

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 30th of October, 2014, the following order was made and entered:

State of West Virginia ex rel. Dr. Todd
Tallman, M.D., Petitioner

vs.) No. 14-0948

Honorable Susan B. Tucker, Judge of the
Seventeenth Judicial Circuit; Patricia M. Powell,
as Executrix of the Estate of Robert L. Powell;
and Patricia M. Powell, individually,
Respondents

On September 22, 2014, the petitioner, Dr. Todd Tallman, M.D., by counsel Stephen R. Brooks and Travis A. Prince, Flaherty Sensabaugh and Bonasso, PLLC, presented to the Court his petition praying for a writ of prohibition to be directed against the respondent, Honorable Susan B. Tucker, Judge of the Seventeenth Judicial Circuit, as therein set forth.

Thereafter, on October 14, 2014, the respondent, Honorable Susan B. Tucker, Judge, filed a summary response. On the same day, the respondent, Patricia M. Powell, by counsel Frances C. Whiteman and Kristine A. Burdette, Whiteman Burdette, PLLC, filed a respondent's brief.

Upon consideration, the Court is of the opinion that a rule should be awarded herein. It is therefore considered and ordered that a rule does hereby issue commanding and directing the said respondents, to show cause, if any they can, why a writ of prohibition should not be awarded against Honorable Susan B. Tucker, Judge of the Seventeenth Judicial Circuit, as prayed for by the petitioner in the said petition. Chief Justice Davis and Justice Workman would refuse the petition.

It is further ordered that this matter shall be scheduled for consideration and oral argument under Rule 19 of the Rules of Appellate Procedure to be held on a date during the January 2015 Term of Court.

The Clerk will, at a later date, furnish counsel of record with a Notice of Argument pursuant to Rule 19(b), which will contain additional information regarding argument.

It is finally ordered that this matter shall be submitted on the pleadings previously filed, without further briefing.

A True Copy

Attest: /s/ Rory L. Perry II, Clerk of Court

