

STATE OF WEST VIRGINIA

At the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on August 10, 2012, the following order was made and entered **in vacation**:

State of West Virginia ex rel. Allen H. Loughry II,
candidate for the Supreme Court of Appeals of
West Virginia, Petitioner

vs.) No. 12-0899

Natalie E. Tennant, West Virginia Secretary of State;
Natalie E. Tennant, Gary A. Collias, William N. Renzelli,
and Robert Rupp, members of the West Virginia State
Election Commission; Glen B. Gainer III, West Virginia
State Auditor; and John Perdue, West Virginia State
Treasurer, Respondents

On a former day, to-wit, July 30, 2012, came the petitioner, Allen H. Loughry II, by Marc E. Williams, Randall L. Saunders and Jenna E. Hess, Nelson Mullins Riley & Scarborough, LLP; and J. Adam Skaggs and Matthew Menendez, Brennan Center for Justice at NYU School of Law, his attorneys, and presented to the Court his petition praying for a writ of mandamus to be directed against the respondents, Natalie E. Tennant, West Virginia Secretary of State; Natalie E. Tennant, Gary A. Collias, William N. Renzelli, and Robert Rupp, members of the West Virginia State Election Commission; Glen B. Gainer III, West Virginia State Auditor; and John Perdue, West Virginia State Treasurer, as therein set forth.

Thereafter, on August 6, 2012, came Anthony J. Delligatti, *pro se*, and presented to the Court his amicus curiae brief.

Thereafter, on August 9, 2012, came the respondent, Glen B. Gainer III, West Virginia State Auditor, by Lisa A. Hopkins, his attorney, and presented to the Court his respondent's

brief. On the same day, came the respondent, John Perdue, West Virginia State Treasurer, by Diana Stout, Special Assistant Attorney General, and presented to the Court his respondent's brief. On the same day, came the respondents, Natalie E. Tennant, Secretary of State, and the West Virginia State Election Commission, by Silas B. Taylor, Managing Deputy Attorney General, and presented to the Court their summary response.

Upon consideration whereof, the Court is of opinion that a rule should be awarded herein. It is therefore considered and ordered that a rule do issue directed against the respondents, commanding and directing the said respondents to show cause, if any they can, why a writ of mandamus should not be awarded, as prayed for by the petitioner in his said petition.

It is further ordered that this matter be, and it hereby is, scheduled for consideration and oral argument under Rule 20 of the Revised Rules of Appellate Procedure to be held at 10:00 o'clock a.m. on Tuesday, September 4, 2012, at the courtroom in the State Capitol in the City of Charleston. This matter shall be submitted on the pleadings previously filed, without further briefing unless ordered by the Court. The Clerk will, at a later date, furnish counsel of record with a Notice of Argument pursuant to Revised Rule 20(b), which will contain additional information regarding argument.

Finally, the Court hereby acknowledges receipt of the motion to intervene filed in this matter by Michael Callaghan on August 9, 2012, by his counsel, Anthony J. Majestro, Powell & Majestro, PLLC. Counsel of record are directed to file any responses to the motion to intervene with the Court before 5 o'clock p.m. on Tuesday, August 14, 2012. If the motion to intervene is granted, the Court may order additional briefing.

Service of a copy of this order upon the respondents aforesaid shall have the same effect as the service of a formal writ.

Justices Davis, Benjamin, and Workman disqualified. Judges Wilkes, Mazzone, and Marks sitting by temporary assignment.

A True Copy

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

