



**In the Supreme Court of Appeals of West Virginia**

Docket No. 12-0512

<p><b>JOHN EUGENE ANDERSON,</b> Defendant Below, Petitioner</p> <p>V.</p> <p><b>STATE OF WEST VIRGINIA,</b> Plaintiff Below, Respondent</p>	<p>Appeal from a final order of the Circuit Court of Wood County (10-F-93)</p>
---	--

---

**Petitioner's Brief**

---

Joseph Munoz  
Counsel for Petitioner  
(WV Bar #: 10315)  
PO BOX 165  
Parkersburg, WV 26102  
(304) 865-0505  
munozlaw@wvdsl.net

## TABLE OF CONTENTS

Table of Contents.....	i
Table of Authorities.....	ii
Assignments of Error.....	1
Statement of the Case.....	1
A. Introduction.....	1
B. Juror Misconduct.....	2
C. Improper Witness.....	3
D. Improper Witness Statement not Provided.....	3
E. Victim was a Sex Offender.....	4
F. Procedural History.....	4
Summary of Argument.....	5
Statement Regarding Oral Argument and Decision.....	6
Argument.....	7
I.    THE LOWER COURT ERRED BY PERMITTING A CONTAMINATED POOL OF JURORS TO BE EMPANELED. ....	7
II.   THE LOWER COURT COMMITTED ERROR BY PERMITTING A WITNESS TO TESTIFY DESPITE HIS FULL CRIMINAL RECORD NOT BEING PROVIDED TO THE DEFENSE. ....	9
III.  THE LOWER COURT ERRED IN NOT ORDERING THE STATE TO PROVIDE TO THE DEFENSE A PRIOR WRITTEN STATEMENT MADE BY A WITNESS REGARDING HIS KNOWLEDGE OF THE ALLEGED CRIMINAL ACT. ....	11
IV.  THE LOWER COURT COMMITTED ERROR IN REFUSING TO ALLOW THE DEFENSE TO PRODUCE EVIDENCE AT TRIAL OF THE ALLEGED VICTIM’S STATUS AS A REGISTERED SEX OFFENDER. ....	12
Conclusion.....	14

## TABLE OF AUTHORITIES

### Cases

<i>Brady v. Maryland</i> , 373 U.S. 83, 83 S.Ct. 1194, (1963).....	11
<i>Olden v. Kentucky</i> , 488 U.S. 227, 109 S.Ct. 480 (1988).....	13
<i>State v. Hatfield</i> , 169 W.Va. 191, 286 S.E.2d 402 (1982).....	11
<i>State v. Harden</i> , 679 S.E.2d 628, 223 W.Va. 796 (2009).....	13
<i>State v. Peacher</i> , 167 W.Va. 540, 280 S.E.2d 559 (1981).....	8
<i>State v. Pratt</i> , 161 W.Va. 530, 244 S.E.2d 227 (1978).....	8
<i>State ex rel. Rusen v. Hill</i> , 454 S.E.2d 427, 193 W.Va. 133 (1995).....	10
<i>State v. Youngblood</i> , 221 W.Va. 20, 650 S.E.2d 119 (2007).....	12

### Statutes

West Virginia Code, § 61-2-1 (2010).....	14
--	----

### Court Rules

<i>West Virginia Rules of Criminal Procedure, Rule 16</i> .....	10
<i>West Virginia Rules of Criminal Procedure, R26.2(f)(1)</i> .....	12

### Constitutional Provisions

United States Constitution, Sixth Amendment.....	8
United States Constitution, Fourteenth Amendment.....	8
West Virginia Constitution, Article III, Section 14.....	8

## **ASSIGNMENTS OF ERROR**

I. THE LOWER COURT ERRED BY PERMITTING A CONTAMINATED POOL OF JURORS TO BE EMPANELED.

II. THE LOWER COURT COMMITTED ERROR BY PERMITTING A WITNESS TO TESTIFY DESPITE HIS FULL CRIMINAL RECORD NOT BEING PROVIDED TO THE DEFENSE.

III. THE LOWER COURT ERRED IN NOT ORDERING THE STATE TO PROVIDE TO THE DEFENSE A PRIOR WRITTEN STATEMENT MADE BY A WITNESS REGARDING HIS KNOWLEDGE OF THE ALLEGED CRIMINAL ACT.

