

STATE OF WEST VIRGINIA

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At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on January 18, 2024, the following order was made and entered:

*In re* A.B.

No. 23-400

Benjamin Freeman, Esq.  
Respondent to the Rule to Show Cause

### **RULE TO SHOW CAUSE IN CONTEMPT**

On December 20, 2023, the respondent, West Virginia Department of Health and Human Resources, by Andrew T. Waight, Assistant Attorney General, filed a motion to dismiss the appeal for petitioner's failure to timely perfect the appeal.

On January 17, 2024, the Court proceeded to consider sanctions for the failure of petitioner's counsel, Benjamin Freeman, Esq., to perfect the appeal in this matter.

On September 25, 2023, the Circuit Court of Kanawha County appointed Benjamin Freeman, Esq. to represent the petitioner T.B., for purposes of appeal. As set forth in the amended scheduling order entered on October 4, 2023, the deadline to perfect the appeal was extended to October 18, 2023. When the appeal was not perfected, a Notice of Intent to Sanction was entered on November 3, 2023, directing counsel to perfect the appeal on or before November 9, 2023, or be subject to sanctions. On November 9, 2023, Benjamin Freeman, Esq. filed a motion for extension of time. By order entered on November 13, 2023, the Court granted the motion and extended the deadline to perfect the appeal to November 27, 2023. To date, the appeal has not been perfected.

Upon consideration, the Court is of the opinion that a rule to show cause in contempt should be awarded. It is ORDERED that a rule does issue directed against Benjamin Freeman,

Esq., counsel for the petitioner and respondent to the rule to show cause, returnable before this Court at its courtroom in the City of Charleston, County of Kanawha, on **Tuesday, February 20, 2024, at 11:35 a.m.** commanding and directing him to show cause, if any he can, why he should not be held in contempt of this Court for failure to perfect the appeal, unless sooner mooted by perfecting the appeal with the filing of a petitioner's brief and appendix that fully comply with the Rules of Appellate Procedure. The Clerk of Court will, on a later date, provide counsel with a Notice of Argument under Rule 19(b) containing further information on the time of argument.

It is ORDERED that the motion to dismiss appeal is refused.

The Court directs the Clerk of Court to refer the actions of Benjamin Freeman in failing to perfect the appeal, or otherwise respond to orders of this Court, to the Office of Lawyer Disciplinary Counsel.

It is further ordered that a copy of this order be sent to the Honorable Maryclaire Akers, Judge of the Thirteenth Judicial Circuit.

It is finally ordered that Benjamin Freeman shall provide a copy of this order to his client within ten days of the date of this order.

Service of an attested copy of this order constitutes sufficient notice of the contents.

A True Copy

Attest: /s/ C. Casey Forbes  
Clerk of Court

