

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

ROBERT NELSON RECTOR,  
Resident of Harrison County,  
West Virginia,

Plaintiff,

CIVIL ACTION NO. 17-C-344-3  
James A. Matish, Judge

10-16-19  
T. Lyons  
G. Schillace

v.

KIMBERLY KAY ROSS, formerly known as  
KIMBERLY KAY RECTOR, JACLYN BELCASTRO,  
as power of attorney for Kimberly Kay Ross,  
THOMAS G. DYER, and THE HONORABLE  
LORI B. JACKSON,

Defendants.

**ORDER GRANTING JUDGMENT AND DISMISSING  
PETITION FOR WRIT OF PROHIBITION**

On August 14, 2019, Plaintiff Robert Rector appeared in person and with counsel, Gregory H. Schillace. Defendant Family Court Judge Lori B. Jackson appeared in person and by counsel, Teresa J. Lyons. The parties were present for a hearing as previously ordered by this Court.

At the outset of the hearing, this Court inquired of Attorney Gregory Schillace as to whether the sanction of Five Thousand Dollars (\$5,000.00) that he had been ordered to deposit with the Harrison County Circuit Clerk's Office had, in fact, been paid. Attorney Gregory Schillace indicated that he had not deposited the funds.

As reflected in the record in this case, this Court originally imposed the sanction on Attorney Gregory Schillace at a hearing conducted on April 30, 2018, and the findings supporting the sanction were memorialized in the *Order Directing the Submission of Billing Records and Imposing Sanction* entered on June 5, 2018. This

Court addressed Attorney Gregory Schillace with regard to the sanction at a hearing conducted on July 13, 2018, and the findings from the hearing were set forth in an *Order Following Hearing* entered on September 6, 2018. This Court further addressed Attorney Gregory Schillace with regard to the failure to post the sanction at a hearing conducted on June 27, 2019, and ordered Attorney Gregory Schillace to pay the sanction before the close of the business day on June 27, 2019, and that his failure to do so would result in an additional civil contempt penalty of Fifty Dollars (\$50.00) for each of the next thirty (30) business days thereafter that the sanction remained unpaid. The findings were memorialized in an *Order Denying Motion to Rulings of the Court Announced During March 30, 2018 Hearing; Motion to Alter/Amend Rulings of the Court Announced During June 27, 2019 Hearing and Motion to Stay to Permit Filing of a Petition For Writ of Prohibition* entered on August 13, 2019.

After being informed by Attorney Gregory Schillace that the sanction had not been posted, this Court found that the penalty of Fifty Dollars (\$50.00) per day for each business day that Attorney Gregory Schillace failed to post the sanction since June 27, 2019, increased the total amount due to Six Thousand Five Hundred Dollars (\$6,500.00). In addition, this Court found that the amount due should be reduced to a judgment in favor of the State of West Virginia.

With regard to the Petition for Writ of Prohibition set forth in Count IV of the Complaint and Amended Complaint, this Court found that this claim should be dismissed because it is frivolous. This Court additionally found that once the appeal of the final order in the underlying family court case was dismissed, there was no impediment to Defendant Family Court Judge Jackson addressing the rule to show

cause that had been issued for Attorney Gregory Schillace's and Plaintiff Rector's failure to appear for a hearing on May 2, 2017. Further, this Court found that a writ of prohibition should not be issued because Attorney Gregory Schillace and his client would have the remedy of filing an appeal if Defendant Family Court Judge Jackson issued an adverse ruling. This Court further directed Attorney Teresa J. Lyons to submit an attorney fee affidavit within ten days.

Accordingly, based upon the foregoing, it is hereby ORDERED that judgment is imposed in favor of the State of West Virginia against Gregory H. Schillace in the amount of Six Thousand Five Hundred Dollars (\$6,500.00);

It is further ORDERED that the Petition for Writ of Prohibition included in Count IV of the Complaint and Amended Complaint is hereby DISMISSED with prejudice;

Attorney Teresa J. Lyons shall submit an attorney fee affidavit for fees and expenses incurred in defending this case;

The court reporter shall prepare a transcript of the hearing conducted on August 14, 2019 for the Court to submit to the Office of Disciplinary Counsel; and

The Clerk shall provide a copy of this Order to:

Teresa J. Lyons  
Lyons Phillips Legal Group PLLC  
141 Walnut St.  
Morgantown, WV 26505  
*Counsel for Defendant Judge Jackson*

Gregory Schillace  
Schillace Law Office  
Huntington Bank Building, Suite 303  
Post Office Box 1526  
Clarksburg, WV 26302-1526  
*Counsel for Plaintiff*

Enter: 10/16/2019

  
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Honorable James A. Matish