

SUPREME COURT OF APPEALS OF WEST VIRGINIA

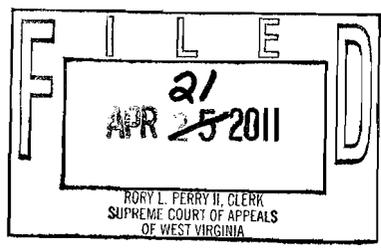
**STATE OF WEST VIRGINIA, ex rel.,
LARRY PARSONS,**

Petitioner,

v.

JUDGE MICHAEL THORNSBURY,

Respondent.



**CIRCUIT COURT'S RESPONSE TO EMERGENCY WRIT OF PROHIBITION WRIT
OF HABEAS CORPUS AND MOTION FOR EXPEDITED RELIEF**

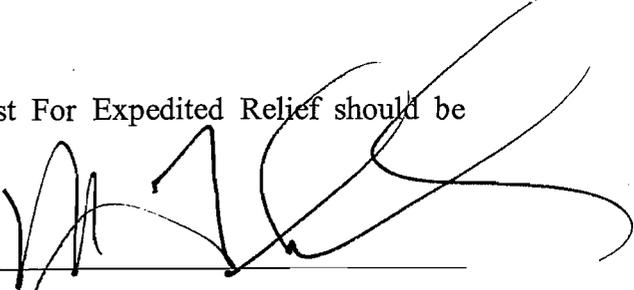
Comes now the Honorable Michael Thornsbery in Response to the Petitioner's
Writ Of Prohibition Writ Of Habeas Corpus and Motion For Expedited Relief.

1. The Petitioner is not entitled to extraordinary relief in that the Circuit Court had jurisdiction to assess fines for direct Contempt Of Court as result of disobedience to the Court's lawful process and orders. Specifically, the Southwestern Regional Jail authority has had a history of failing to deliver prisoners in a timely manner for Circuit Court proceedings. This has resulted in prior hearings and admonitions that prisoners needed to be delivered promptly in order to effectuate the prompt administration of justice.
2. The Southwestern Regional Jail Authority transported prisoners for arraignment at 10:40 a.m. in violation of the Court's Order to have the prisoners transported for Court appearances no later than 8:30 a.m. This delay resulted in cessation of arraignments, and in the inability of the Court to manage its Arraignment Docket. It also resulted in delays of Court personnel and all other participants, including at least a dozen attorneys.

3. The two transport drivers were brought before the Court in person and given an opportunity to show cause, and were assessed a fine in the amount of fifty dollars each. The two transport officers indicated that they were operating at the direction and the supervision of Sgt. Richard Powers. Sgt. Powers also appeared in Court and was given the opportunity to show cause. Sgt. Powers was also found to be in Contempt. Sgt. Powers had previously been cited for Contempt for similar actions. The Court had previously set Sgt. Power's prior Contempt Order aside on representations from Sgt. Powers and other Southwestern Regional Jail administrators that the behaviors would not be repeated and after allowing him to show cause.
4. Each of the parties were assessed a fifty dollar fine and given until April 25, 2011, to pay the fine. None of the Southwestern Regional Jail employees were ordered detained by the Court. The Court's staff repeatedly informed the Southwestern Regional Jail employees that they were not detained and, thus, were free to leave. However, the Southwestern Regional Jail employees refused to vacate the premises, indicating that they were waiting on someone to arrive and pay their fine. However, at this time, the Southwestern Regional Jail employees have already transported prisoners back to the Regional Jail. They were never assessed jail time or committed, although this Court had the lawful authority to summarily punish for violation of its orders and lawful process including the Transportation Order.
5. A copy of the Court's Contempt Citation and the Order assessing the fine is attached hereto. No commitment orders were ever entered.

6. This Court clearly did have and continues to have jurisdiction to assess either a fifty dollar fine or ten days incarceration for direct disobedience to its lawful process.
7. None of the Regional Jail Authority employees are being detained and were released on the Order assessing their respective fines. This Court can make available transcripts of the prior Contempt proceedings involving Sgt. Powers and those in issue today. However, the Court's orders are clear on their face. No detainment orders have been issued for any of the parties. As far as this Court knows, the parties are conducting their duties and have transported a portion of the prison back to the Regional Jail.
8. The Regional Jail Authority clearly has the duty to transport prisoners timely to the Court, and the Court clearly has the authority pursuant to West Virginia Code § 61-5-26 to enforce Contempt sanctions for disobedience to the Court's Transport Docket.
9. The Court had previously advised Sgt. Powers on the record that if they had transports to other jurisdictions they could arrive at anytime prior to the ordered time and the Court would accommodate them with bailiffs. In utter disregard of that offered accommodation, the Regional Jail delivered prisoners over two hours late.