IV. THE LOWER COURT COMMITTED ERROR IN REFUSING TO ALLOW THE DEFENSE TO PRODUCE EVIDENCE AT TRIAL OF THE ALLEGED VICTIM'S STATUS AS A REGISTERED SEX OFFENDER.

## **STATEMENT OF THE CASE**

A. Introduction. Appellant is John Anderson, a junior high school drop-out and a survivor of sex abuse as a juvenile. At the time of the alleged offense, he was homeless and unemployed. The victim, Willard Wright, was the grand-uncle of Mr. Anderson's girlfriend, a woman named Tamara Wilfong. Mr. Wright was a convicted felon with numerous convictions for serious sexual offenses against children. He lived alone at his apartment in Parkersburg, WV. At trial, Ms. Wilfong, testified that on the day of the alleged offense, she and Mr. Anderson and her 4 year old daughter had been over at Mr. Wright's apartment for a couple hours cleaning and assisting him with some chores for some petty cash. At some point during this visit, Ms. Wilfong's daughter informed her that "Uncle Willard" had touched her genitals. The three quickly left. Ms. Wilfong informed Mr. Anderson en route to her residence in Washington County, OH, about the nature of their hasty departure from Mr. Wright's apartment. The State produced

evidence at trial that later that day, Mr. Anderson returned to Mr. Wright's residence. Mr. Wright was discovered dead early the next morning by neighbors who had heard a commotion while watching television upstairs in their apartment. Appellant complains of several key rulings, which he contends, were in error and led to him being wrongly convicted of first degree murder with a recommendation for mercy.

B. Juror Misconduct. During voir dire, each potential juror was brought back into judge's chambers in order to individually question each person regarding the mercy issue that the jury would be faced with if, after the conclusion of the trial, they found Mr. Anderson guilty of murder in first degree. At one point in this stage of voir dire, a potential juror alerted the court and the parties to improper statements made by another potential juror while other potential jurors were present. Subsequently, the juror who was alleged to have made these comments was specifically questioned by the court and the parties. One other potential juror admitted in chambers that he had heard these comments as well. The court then decided that the proper course of action was to bring all the remaining pool of potential jurors into the courtroom and question them as a group as to whether or not they had heard such comments as well. When no other potential juror admitted in open court that they had not heard these comments, the court, upon a motion for a mistrial by the defense, decided that a fair and impartial jury for trial could still be attained and denied the motion for a mistrial.

C. Improper Witness. Over the objections of defense counsel, a witness named James Claypool was permitted to testify despite his full criminal history not being provided to the defense. Mr. Claypool was incarcerated at the Washington County Jail when Mr. Anderson was taken into to custody for the alleged offense. According to Mr.

Claypool, he had several conversations with Mr. Anderson regarding the alleged offense and other criminal acts including reprisals against potential witnesses. At trial, this witness provided testimony that severely damaged Mr. Anderson's defense. Most problematic was his testimony during cross examination that he had been a sergeant-at-arms in the Pagan Motorcycle Gang and had committed serious offenses in that official role. At the time he met Mr. Anderson, he was being held on charges related to his participation as a gang member. Mr. Claypool was very vague and cagey regarding these charges during his testimony in the Anderson trial. He stated that these charges were eventually dealt with by a guilty plea in federal court in West Virginia. Neither this plea nor a NCIC record reflecting any conviction in federal court was provided to the defense. This situation made it impossible for the defense to properly cross examine this witness as to his criminal history or what level his substantial cooperation in the Anderson case affected his federal criminal case sentencing.

D. Improper Witness' Prior Statement not Provided to Defense. Over objection by defense counsel, Mr. Claypool's troubling testimony was further compounded by the State failing to provide to the defense a letter that the witness had provided to his attorney shortly after meeting Mr. Anderson. Mr. Claypool testified that he wrote this letter to his attorney in order to see what his information could do for his pending charges. The State knew this letter existed for a number of years but never made one attempt to collect it.

