

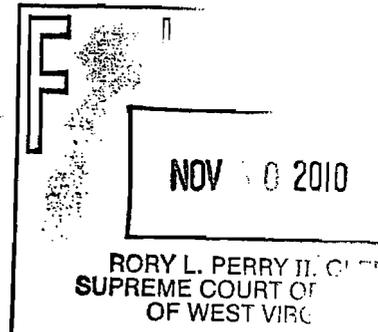
IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

State of West Virginia ex rel
Ashleigh and Daniel Jurkovich,
Petitioners,

Vs.

Honorable Jason Bennett, Magistrate for Roane County;
and Clark Crider, landlord,
Respondents

Case Number: 35737



RESPONSE

In response to the Petition for Writ of Mandamus and/or Writ of Prohibition,
comes now the Respondent, Honorable Jason Bennett, Magistrate for Roane County.

It has now come to my attention that I, Jason D. Bennett, have been included in a
Petition for Writ of Mandamus that was previously filed against Roane County
Magistrate Russell Goodwin and Brenda M. White (former) Clerk of the Magistrate
Court of Roane County. After reviewing the cases and dates in question I, Jason D.
Bennett, offer these facts:

- 1) Magistrate Clerk of Roane County, Rita Helbig, did assign the Civil Cases in question to Jason D. Bennett to preside over per Rule 2 of the Administrative Rules for Magistrate Courts.
- 2) The Civil Cases in question were scheduled by Roane County Magistrate Jason D. Bennett or his assistant for September 27, 2010 at 10:30 a.m.
- 3) On the week of September 20, 2010 I, Jason D. Bennett, was scheduled for the annual mandatory 2010 Magistrate Training Conference. Being a recently appointed member to the Education Committee, my presence was needed at the second week of training. A request was sent to Chief Circuit Judge of the Fifth Judicial Circuit, Thomas C. Evans, III, for Senior Status coverage in my absence for September 27, 2010 through October 1, 2010.
- 4) On September 23, 2010 Chief Justice, Robin Jean Davis did sign an Administrative Order for the Recall of Magistrate Donald Sharp to Active Service to Preside in the Magistrate Court of Roane County on September 27, 2010 through October 1, 2010.

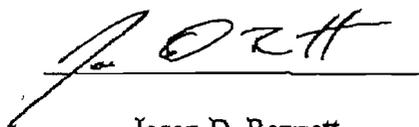
- 5) On the week of September 27, 2010 I, Jason D. Bennett, was attending the 2010 Magistrate Training Conference in my role as a member of the Education Committee. Roane County Magistrate Russell Goodwin also attended the 2010 Magistrate Training Conference on the week of September 27, 2010.
- 6) On October 1, 2010 I, Jason D. Bennett, did return to my seat at Roane County Magistrate Court.

In regards to these facts, on September 27, 2010, Magistrate Donald Sharp did hear these particular Civil cases and made his ruling to the cases. I, Jason D. Bennett, was in Kanawha County West Virginia at this time for the 2010 Magistrate Training Conference. Magistrate Donald Sharp had the authority to enter orders and conclude matters considered or heard by him on the dates of his assignment. On September 29, 2010, as alleged by the Petitioners, Ashleigh Jurkovich came to Roane County Magistrate Court to seek an appeal to the cases. I, Jason D. Bennett, have no first hand knowledge of these acts or conversations that may or may not have taken place at Roane County Magistrate Court, for I was attending the 2010 Magistrate Training Conference. There has been no indication that the Petitioners attempted or have attempted to contact my office pertaining to this matter. The only facts pertaining to the Civil cases that I, Jason D. Bennett, can attest to are:

- 1) The Civil Cases were assigned to Jason D. Bennett to preside over by the Magistrate Clerk of Roane County, Rita Helbig, and were scheduled for September 27, 2010 at 10:30 a.m.
- 2) Civil Case Numbers 10C-161 and 10C-182 were presided over by Magistrate Donald Sharp, who was presiding in Roane County Magistrate Court, on September 27, 2010 through October 1, 2010.

I, Jason D. Bennett, was not aware of any rulings, orders, or actions taking place through September 27, 2010 through October 1, 2010. I was made aware that a Writ of Mandamus had been filed against Roane County Magistrate Russell Goodwin and/or his office and (former) Roane County Magistrate Clerk Brenda White. In no way have I, Jason D. Bennett, or my office been involved with the rulings or orders of this case or any appeal process.

Respectfully submitted this the 30th day of November, 2010.



Jason D. Bennett
Roane County Magistrate

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: RECALL OF MAGISTRATE DONALD SHARP TO ACTIVE SERVICE TO PRESIDE IN THE MAGISTRATE COURT OF ROANE COUNTY ON SEPTEMBER 27, 2010, THROUGH OCTOBER 1, 2010

WHEREAS, the Honorable Thomas C. Evans, III, Chief Judge of the Fifth Judicial Circuit, has requested assistance in the Magistrate Court of Roane County on the dates referenced above; and

WHEREAS, the Chief Justice, upon review thereof, deems such request to be warranted;

IT IS, THEREFORE, ORDERED, that Donald Sharp, Senior Status Magistrate, be, and he hereby is, recalled for temporary assignment to the Magistrate Court of Roane County under the provisions of Article VIII, §§ 3 and 8 of the Constitution of West Virginia and West Virginia Code § 50-1-6a, for the purpose of presiding as a visiting Magistrate on the referenced dates; and

IT IS FURTHER ORDERED, that Senior Status Magistrate Sharp be, and he hereby is, authorized to enter orders and otherwise conclude matters considered or heard by him on the dates of assignment referenced above; and

IT IS FURTHER ORDERED, that the Circuit Clerk and Magistrate Clerk of Roane County record this Order in their respective Offices and that proceedings be held in the manner provided by law.

ENTERED: SEPTEMBER 23, 2010



ROBIN JEAN DAVIS
Chief Justice