Wherefore, any Writ Of Prohibition or Request For Expedited Relief should be summarily denied.



Honorable Michael Thornsbury
Chief Judge, 30th Judicial Circuit

Attachments:

Transportation Docket – April 21, 2011

Contempt of Court Orders

Direct Contempt Of Court Orders

Corrected Direct Contempt Of Court Orders

**TRANSPORT DOCKET
MINGO COUNTY
JUDGE THORNSBURY**

THURSDAY-APRIL 21, 2011

8:15

JENNIE BALDRIDGE

EDDIE DWAYNE ESTEP

DANIEL GRIMMETT

JONATHAN LEE HATFIELD

JAKE JACKSON

BARBARA SUE MARCUM

LIDGE MONROE MARCUM

PHILLIP MARCUM

PAIGE LYNN MARTIN

ROBERT BUNT MARTIN

DOUGLAS MEADE

TERRY MULLINS

SHANE EDWARD NELSON

PHILLIP PUCKETT

GARY ALLEN TERRY

MONTY DUKE WORKMAN

STEPHAN DALE WALLACE

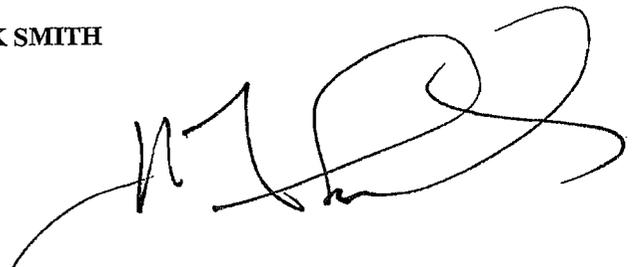
DANIELLE DOTSON

JAMES PARSLEY JR.

APRIL PARSLEY

DAVID K. ADKINS

MARK CHADWICK SMITH

A handwritten signature in black ink, appearing to read 'Mark Chadwick Smith', is located in the bottom right corner of the page. The signature is fluid and cursive, with a large loop at the end.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

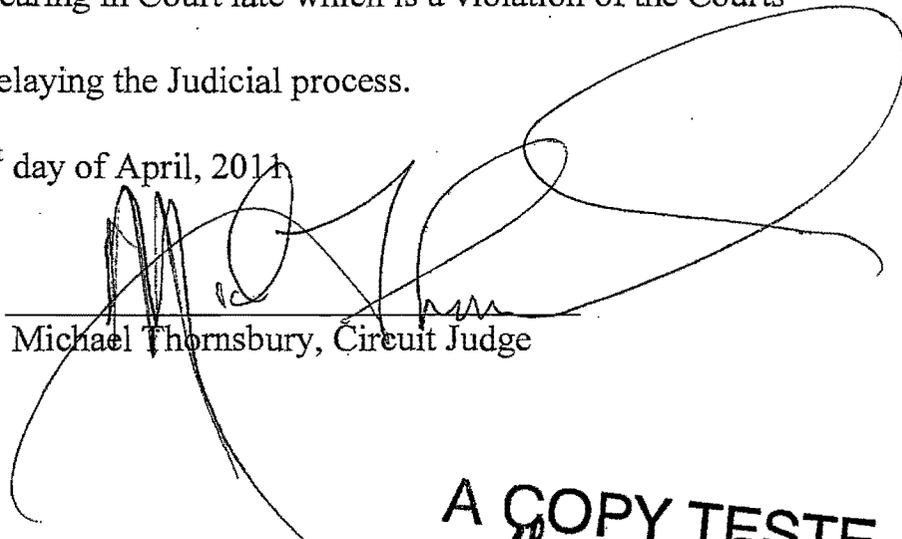
IN RE: CONTEMPT OF COURT
SGT. RICHARD POWERS

2011 APR 21 PM 12:59
MINGO COUNTY CLERK

CONTEMPT ORDER

Comes now the undersigned, Michael Thornsbury, Circuit Judge of Mingo County, and cites SGT. RICHARD POWERS for contempt of Court for appearing in Court late which is a violation of the Courts transportation order and delaying the Judicial process.

