

**08-22 CAPERTON, ET AL. V. A.T. MASSEY COAL CO., ET AL.**

DECISION BELOW: 2008 WL 918444

LOWER COURT CASE NUMBER: 33350

**QUESTION PRESENTED:**

Justice Brent Benjamin of the Supreme Court of Appeals of West Virginia refused to recuse himself from the appeal of the \$50 million jury verdict in this case, even though the CEO of the lead defendant spent \$3 million supporting his campaign for a seat on the court--more than 60% of the total amount spent to support Justice Benjamin's campaign-- while preparing to appeal the verdict against his company. After winning election to the court, Justice Benjamin cast the deciding vote in the court's 3-2 decision overturning that verdict.

The question presented is whether Justice Benjamin's failure to recuse himself from participation in his principal financial supporter's case violated the Due Process Clause of the Fourteenth Amendment.

CERT. GRANTED 11/14/2008