E. Victim was a Sex Offender. Over the objection of defense counsel, the court barred all questions regarding any witnesses' knowledge of the victim's criminal history and sex offender registration status. This ruling greatly limited the defense's ability to

present several possible avenues of defenses including other persons' motives to retaliate against the victim and perhaps most importantly, the presentation of evidence regarding lesser included offenses. Furthermore, although the defense decided not to place Mr. Anderson on the stand to testify, this bar essentially violated Mr. Anderson's constitutional right against being compelled to testify by forcing the defense to either place Mr. Anderson on the stand in order for such evidence to be introduced or remain silent and thereby ensure that all such evidence of the victim's criminal history and publically known status as a sex offender was never presented to the jury until the mercy stage of the proceeding.

F. Procedural History. The Appellant was indicted by a Wood County Circuit Court grand jury on the 14<sup>th</sup> day of May, 2010. Numerous pretrial hearings were held including a review of the competency of the Appellant to stand trial and assist in his own defense. Trial commenced on the 3<sup>rd</sup> day of January, 2012 and lasted until the 10<sup>th</sup> day of January, 2012. The trial was bifurcated on the issue of mercy. The Appellant was found by the jury to be guilty of Murder in the First Degree. After the separate hearing on the mercy issue, the jury recommended that the Appellant be eligible for mercy after serving 15 years of imprisonment. The original sentencing hearing was held on the 12<sup>th</sup> day of March, 2012. The Appellant's Motion for a Post-Verdict Judgment of Acquittal or in the Alternative Motion for New Trial was denied. Thereupon, it was ordered that John Eugene Anderson be committed to the custody of the West Virginia Division of Corrections for imprisonment for a term of LIFE, said sentence to begin as of March, 12, 2012. Another subsequent sentencing hearing was held on the 3<sup>rd</sup> day of August, 2012

due to the extensive amount of time it took for the court reporter to complete the trial transcript. Appeal was perfected on the 17<sup>th</sup> day of December, 2012.

### **SUMMARY OF ARGUMENT**

Appellant argues that the trial court committed error by permitting the voir dire to continue with the potential pool of jurors contaminated by improper statements made by another potential juror. Appellant argues that the trial court committed error by allowing the State to call James Claypool as a witness despite his complete criminal history not being provided to the defense, although it was properly requested beforehand, which is a clear violation of the West Virginia Rules of Criminal Procedure, Rule 16(a)(1)(E). Appellant further argues that the lower court compounded this error by not ordering the State to produce a written statement made by the very same witness, which was also properly requested before trial. Finally, the trial court committed error by not permitting the defense to elicit testimony regarding the victim's criminal history and sex offender status despite the fact that several of the State's witnesses were aware of this situation and that this bar on such evidence essentially forced the defense to place the Appellant on the witness stand in order to have any opportunity to present this evidence to the jury before they reached a verdict.

### **STATEMENT REGARDING ORAL ARGUMENT AND DECISION**

The Appellant requests oral argument in this case. Appellant asserts that trial court erred in its application of existing law but requests argument pursuant to Rule 20 because of the number of errors assigned. Appellant also believes that the case should be subject of a full opinion because of the constitutional and issues raised involving

application of *State v. Harden*.

## ARGUMENT

### I. THE LOWER COURT ERRED BY PERMITTING A CONTAMINATED POOL OF JURORS TO BE EMPANELED.

The trial commenced on the 3<sup>rd</sup> day of January, 2012. That morning, several pretrial motions were heard by the court. Among those addressed was the issue of bifurcation of the guilt and mercy stages of the trial. This motion was granted by the court. (Vol. A, A.R. 3). The parties agreed with the court's previously established procedure on as to how each potential juror would be individually questioned. (Vol. A, A.R. 4). This process began later that afternoon, with each potential juror being brought into the judge's chambers to be questioned by the parties. At one point, a juror named Jennie Ankrom was brought into chambers and asked several questions by the parties. Wood County Prosecutor Jason Wharton began with the first group of questions in delving into concerns stated by Ms. Ankrom regarding pressure. The following exchange is taken verbatim from the Trial Transcript:

MR. WHARTON: Let's talk about it for a minute to see if this is something you could actually do or not. We've got, right now, a room full of people and we've got some more coming back at, 1:45, maybe 2:15 and 2:45. Those people are going to have the same amount of pressure on them as you would have, so I guess my question to you is could you find it within yourself to deal with that pressure and be fair and impartial juror to both the State of West Virginia and to the Defendant, John Anderson?

JUROR: Oh, yeah, that wouldn't be a problem. I take enough drugs for that. (Vol. A, A.R. 143).

