new 'simplified' Form 1040 there is one question and one instruction, to-wit: (1) How much did you make?

(2) Send it," Neely wrote.

He said the case should have been decided on the merits of the companies' appeal "even if it requires us to get our hands dirty analyzing a few numbers and reading a little testimony ...". Meanwhile, convicted murderer Dale Eugene Bragg of Kanawha County asked that he be given access to information in his file upon which the Board of Parole has denied his parole 13 times in the 21 years since he first was imprisoned.

Bragg was convicted of first-degree murder and was sentenced to a life term.

He wants to review 18 letters to the board, including 12 from the Kanawha County prosecutor's office, and all of which contend he was kidnapping a child at the time of his arrest, the petition said Bragg said the assertion is untrue. He said his conviction was not for kidnapping. It was solely for murder.

The Parole Board told him Feb. 16 it was not responsible for any incorrect material in his file, Bragg wrote.

Marshall County Circuit Court on March 16 refused to provide Bragg with access to the letters, which is the order he asked the justices to review.

The Supreme Court did not immediately act on the petition.