Entered this the 21st day of April, 2011


Michael Thornsbury, Circuit Judge

A COPY TESTE

CIRCUIT CLERK, MINGO COUNTY, W.VA.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

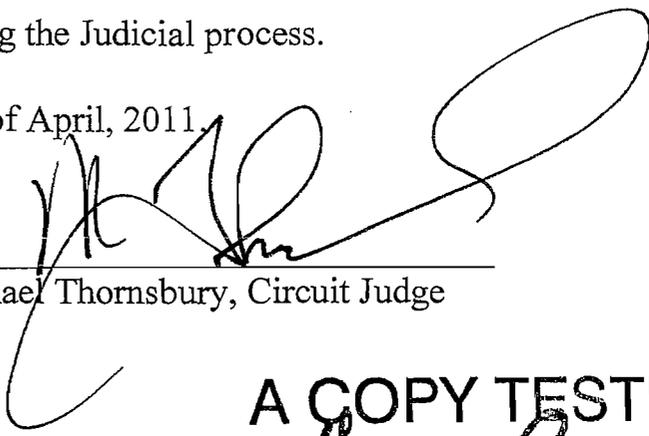
IN RE: CONTEMPT OF COURT
ANTHONY BASSMAN

2011 APR 21 A. 10: 31
CIRCUIT CLERK, MINGO COUNTY, W.VA.

CONTEMPT ORDER

Comes now the undersigned, Michael Thornsbery, Circuit Judge of Mingo County, and cites ANTHONY BASSMAN for contempt of Court for appearing in Court late which is a violation of the Courts transportation order and delaying the Judicial process.

Entered this the 21st day of April, 2011.



Michael Thornsbery, Circuit Judge

A COPY TESTE



CIRCUIT CLERK, MINGO COUNTY, W.VA.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

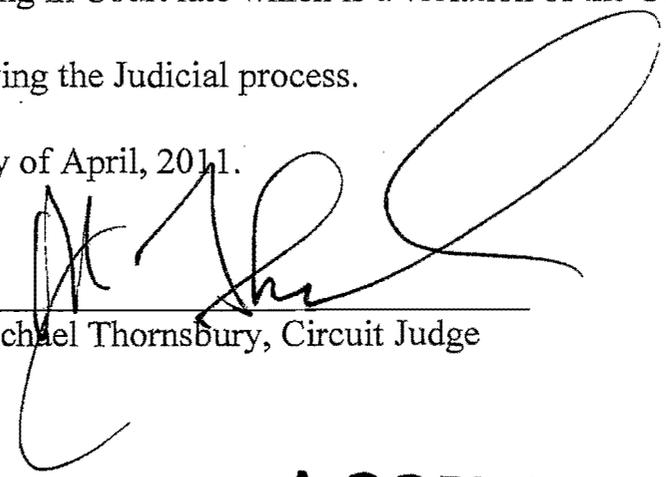
IN RE: CONTEMPT OF COURT
ANTHONY ELKINS

2011 APR 21 A 10:34
CIRCUIT CLERK, MINGO COUNTY, W.VA.

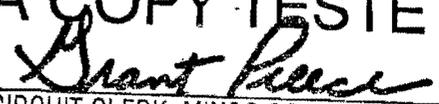
CONTEMPT ORDER

Comes now the undersigned, Michael Thornsbery, Circuit Judge of Mingo County, and cites ANTHONY ELKINS for contempt of Court for appearing in Court late which is a violation of the Courts transportation order and delaying the Judicial process.

Entered this the 21st day of April, 2011.



