

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

NO. 15-0491

STATE OF WEST VIRGINIA, EX REL.,
PHILLIP HUDOK, GENE STALNER AND
THOMAS DAVID HOUSE OF DEEGAN,

Petitioners,

v.

ATTORNEY GENERAL OF WEST VIRGINIA, and
STEVE HARRISON, CLERK OF THE WEST VIRGINIA
HOUSE OF DELEGATES,

Respondents.

JOINT SUMMARY RESPONSE ON BEHALF OF RESPONDENTS

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Comes now the Respondents, Governor Earl Ray Tomblin and Attorney General Patrick Morrissey, in their official capacities, by counsel, Julie A. Warren, Assistant Attorney General, and comes Steve Harrison, Clerk of the West Virginia House of Delegates, in his official capacity, by counsel Daniel W. Greear, who do file the within summary response in opposition to the Petitioner's Writ of Mandamus.

I. STATEMENT OF FACTS

In support of their filing, the Petitioners assert a number of that unsubstantiated facts and allegations. For instance, the Petition includes a claim by Petitioner Thomas David House of Deegan of kidnapping by unidentified "foreign agents," but in reality appears to involve an arrest in relation to a criminal action undertaken in Wood County, West Virginia, with a Criminal

Action Number 11-F-101. Petitioner Thomas David House of Deegan expressly states he is not seeking an appeal of the adjudication of this criminal action, but instead “demand[s] ... absolute and unconditional settlement and closure of any and all matters relating in any manner or way to purported case #11-F-101. Id. at 13. The Petition also includes an unsubstantiated claim by Petitioner Hudok that he, along with other individuals that are not named as a party to this Petition, have been unable to renew their non-biometric drivers’ licenses. Ptrs. Br. at 9.

II. ARGUMENT

The entirety of the subject Petition is frivolous on its face. The Petitioners’ allegations are unsubstantiated and the remedies sought are clearly outside the purview of this Court. The Petitioners demand this Court issue a writ of mandamus ordering the following:

- the dissolution of the government of the State of West Virginia;
- the liquidation of all assets in the State Treasury;
- the renunciation and vacation of all government offices by all office holders,
- that each office holder then swear to the oath as set forth in the Petition;
- the procurement of a bond by each office holder of at least \$50,000 dollars to indemnify and settle with “the real-men with hands and legs”;
- the void and cancellation of all laws enacted after 1863;
- the declaration that the 1819 Constitution and the Constitution amended by Congress in 1862 be in full force and effect;
- the repeal of the Emergency Banking Act;
- the prohibition of members of this Court from “holding an office or position of trust and/or profit forever”;

- the expatriation of the Petitioners and any other “real-men with hands and legs” who give notice to the State;
- that the DMV issue “Diplomatic Identification papers and Diplomatic plates for all real-men with hands and legs who shall give notice of their expatriation for a minimal fee”;
- the settlement and closure of Criminal Action No. 11-F-101, and the expungement thereof;
- refund of any monies paid to the Wood County Sheriff’s Department for home confinement;

Id. at 23-24. It appears they further demand that the Court issue a writ of prohibition directed that “each and every ‘court’ conducting business and operating on the soil of West Virginia to cease and desist all actions and proceedings,” and to “release all real-men with hands and legs” from service of any sentence. Id. at 22.

The Petition falls well short of meeting the standards needed for the granting of such extraordinary relief. First, the Petition’s demand for mandamus relief is devoid of merit, as clearly this Court has no authority to grant the aforementioned relief sought, i.e. the repeal of the West Virginia Constitution, order the dissolution of government, amend the U.S. Constitution, etc. “A writ of mandamus will not issue unless three elements coexist—(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy.” Syl. Pt. 2, *State ex rel. Kucera v. City of Wheeling*, 153 W.Va. 538, 170 S.E.2d 367 (1969) The Petitioners fail to cite any actual authority to support any legal right to the extraordinary relief sought. Instead they rely upon a series of philosophical statements for which no originating credit is assigned. Moreover, the Petitioners fail to identify any legal duty on the part of the Respondents to do the

thing the Petitioners seek this Court to compel. Thus, the Petitioners' demand for mandamus relief must be denied.

Second, the Petition's demand for a writ of prohibition against "each and every 'court' conducting business and operating on the soil of West Virginia" must also be dismissed as frivolous. In addition to the fact that the Respondents are not the proper parties for such relief, the Court has no authority to federal courts, or even lower state courts, "to cease and desist all actions and proceedings" in the State of West Virginia, nor can it simply "release all real-men with hands and legs" from serving their criminal penalty. There is nothing in the Petition to otherwise support a showing that any lower court in this State has either exceeded the scope of its jurisdiction or its legitimate power. *See* Syl. Pt. 1, *Crawford v. Taylor*, 138 W.Va. 207, 75 S.E.2d 370 (1953). Thus, the request writ of prohibition must be denied.

III. CONCLUSION

For the reasons herein stated, the Respondents respectfully request that the Court deny the relief sought by the Petitioners.

Respectfully submitted,

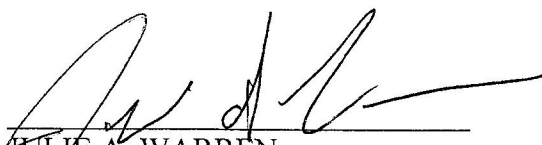
EARL RAY TOMBLIN
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PATRICK MORRISEY
ATTORNEY GENERAL,

STEVE HARRISON,
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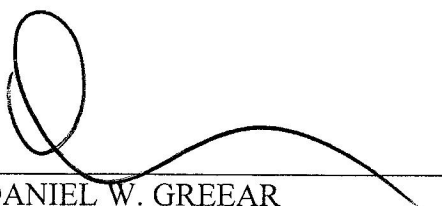
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CERTIFICATE OF SERVICE

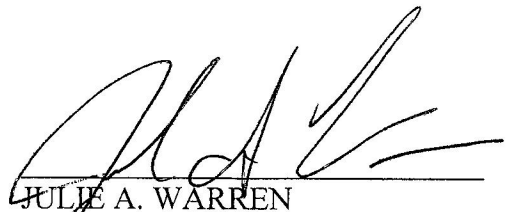
The undersigned counsel of record for the Respondents do hereby certify that on this 2nd day of July, 2015, that a true copy of the foregoing “**Joint Summary Response on Behalf of the Respondents**” has been served upon the Petitioners by depositing the same in the U.S.

Mail, postage prepaid, sealed in an envelope, and addressed as follows:

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