

11-0693

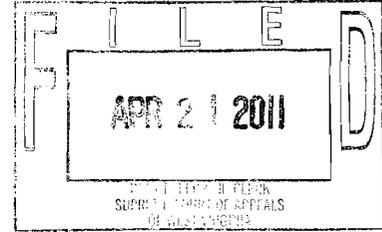
**IN THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

State of West Virginia ex el.,
Larry Parsons,
Petitioner

v.

Docket No.

Judge Michael Thornsby
Respondent



**EMERGENCY WRIT OF PROHIBITION
WRIT OF HABEAS CORPUS**

COMES NOW, Larry F. Parsons, Executive Director of the West Virginia Regional Jail and Correctional Facility Authority, and moves the Court for an Emergency Writ of Prohibition W.V. Code 53-1-1 and Habeas Corpus pursuant to W.V. Code 53-4-1.

QUESTION PRESENTED

Whether Judge Michael Thornsby abused his digression when he summarily arrested and fined Regional Jail Transportation Correctional Officers when it required two transportation runs to deliver inmates.

STATEMENT OF CASE

The Honorable Judge Thornsby has unlawfully detained West Virginia Regional Jail Authority (RJA) Transportation Officers preventing the West Virginia Regional Jail Authority from fulfilling its lawful duties. The West Virginia Regional Jail Authority is unable to fulfill its obligation to various other courts in the region.

By order from the bench, Judge Thornsby has arrested and detained Southwestern Regional Jail staff, including the Transportation Supervisor, by holding them in contempt of court for delivering 20 inmates to Mingo County Court in two

separate transportation runs. RJA vans cannot hold 20 persons in one (1) transportation run.

On April 21, 2011, Petitioner was responsible for transporting 42 inmates to various West Virginia county Courts utilizing three (3) available transportation vans. On the evening of April 20th, 2010 nine (9) additional inmates were arrested to be arraigned in Mingo County on April 21, 2011. (Appendix 1)

The first 12 inmates were delivered to Court, and the transportation officers returned to the facility to deliver the remaining nine (9) inmates to Court. Indeed these nine (9) inmates were not on the Circuit Court docket provided to the jail. When the officers attempted to return to their duties, Judge Thornsbery arrested and charged these transportation officers with contempt, detaining them from their other court obligations until such time as they each personally pay a \$50.00 fine. When the transportation supervisor arrived at the Mingo County Court to address the issues, he too was arrested and held with contempt.

SUMMARY OF ARGUMENT

Judge Thornsbery's summary punishment is in direct violation of W.V. Code §61-5-26. This section specifically identifies that summary punishment may only be had in the following cases: (a) Misbehavior in the presence of the court, or so near thereto as to obstruct or interrupt the administration of justice; (b) violence or threats of violence to a judge or officer of the court, or to a juror, witness, or party going to, attending or returning from the court, for or in respect of any act or proceeding had, or to be had, in such court; (c) misbehavior of an officer of the court, in his official character; (d) disobedience to or resistance of any officer of the court, juror, witness, or other person,

to any lawful process, judgment, decree or order of the said court." Judge Thornsburys summary punishment is clearly in excess of his authority and an abuse of power.

It is fundamentally unjust to summarily charge and fine these correctional officers with contempt. The Court is punishing officers who are fulfilling their duties with limited resources, and the constantly varying demands of the Court system. Holding these officers personally in contempt for fulfilling their lawful duties is unjust and an illegal action. The Courts abuse of digression and authority disrupts the public safety and court system for the entire Southwestern region of West Virginia.

Writ of Prohibition is appropriate in this case. The Court clearly exceeded its authority by summarily arresting and fining state officials in violation of W.V. Code §61-5-26. It is a flagrant abuse of digression to personally fine these officers for their good faith compliance with their duties. There is no other adequate means to properly address this wrong and the state of West Virginia is irreparably harmed by this abuse of discretion.

STATEMENT REGARDING ORAL ARGUMENT

Because this matter is of an urgent and exigent nature Petitioners ask for expedited ruling on this matter. See accompanying motion for expedited proceedings.

