

STATE OF WEST VIRGINIA, ex rel.
THORNTON COOPER,

Petitioner,

vs.)

No. 11-1405

HONORABLE NATALIE E. TENNANT, Secretary of
State of the State of West Virginia,

Respondent.

and

STATE OF WEST VIRGINIA, ex rel.
STEPHEN ANDES, et al.,

Petitioners,

vs.)

No. 11-1447

HONORABLE NATALIE E. TENNANT, Secretary of
State of the State of West Virginia,

Respondent.

MOTION TO INTERVENE

Comes now Richard Thompson, in his official capacity as Speaker of the West Virginia House of Delegates (“Speaker Thompson”), by Counsel, and moves pursuant to Rule 32 of the Revised Rules of Appellate Procedure to Intervene in these actions. This motion is based on the following grounds:

1. On October 13, 2011, Petitioner Thornton Cooper filed a Petition for a Writ of Mandamus in this Court No. 11-1405 (“Cooper Petition”) challenging the passage of House Bill 201 (2011) (“H.B. 201”). On October 21, 2011, Petitioners Stephen Andes, et al., filed their Petition for Writ of Prohibition in this Court, No. 11-1447 (“Putnam/Mason Petition”) bringing

separate challenges to the passage of H.B. 201.

2. Both the Cooper Petition and the Putnam/Mason Petition seek relief that, with all due respect to this Court, violates established concepts of separation of powers. Speaker Thompson believes that the challenges to the H.B. 201 in the two Petitions seek to have this Court improperly intercede in the purely legislative task of reapportionment of delegate districts. In addition, the two petitions seek relief that is extraordinary in its disregard of separation of powers. For example, the Putnam/Mason Petition seeks a declaration of unconstitutionality and then the retention of jurisdiction by this Court during any subsequent special legislative session in order to "assure the Legislature's compliance with all provisions of the Constitution of the State of West Virginia and the United States." Putnam/Mason Petition at pp. 28-29. The Cooper Petition seeks relief in the form of an order to the Respondent Secretary of State that she process certificates of announcement by candidates for the House of Delegates in accordance with his personal redistricting plan or one based on "the recommendations he has made in [the Cooper] Petition." Cooper Petition at p. 40.

3. Speaker Thompson believes that his intervention in this case will assist the Court in resolving these cases in a manner consistent with separation of powers. In making this motion, Speaker Thompson does not consent to the jurisdiction of this Court to order the unconstitutional relief sought in the two petitions. Instead, he seeks intervention to brief and argue through his counsel the reasons why the relief sought is inconsistent with the West Virginia Constitution and separation of powers.

4. If the Court denies this motion, this Motion shall serve as Rule 30(b) Notice of Speaker Thompson's Intention to file an amicus curiae brief in opposition to the petitions pursuant to Rule 30(a).

**Richard Thompson, in his official
capacity as Speaker of the West Virginia
House of Delegates,**

By Counsel,



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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the attached **Motion to Intervene** was served upon the persons listed below by mailing via USPS, postage pre-paid, a true copy thereof as required by Rule 37, Rules of Appellate Procedure, on this 28th day of October, 2011:

Thornton Cooper, Esquire
3015 Ridgeview Drive
South Charleston, WV 25303
Petitioner

Honorable Natalie E. Tennant
Secretary of State of the State of West Virginia
State Capitol Building
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Charleston, WV 25305
Respondent

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West Virginia Attorney General
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Anthony J. Majestro (W.Va. State Bar ID #5165)