

STATE OF WEST VIRGINIA

At a regular term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on November 23, 2011, the following order was made and entered:

State of West Virginia ex rel. Thornton Cooper, Petitioner

vs.) No. 11-1405

Natalie E. Tennant, Secretary of State of the State of West Virginia
and Richard Thompson, Speaker of the West Virginia House of Delegates,
Respondents

AND

State of West Virginia ex rel. Stephen Andes and Joseph Haynes,
individually and in official capacities as members of the County
Commission of Putnam County, West Virginia; Brian Wood, individually
and in official capacity as Putnam County Clerk; Bob Baird, Myles
Epling and Rick Handley, individually and in official capacities as
members of the County Commission of Mason County, West Virginia;
and Diana Cromley, individually and in official capacity as Mason
County Clerk, Petitioners

vs.) No. 11-1447

Natalie E. Tennant, Secretary of State of the State of West Virginia
and Richard Thompson, Speaker of the West Virginia House of Delegates,
Respondents

AND

State of West Virginia ex rel. County Commission of Monroe County,
by and through its members: Michael Shane Ashley, Clyde Gum, Jr.,
and William Miller, Petitioners

vs.) No. 11-1516

Richard Thompson, Speaker of the West Virginia House of Delegates;
and Natalie E. Tennant, Secretary of State of the State of West Virginia,
Respondents

AND

State of West Virginia ex rel. Eldon A. Callen, Jim Boyce, Petra Wood,
John Wood and Frank Deem, Petitioners

State of West Virginia ex rel. Eldon A. Callen, Jim Boyce, Petra Wood,
John Wood and Frank Deem, Petitioners

vs.) No. 11-1517

Natalie E. Tennant, Secretary of State of the State of West Virginia,
Respondent

AND

State of West Virginia ex rel. Thornton Cooper, Petitioner

vs.) No. 11-1525

Natalie E. Tennant, Secretary of State of the State of West Virginia,
Respondent

On a former day, to-wit, November 9, 2011, after the Court's consideration of the petitions and responses thereto, as well as the brief of the West Virginia AFL-CIO and the West Virginia Citizens Action Group, as *amici curiae*, filed on November 4, 2011, a rule to show cause was issued in the above-captioned matters.

Thereafter, on November 14, 2011, came the respondent, Natalie E. Tennant, Secretary of State, by Thomas W. Rodd, Assistant Attorney General, and filed her summary response in Supreme Court Docket No. 11-1516, and her consolidated response in Supreme Court Docket Nos. 11-1517 and 11-1525.

On the same day, came the respondent, Richard Thompson, Speaker of the House of Delegates, by Anthony J. Majestro, Powell & Majestro, PLLC, his attorney, and presented to the Court his response in Supreme Court Docket No. 11-1516.

In the consolidated original proceedings now before this Court, Petitioner Thornton Cooper (Docket Nos. 11-1405 and 11-1525) and Petitioners Eldon A. Callen, *et al.* (Docket No.

11-1517) seek relief in mandamus, and Petitioners Stephen Andes, *et al.* (Docket No. 11-1447) and Petitioner County Commission of Monroe County (Docket No. 11-1516) seek relief in prohibition. All of the petitioners challenge the constitutionality of legislation which redistricted both chambers of the West Virginia Legislature based on the United States decennial census of 2010.

Acting without undue delay because of the nature of the constitutional matters at issue and the necessity to resolve the matters in an expedited manner, the Court scheduled the cases for prompt review upon the argument docket, and this matter was heard on November 17, 2011.

The Court has thoroughly reviewed the written arguments and exhibits filed in this matter. After careful consideration of all filings and oral argument by the parties, the Court is of the opinion that, based upon the applicable legal authority, the writs of mandamus prayed for by Petitioners Cooper (Docket Nos. 11-1405 and 11-1525) and Callen, *et al.* (Docket No. 11-1517) should be, and hereby are, DENIED. Furthermore, the writs of prohibition prayed for by Petitioners Andes, *et al.* (Docket No. 11-1447) and Petitioner County Commission of Monroe County (Docket No. 11-1516) should be, and hereby are, DENIED.

The Court concludes that House Bill 201 does not violate Article II, § 4; Article IV, § 4; Article VI, §§ 6, 7, 12, or 39; or any other provision of the West Virginia Constitution. The Court further concludes that Senate Bill 1006 does not violate Article II, § 4; Article VI, § 4; or any other provision of the West Virginia Constitution.

Recognizing the significance of these issues to the State of West Virginia and its citizens and given the parties' request for accelerated consideration and resolution of the issues as they relate, *inter alia*, to election filing requirements and the designation of election precincts, this

Court issues its decision through this order with an opinion to be delivered by Justice McHugh to follow in due course.

It is hereby noted that Justice Benjamin dissents to the holding that House Bill 201 does not violate the West Virginia Constitution, and reserves the right to file a separate opinion to follow in due course.

The Clerk of this Court is hereby directed to issue the mandate forthwith.

Service of a copy of this order upon all parties herein shall constitute sufficient notice of its contents.

Attest:

Rory L. Perry II
Rory L. Perry II, Clerk

A True Copy