Michael Thornsbery, Circuit Judge

A COPY TESTE


CIRCUIT CLERK, MINGO COUNTY, W.VA.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

IN RE: CONTEMPT OF COURT

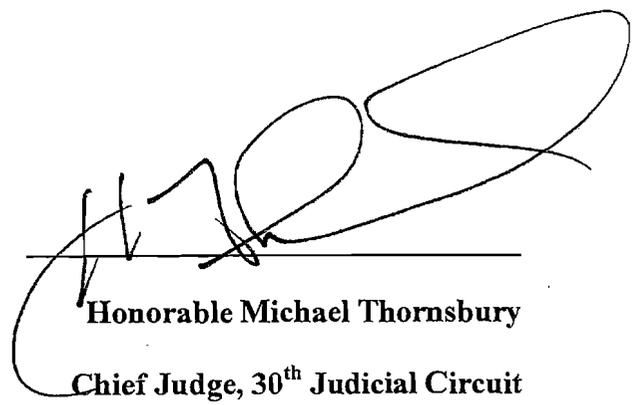
RICHARD POWERS

DIRECT CONTEMPT ORDER

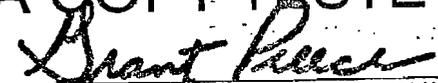
2:31 APR 21 P 3:10
MINGO COUNTY, W.VA.
COURT CLERK'S OFFICE

Richard Powers was found to be in direct Contempt Of Court for failure to transport prisoners in a timely manner in direct violation of the Courts' Order and is therefore fined the sum of fifty dollars (\$50.00). Mr. Powers is hereby given until April 25, 2011 to pay said fine. The Clerk is **DIRECTED** to accept said payment.

Entered: this the 21st day of April 2011.



Honorable Michael Thornsburg
Chief Judge, 30th Judicial Circuit

A COPY TESTE

CIRCUIT CLERK, MINGO COUNTY, W.VA.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

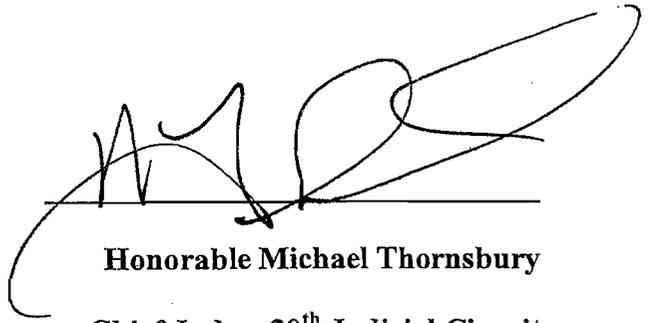
IN RE: CONTEMPT OF COURT

ANTHONY BASSMAN

DIRECT CONTEMPT ORDER

Anthony Bassman was found to be in direct Contempt Of Court for failure to transport prisoners in a timely manner in direct violation of the Courts' Order and is therefore fined the sum of fifty dollars (\$50.00). Mr. Powers is hereby given until April 25, 2011 to pay said fine. The Clerk is **DIRECTED** to accept said payment.

Entered: this the 21st day of April 2011.



Honorable Michael Thornsburg

Chief Judge, 30th Judicial Circuit

A COPY TESTE

Grant Pierce
CIRCUIT CLERK, MINGO COUNTY, W.VA.

2011 APR 21 P 3:10
CIRCUIT CLERK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

IN RE: CONTEMPT OF COURT

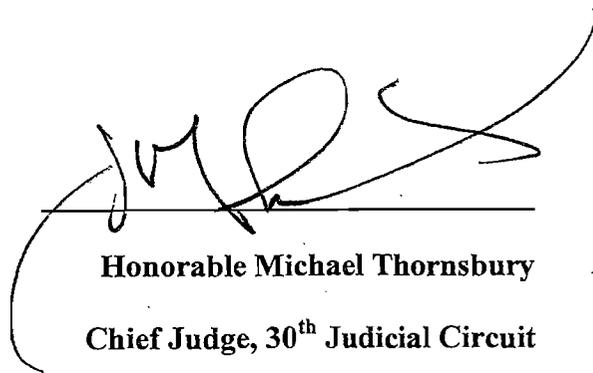
ANTHONY ELKINS

DIRECT CONTEMPT ORDER

2011 APR 21 P 3:10
CIRCUIT CLERK
MINGO COUNTY, W.VA.

Anthony Elkins was found to be in direct Contempt Of Court for failure to transport prisoners in a timely manner in direct violation of the Courts' Order and is therefore fined the sum of fifty dollars (\$50.00). Mr. Powers is hereby given until April 25, 2011 to pay said fine. The Clerk is **DIRECTED** to accept said payment.

Entered: this the 21st day of April 2011.