This exchange is enlightening for the information that was provided to the parties by

another juror named Sarah Markell as individual voir dire continued on the 4<sup>th</sup> day of January, 2012. This juror informed the court that another juror had stated to other jurors that, “He just looks guilty.” (Vol. A, A.R. 189). The court and the parties then commenced to try and ascertain from this juror the identity of the juror who was alleged to have made the improper remarks. From these questions it was decided that the Ms. Markell had identified Ms. Ankrom. Ms. Ankrom was brought into chambers and questioned. She admitted to making such remarks about the Appellant. (Vol. A, A.R. 191). Then the following exchange occurred between Ms. Ankrom and defense counsel:

MR. MUNOZ: I’m sorry, I do have a question. I apologize. Who all did you say that to?

JUROR: I don’t know. I may have said it to the guy I was walking up here with.

MR. MUNOZ: Another potential juror?

JUROR: Yeah. He hasn’t been in here yet. (Vol. A, A.R. 191).

Ms. Ankrom only admitted making these statements to one other potential juror, a person she identified as a, “big, heavysset guy.” (Vol. A, A.R. 192). The parties then agreed on calling Matthew Minton next. He was brought into chambers and freely admitted upon questioning by the court that he had heard Ms. Ankrom make inappropriate statements regarding the Appellant. This potential juror also affirmed that these remarks were made by Ms. Ankrom to him alone, with no one else present. (Vol. A, A.R. 199). Based upon the apparent discrepancy between how these improper remarks were first brought to the parties’ attention by Ms. Markell and then the other statements that were brought up by Ms. Ankrom and Mr. Minton, defense counsel questioned the court as how it wished to proceed and the court decided that it would

question the entire panel in open court to see if any other potential juror had been influenced by the remarks. (Vol. A, A.R. 200). This questioning was done and no other potential juror, despite Ms. Markell's contention that these remarks were made in front of several other jurors, informed the court that they had heard any such inappropriate comments. Based upon these comments, defense counsel moved for a mistrial. (Vol. A, A.R. 210). This motion was denied by the court. (Vol. A, A.R. 213).

The law on juror misconduct is closely tied to a defendant's right to a fair trial. The Sixth and Fourteenth Amendments of the United States Constitution and Article III, Section 14, of the West Virginia Constitution have been interpreted by this court as providing that an meaningful voir dire works to ensure that a defendant receive a fair trial. As this court as noted in Syl. Pt. 4, State v. Peacher, 167 W.Va. 540, 280 S.E.2d 559 (1981), "The right to a trial by an impartial, objective jury in a criminal case is a fundamental right guaranteed by the Sixth and Fourteenth Amendments of the United States Constitution and Article III, Section 14, of the West Virginia Constitution. A meaningful and effective voir dire of the jury panel is necessary to effectuate that fundamental right." Additionally, Jurors who on voir dire of the panel indicate possible prejudice should be excused, or should be questioned individually either by the court or by counsel to precisely determine whether they entertain bias or prejudice for or against either party, requiring their excuse. Syl. pt. 3, State v. Pratt, 161 W.Va. 530, 244 S.E.2d 227 (W.Va., 1978).

An analysis of the afore-mentioned facts and the relevant rules regarding voir dire and juror misconduct displays that the trial court's procedure with dealing with the improper comments is reversible error. All of the potential jurors who potentially could have heard the inappropriate comments should have been asked individually in the

judge's chambers whether or not they heard these comments. As the trial transcript shows, these comments were made on at least two different occasions, once in the courthouse and another time outside of the building during a lunch break. It is important to note that the procedure chosen by the court was after two potential jurors were questioned about their knowledge of the comments and after the offending juror was dismissed from service. Given the ramifications and pressures of stating on the record in open court about their knowledge of these comments, the group questioning method chosen by the court failed to adequately address the serious concerns brought up by Ms. Markell and perhaps most egregiously, failed to take into consideration her honest remarks that began the court's investigation into this issue.