CONCLUSION

For these reasons, Larry F. Parsons, Executive Director of the West Virginia Regional Jail and Correctional Facility Authority, does humbly pray that the court issue an emergency writ of habeas corpus and order the release of Correctional Officer II Anthony Elkins, Correctional Officer II Zachary Bassham, Sgt. Richard Powers held unlawfully by Judge Thornsburys and issue a writ of prohibition prohibiting Judge

Thornsbury from holding summarily state actors in contempt for their good faith fulfillment of professional duties.

**Respectfully submitted,
Larry F. Parsons, Executive Director,
By counsel,**



Chad M. Cardinal, Esquire (6016)
West Virginia Regional Jail and
Correctional Facility Authority
1325 Virginia Street East
Charleston, WV 25301

**IN THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

State of West Virginia ex el.,
Larry Parsons,
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v.

Docket No.

Judge Michael Thornsby
Respondent

MOTION FOR EXPEDITED RELIEF

COMES NOW, Larry Parsons, Executive Director of the West Virginia Regional Jail and Correctional Facility Authority and moves this Court for expedited relief pursuant to Rule 29 of the West Virginia Rules of Appellate procedure in the above styled matter for the following reasons:

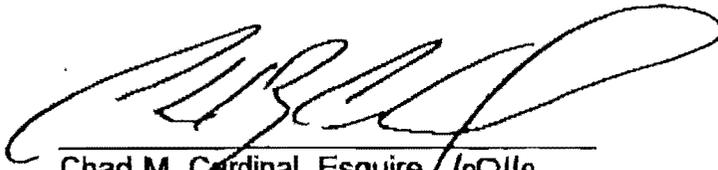
Three West Virginia Regional Jail Correctional Officers are currently detained by Judge Michael Thornsby in the Circuit Court of Mingo County.

Mingo County docketed 12 inmates to appear on April 21, 2011. Nine more were arrested late the night of April 20, 2011. Because transportation vans do not carry this many inmates, two trips to Court were necessary. The first van load of 12 inmates arrived at 8:15 am. The officers returned with the second van load of nine unscheduled inmates as soon as possible. As a result, Judge Thornsby detained and fined the correctional officers.

Further, Judge Thornsby's abuse of discretion and authority when arresting these officers who were carrying out their duties, has created exigent circumstances which jeopardize the safety and integrity of the Court system in this state.

Petitioner does pray that this Court grant expedited relief in this matter and order the release of officers Anthony Elkins, Zachary Bassham and Richard Powers and issue a Writ of Prohibition as prayed for in the above styled writ.

**Respectfully submitted,
Larry F. Parsons, Executive Director,
By counsel,**

A large, stylized handwritten signature in black ink, appearing to read 'Chad M. Cardinal', is written over a horizontal line.

Chad M. Cardinal, Esquire (6016)
West Virginia Regional Jail and
Correctional Facility Authority
1325 Virginia Street East
Charleston, WV 25301

ATTACHMENTS

Southwestern Regional Jail

Date: 21-Apr-11

Day: Thursday

Inmate Name	Cell	Time	Destination	Magistrate	Circuit	Trans
			Mingo			
Estep, Eddie	B4-5	815			Thornsbury	674-655
Grimmett, Daniel	B7-3	815			Thornsbury	603-694
Jackson, Jake	B4-5	815			Thornsbury	
Marcum, Udge	B6-7	815			Thornsbury	
Meade, Douglas	B6-2	815			Thornsbury	
Mullins, Terry	B5-14	815			Thornsbury	
Nelson, Shane	B8	815			Thornsbury	
Workman, Monty	B1-8	815			Thornsbury	
Dotson, Danelle	A8-11	815			Thornsbury	674-655
Parsley, April	A5-15	815			Thornsbury	674-655
Adkins, David	B4-1	815			Thornsbury	603-694
Smith, Mark	B4-10	815			Thornsbury	1
<i>HB JAYCE INDICIMENTS</i>						
			CRJ	MCC		
Roberts, Oscar	E1-14	900				618-622
Workman, Ashley	E4-1	900				
Wood, Forrest	E8-13	900				
McNeely, Jeff	E1-14	900				
Dempsey, Everette	E8-16	900				
Copley, Grover	E4-13	900				
Randolph, Derrick	B1-7	900				
Hughes, Travis	E1-14	900				
Lipps, Mark	E4-13	900				
Franklin, Floyd <i>(Ad-Davis)</i>	A4-6		Sharps	Hospital		