Honorable Michael Thornsbury
Chief Judge, 30th Judicial Circuit

A COPY TESTE

CIRCUIT CLERK, MINGO COUNTY, W.VA.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

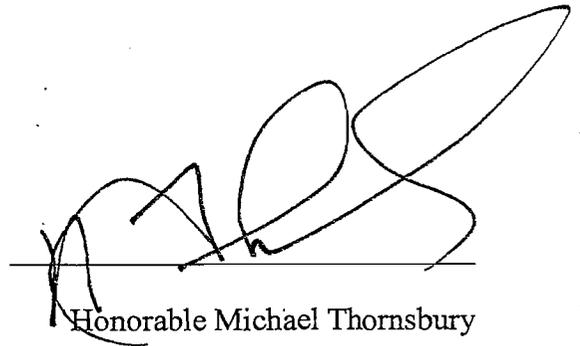
IN RE: CONTEMPT OF COURT

ANTHONY BASSMAN

CORRECTED DIRECT CONTEMPT ORDER

Anthony Bassman was found to be in direct Contempt Of Court for failure to transport prisoners in a timely manner in direct violation of the Court's Order and is therefore fined the sum of fifty dollars (\$50.00). Mr. Bassman is hereby given until April 25, 2011, to pay said fine. The Clerk is DIRECTED to accept said payment.

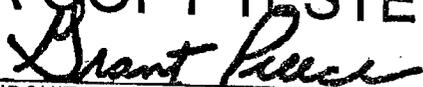
Entered: this the 21st day of April 2011.



Honorable Michael Thornsburg

Chief Judge, 30th Judicial Circuit

A COPY TESTE


CIRCUIT CLERK, MINGO COUNTY, W.VA.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

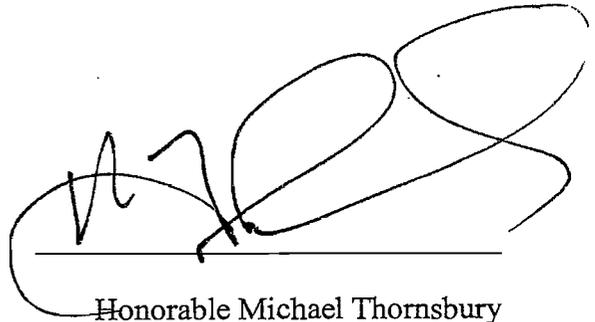
IN RE: CONTEMPT OF COURT

ANTHONY ELKINS

CORRECTED DIRECT CONTEMPT ORDER

Anthony Elkins was found to be in direct Contempt Of Court for failure to transport prisoners in a timely manner in direct violation of the Court's Order and is therefore fined the sum of fifty dollars (\$50.00). Mr. Elkins is hereby given until April 25, 2011, to pay said fine. The Clerk is DIRECTED to accept said payment.

Entered: this the 21st day of April 2011.



Honorable Michael Thornsburg

Chief Judge, 30th Judicial Circuit

A COPY TESTE

Grant Peeler
CIRCUIT CLERK, MINGO COUNTY, W.VA.

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

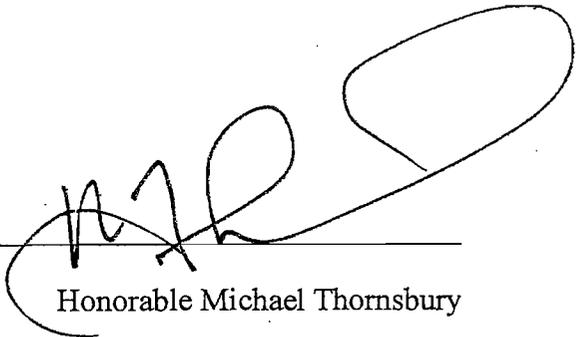
IN RE: CONTEMPT OF COURT

RICHARD POWERS

CORRECTED DIRECT CONTEMPT ORDER

Richard Powers was found to be in direct Contempt Of Court for failure to transport prisoners in a timely manner in direct violation of the Court's Order and is therefore fined the sum of fifty dollars (\$50.00). Mr. Powers is hereby given until April 25, 2011, to pay said fine. The Clerk is DIRECTED to accept said payment.

Entered: this the 21st day of April 2011.



Honorable Michael Thornsby

Chief Judge, 30th Judicial Circuit

A COPY TESTE
Grant Peerce
CIRCUIT CLERK, MINGO COUNTY, W.VA.