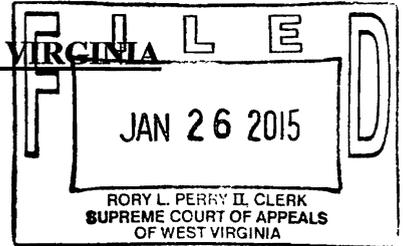


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA



**STATE OF WEST VIRGINIA EX REL.
WILTON FREDERICK BLAND,**

Petitioner,

vs.

No. 15-0020

**The Honorable Phil Jordan,
21st Judicial Circuit,**

Respondent.

**RESPONDENT'S SUMMARY RESPONSE TO PETITIONER'S PETITION FOR WRIT
OF MANDAMUS**

Phil Jordan,
Circuit Judge,
21st Judicial Circuit
P.O. Box 150
Keyser, WV 26716
Telephone: (304) 788-5150
Facsimile: (304) 788-4100
phil.jordan@courtsww.gov

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

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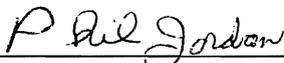
Pursuant to Rule 16(h) of the Rules of Appellate Procedure, the Respondent, Judge Phil Jordan, submits a response to the Petitioner's "Writ of Mandamus."

The Petitioner, Wilton Frederick Bland, has filed a Writ of Mandamus requesting that the West Virginia Supreme Court of Appeals order the Circuit Court to schedule a hearing on Petitioner's Second Amended Petition for a Writ of Habeas Corpus.

Before a writ of mandamus can be issued "three elements must coexist: (1) the existence of a clear right in the petitioner to the relief sought; (2) the existence of a legal duty on the part of the respondent to do the thing the petitioner seeks to compel; and (3) the absence of another adequate remedy at law." Syl. Pt. 1, State ex rel. Bailey v. State Div. of Corrections, 213 W.Va. 563, 584 S.E.2d 197 (2003) (Syl. Pt. 3, Cooper v. Gwinn, 171 W.Va. 245, 298 S.E.2d 781 (1981); accord, Parks v. Board of Review, 188 W.Va. 447, 425 S.E.2d 123 (1992).

Petitioner requests that the Supreme Court of Appeals order the Circuit Court to schedule the underlying habeas corpus matter for hearing. The Circuit Court's staff is currently scheduling the matter for hearing and has been in contact with Petitioner, the Mineral County Prosecutor, and the Grant County Prosecutor regarding the same.¹ Because the Petitioner's requested relief is effectively being granted by the Circuit Court, there is no absence of another adequate remedy at law. Thus, the Petitioner is not entitled to have a writ of mandamus issued.

Respectfully submitted this 21st day of January, 2015.



Judge Phil Jordan, Circuit Judge
21st Judicial Circuit

¹ The Court wishes that Mr. Bland's counsel had simply contacted the Court's staff regarding scheduling the matter for hearing and to follow up on their motion. Mr. Bland's March 2013 Motion to Schedule Status Hearing appears on the docket for Mineral Co. Case No. 09-C-81 but does not appear in the court file. Had Mr. Bland's counsel contacted this Court, the Petition for Writ of Mandamus to the West Virginia Supreme Court of Appeals would not have been necessary.

CERTIFICATE OF SERVICE

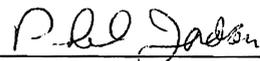
I, the Honorable Philip B. Jordan, Respondent in this matter, hereby certify that on this date I served a copy of the foregoing Summary Response upon Petitioner Wilton Frederick Bland, the Mineral County Prosecuting Attorney, and the Grant County Prosecuting Attorney, as follows:

TO: Eric S. Black, Esq.
380 South Washington Street
Berkeley Springs, WV 25411

The Mineral County Prosecuting Attorney
P.O. Drawer 458
Keyser, WV 26726
Via Hand Delivery Only

The Grant County Prosecuting Attorney
5 Highland Ave
Petersburg, WV 26847
Via Hand Delivery Only

Dated this the 21st day of January, 2015.



JUDGE PHIL JORDAN
21st Judicial Circuit