## **II. THE LOWER COURT COMMITTED ERROR BY PERMITTING A WITNESS TO TESTIFY DESPITE HIS FULL CRIMINAL RECORD NOT BEING PROVIDED TO THE DEFENSE.**

On the first day of trial, defense counsel brought up the issue of a particular witness' criminal history. This witness was named James Claypool. The defense informed the court, although properly requested, they had not received from the State the witness' full criminal history. In fact the criminal history provided to the defense ended with information regarding a misdemeanor conviction in 2006. Both parties were aware that he witness had faced federal criminal charges in late 2009 early 2010. The State agreed with the defense's assertion regarding the incompleteness of the witness' criminal history. (Vol. A, A.R. 17). The court then stated that the State should diligently try to find out more information. (Vol. A, A.R. 18). Later, the court, outside the presence of the jury, held a hearing involving Mr. Claypool's testimony. (Vol. A, A.R. 264). Mr. Wharton asked Mr. Claypool several questions regarding his criminal history.

Mr. Claypool provided vague details about his conviction in the Southern District. He stated that he numerous charges dismissed and some others were not indicted. He admitted to being a felon. (Vol. A, A.R. 265). Upon cross examination, he testified that he received some form of immunity from the federal government. (Vol. A, A.R. 287). Defense counsel objected to this witness' entire testimony. (Vol. A, A.R. 290). The court overruled the defense's objection to the witness testifying. (Vol. A, A.R. 293).

The traditional appellate standard for determining prejudice for discovery violations under Rule 16 of the West Virginia Rules of Criminal Procedure involves a two-pronged analysis: (1) did the non-disclosure surprise the defendant on a material fact, and (2) did it hamper the preparation and presentation of the defendant's case. Syl. pt. 2, State ex rel. Rusen v. Hill, 454 S.E.2d 427, 193 W.Va. 133 (W.Va., 1995).

Defense counsel had been aware that the witness had a criminal history since the preliminary hearing that was held in this matter. Unfortunately, as the trial transcript reflects, the recording of the preliminary hearing was not properly preserved by the magistrate court. This development left the defense in a position to rely upon the discovery provided by the State. The issue that the defense had with what it believed was an incomplete criminal record was brought to the court's attention on the first day of trial, a critical point since defense counsel had tried to resolve the issue with the assistant prosecuting attorney assigned to the case. (Vol. A, A.R. 17). Mr. Claypool did testify outside the presence of the jury as to his understanding of the charges he had plead guilty to as well as his recollection of his sentencing. However, this method of alerting defense counsel to the resolution of his federal felony criminal charges was vague and incomplete. As noted before, the defense elicited from the witness that he had received some form of immunity. The State attempted to clarify the immunity issue

but from the record it does not appear that the witness' testimony clarified why he received this immunity. (Vol. A, A.R. 289). Even if he had already plead guilty to the obstruction of justice charge he admitted to being convicted of, there was no way for the defense to effectively cross examine this witness as to what he did after his plea. The federal sentencing guidelines make allowances for what is known as substantial cooperation. The manner in which the court permitted this witness to testify left the defense with a very limited knowledge base to attack the witness' statement as well as greatly restricting the extent of cross examination by essentially forcing the defense to accept the witness' remarks on face value.

**III. THE LOWER COURT ERRED IN NOT ORDERING THE STATE TO PROVIDE TO THE DEFENSE A PRIOR WRITTEN STATEMENT MADE BY A WITNESS REGARDING HIS KNOWLEDGE OF THE ALLEGED CRIMINAL ACT.**

Mr. Claypool then testified before the jury. He admitted to writing a letter to his lawyer. (Vol. A, A.R. 303). This statement was never provided to the defense. Defense counsel made a motion for a mistrial on the 5<sup>th</sup> day of January, 2012. (Vol. B, A.R. 3). The motion was denied by the court. (Vol. B, A.R. 8).

The law is well-established regarding properly requested statements and discovery. It is undisputed that the statements were properly requested by the defense well in advance of trial. "There are three components of a constitutional due process violation under Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, (1963), and State v. Hatfield, 169 W.Va. 191, 286 S.E.2d 402 (1982): (1) the evidence at issue must be favorable to the defendant as exculpatory or impeachment evidence; (2) the evidence must have been suppressed by the State, either willfully or inadvertently; and (3) the

evidence must have been material, i.e., it must have prejudiced the defense at trial.”

Syllabus point 2, State v. Youngblood, 221 W.Va. 20, 650 S.E.2d 119 (2007).