Apr. 20. 2011 2:56PM

No. 4231 P. 1

TRANSPORT DOCKET
MINGO COUNTY
JUDGE THORNSBURY

*Check
Again
in
The
A.M.*

THURSDAY-APRIL 21, 2011

8:15

- JENNIE BALDRIDGE
- EDDIE DWAYNE ESTEP *B4-1*
- DANIEL GRIMMETT *B7-7*
- JONATHAN LEE HATFIELD
- JAKE JACKSON *B4-5*
- BARBARA SUE MARCUM
- LIDGE MONROE MARCUM *B6-7*
- PHILLIP MARCUM
- PAIGE LYNN MARTIN
- ROBERT BUNT MARTIN
- DOUGLAS MEADE *B6-2*
- TERRY MULLINS *B5-14*
- SHANE EDWARD NELSON *B8*
- PHILLIP PUCKETT
- GARY ALLEN TERRY
- MONTY DUKE WORKMAN *B1-8*
- STEPHAN DALE WALLACE
- DANIELLE DOTSON *A8-11*
- JAMES FARSLEY JR.
- APRIL FARSLEY *A5-15*
- DAVID K. ADKINS *B4-1*
- MARK CHADWICK SMITH *B4-10*

RECEIVED
BOOKING DEPARTMENT
2011 APR 20 P 3:03
SOUTHGAST COUNTY JAIL
13 GASTON COLLEGE DRIVE
HOLDEN WV 25825

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.

INDICTMENT NO. A11-F33

"SEALED INDICTMENT",

DEFENDANT.

CAPIAS FOR FELONY

STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

We command you in the name of the State of West Virginia to take **GARY LEE LACKEY** if he be found in your ballwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **GARY LEE LACKEY** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK



DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.

INDICTMENT NO. A11-F25

"SEALED INDICTMENT",

DEFENDANT.

CAPIAS FOR FELONY

STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

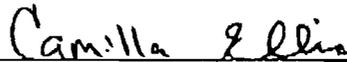
We command you in the name of the State of West Virginia to take **LARRY CLINE** if he be found in your baliwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **LARRY CLINE** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK



DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.
"SEALED INDICTMENT",

INDICTMENT NO. A11-F28

DEFENDANT.

CAPIAS FOR FELONY

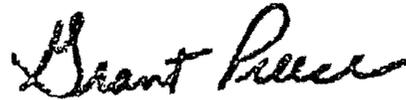
STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

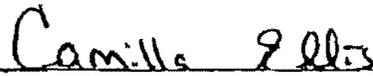
We command you in the name of the State of West Virginia to take **DOUGLAS HATFIELD** if he be found in your baliwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **DOUGLAS HATFIELD** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK


DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.
"SEALED INDICTMENT",

INDICTMENT NO. A11-F45

DEFENDANT.

CAPIAS FOR FELONY

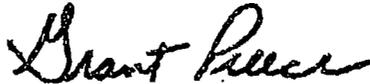
STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

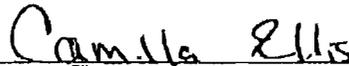
We command you in the name of the State of West Virginia to take **DAVID RICE** if he be found in your baliwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **DAVID RICE** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK



DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.
"SEALED INDICTMENT",

INDICTMENT NO. A11-F48

DEFENDANT.

