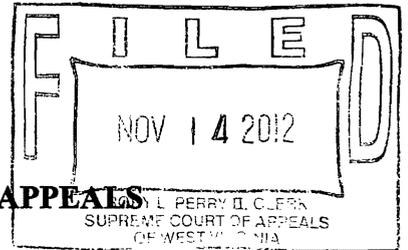


CASE NO. 12-1223



BEFORE THE WEST VIRGINIA SUPREME COURT OF APPEALS

STATE OF WEST VIRGINIA, ex-rel.
JOE E. MILLER, Commissioner,
West Virginia Division of Motor Vehicles

PETITIONER,

V.

CHARLES KING, Judge of the
Circuit Court of Kanawha County

RESPONDENT,

and

NICHOLE ERWIN

PARTY IN INTEREST,

**RESPONSE TO PETITION FOR
WRIT OF PROHIBITION**

PAUL S. DETCH, ESQUIRE
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Your party in interest contends that the grant of a stay falls within the discretion of the lower court judge for which he can consider the pleadings and also take judicial notice of the situation.

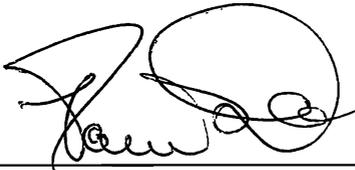
In this case, the lower court judge took judicial notice that the loss of an automobile driver's license can cause irreparable harm in that it can cause loss of employment, inconvenience and that the inability to drive can cause risks to even non-license holders in case of emergency. The Court took judicial notice that if the party in interest is able to prevail that the State of West

Virginia cannot offer any restitution that is meaningful. The restoration of license can never make one whole.

CONCLUSION

The Writ of Prohibition should be denied because it fall within the discretionary powers of the judge. The Court took judicial notice that irreparable harm can and does occur. The Court further took note that the respondent cannot be made whole.

NICHOLE ERWIN
By Counsel

A handwritten signature in black ink, appearing to read "Paul S. Detch", written over a horizontal line.

PAUL S. DETCH
201 N. COURT STREET
LEWISBURG, W.VA. 24901
W.VA. BAR NO. 1002

CERTIFICATE OF SERVICE

I, Paul S. Detch, hereby certify that a true and exact copy of the foregoing RESPONSE TO PETITION FOR WRIT OF PROHIBITION was served upon Honorable Judge Charles King, Kanawha County Circuit Clerk, 111 Court Street, Charleston, W.Va. 25301 and Elaine L. Skorich, Assistant Attorney General, DMV- Office of the Attorney General, P.O. Box 17220, Charleston, W.Va. 25317-0010 by mailing a true and exact copy by regular United States mail, postage paid on this 8 day of November, 2012.



Paul S. Detch