Since the State was never ordered to produce this statement, we do not know if it was exculpatory or useful in regards to impeachment. It is undisputed that the State knew about this statement as of early 2010. The State took the position that since this statement was never in their possession, they had no responsibility to acquire it. (Vol. B, A.R. 5). However, this position certainly does not withstand criticism. In a case that involved law enforcement in both West Virginia and Ohio, the State did not initially possess a substantial amount of statements and information in this case. For example, statements were made by the several key witnesses in Ohio to various Ohio law enforcement officers. (Vol. B, A.R. 7). The statements that the State acquired and provided to defense counsel were predominately incriminatory. The defense properly requested just this sort of statement in its discovery under Paragraph 17 of its Omnibus Discovery Motion, which is entitled Pre-Trial Production of Statements of State Witness and includes in its request documents such as, “ Written statement[s] made by a witness that is signed or otherwise adopted or approved by him/her. R.Cr.P., Rule 26.2(f)(1).” Again, although the content of this letter is unknown, it was a potentially materially relevant statement made by an important witness near in time to the date of the alleged offense. This failure by the court to order the State to provide this document as well as the afore-mentioned full and complete criminal history of James Claypool or grant a mistrial once requested is reversible error.

**IV. THE LOWER COURT COMMITTED ERROR IN REFUSING TO ALLOW THE DEFENSE TO PRODUCE EVIDENCE AT TRIAL OF THE ALLEGED VICTIM’S STATUS AS A REGISTERED SEX OFFENDER.**

This issue was also brought to the court's attention on the first day of trial. The State requested that no mention be made of the victim's status as a registered sex offender. (Vol. A, A.R. 7). The defense objected but the court chose not to allow any mention of the victim being a registered sex offender. (Vol. A, A.R. 11). This issue arose several times during the course of the trial.

While not precisely on point, several cases are relevant to the discussion of this issue. Syl. Pt. 4, State v. Harden, 679 S.E.2d 628, 223 W.Va. 796 (W.Va., 2009), states: "Where it is determined that the defendant's actions were not reasonably made in self-defense, evidence that the decedent had abused or threatened the life of the defendant is nonetheless relevant and may negate or tend to negate a necessary element of the offense(s) charged, such as malice or intent." Additionally, the United States Supreme Court has recognized that in various circumstances a defendant may have a right under the Confrontation Clause to introduce evidence otherwise precluded by an evidence rule. See, e.g., Olden v. Kentucky, 488 U.S. 227, 109 S.Ct. 480 (1988) (defendant in rape cases had right to inquire into alleged victim's cohabitation with another man to challenge credibility). When faced with these circumstances, a court must base the scope of the accused's constitutional right on the case's specific facts.

In the case at bar, the State produced several witnesses who were aware of the victim's status as a registered sex offender. The neighbor who first discovered the victim's body acknowledged that he was aware of this fact. (Vol. A, A.R. 9). As the introduction reflects, a mother who had knowledge of his sex offender status as well as information from her 4 year daughter that he had sexually abused her was one of the last persons to see the victim alive. This is perhaps the most important fact, that by limiting introduction of this witness' knowledge of these facts, the court severely

diminished the Appellant's chances of being convicted of any lesser included offense. The court's ruling essentially forced the defense to remain silent on this important piece of information despite many of the testifying witnesses having knowledge of this fact. This situation was a difficult one for the defense to deal with. It forced the defense to decide to either have the Appellant testify, which would have meant placing a nearly illiterate man with a history of mental illness and other traumas on the witness stand or waiting till the mercy stage to introduce evidence about the victim's sordid past. Not surprisingly, the defense chose the latter strategy. It goes without saying that by that point, the most severe damage to the defendant's case had already been done.

### **CONCLUSION**

Based upon the errors made at the original trial, the Appellant's case should be remanded to Circuit Court for a new trial.



Joseph Munoz (WV Bar # 10315)  
Counsel of Record for Petitioner  
PO Box 165  
Parkersburg, WV 26102  
munozlaw@wvdsl.net

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17<sup>th</sup> day of December, 2012, true and accurate copies of the foregoing **Petitioner's Brief** were personally delivered to counsel for all other parties to this appeal as follows:

Benjamin F. Yancey, III  
Counsel for Respondent  
Assistant Attorney General  
State Capital Complex  
Building 1, Room W-435  
Charleston, WV 25305



Joseph Munoz (WV Bar #: 10315)  
Counsel of Record for Petitioner  
PO Box 165  
Parkersburg, WV 26102