CAPIAS FOR FELONY

STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

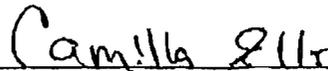
We command you in the name of the State of West Virginia to take **LAVADA MARIE SHRUM** if she be found in your baliwick and safely keep, so that you have her body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **LAVADA MARIE SHRUM** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK



DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.
"SEALED INDICTMENT",

INDICTMENT NO. A11-F30

DEFENDANT.

CAPIAS FOR FELONY

STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

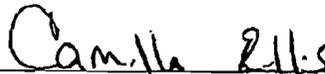
We command you in the name of the State of West Virginia to take **BRIAN WAYNE HINKLE** if he be found in your baliwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **BRIAN WAYNE HINKLE** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK



DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.
"SEALED INDICTMENT",

INDICTMENT NO. A11-F40

DEFENDANT.

CAPIAS FOR FELONY

STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

We command you in the name of the State of West Virginia to take **DAVID McCOY** if he be found in your baliwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **DAVID McCOY** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK



DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.
"SEALED INDICTMENT",

INDICTMENT NO. A11-F31

DEFENDANT.

CAPIAS FOR FELONY

STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

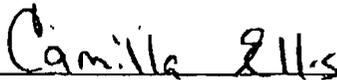
We command you in the name of the State of West Virginia to take **HUBERT LEE HODGE** if he be found in your baliwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **HUBERT LEE HODGE** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



GRANT PREECE, CIRCUIT CLERK



DEPUTY CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

PLAINTIFF,

Vs.
"SEALED INDICTMENT",

INDICTMENT NO. A11-F24

DEFENDANT.

CAPIAS FOR FELONY

STATE OF WEST VIRGINIA,
COUNTY OF MINGO, TO-WIT:

TO THE SHERIFF OF MINGO COUNTY,

We command you in the name of the State of West Virginia to take **JOHN FRANKLIN BLAIR** if he be found in your baliwick and safely keep, so that you have his body before the Judge of the Circuit Court of said County, at the Court House "FORTHWITH" to answer a pending case in our Circuit Court against **JOHN FRANKLIN BLAIR** for FELONY.

And have then and there this writ.

WITNESS: GRANT PREECE, Clerk of the said Court, at the Court House of said County, on the 20th day of April, 2011, and in the 148th year of the State.



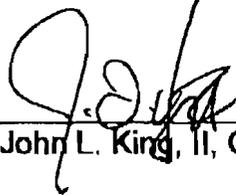
GRANT PREECE, CIRCUIT CLERK


DEPUTY CLERK

STATE OF WEST VIRGINIA

COUNTY OF KANAWHA, to-wit:

John King, II, having read and inspected the foregoing, emergency writ of prohibition and writ of habeas corpus being duly sworn, deposes and says that the facts therein contained are true and correct, except insofar as they are therein stated to be upon information and belief, and that insofar as they are stated to be upon information and belief, he believes them to be true and correct.



John L. King, II, Chief of Operations

Taken, subscribed and sworn to before the undersigned authority this 21st day of April 2011.





Notary Public

My Commission expires:

Nov. 29, 2020

**IN THE SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

State of West Virginia ex el.,
Larry Parsons,
Petitioner

v.

Docket No.

Judge Thornsbery
Respondent

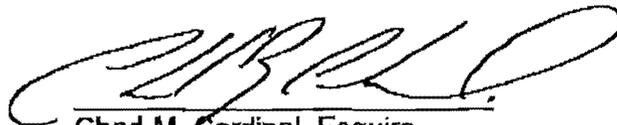
CERTIFICATE OF SERVICE

I, Chad M. Cardinal, hereby certify that I have served a copy of the foregoing
Emergency Writ of Prohibition Writ of Habeas Corpus and Motion for Expedited hearing
to the Respondent by depositing an exact copy in the United States mail, and postage
pre-paid to the following address:

Judge Thornsbery
Mingo County Courthouse
75 E. Second Avenue
Williamson, WV 25661

And by fax to:
304-235-0326

Done this 21st April 2011.



Chad M. Cardinal, Esquire
West Virginia Regional Jail and
Correctional Facility Authority
1325 Virginia Street East
Charleston, WV 25301