

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

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CASE NO.: 23-325

JAY FOLSE,

Petitioner Below/Petitioner,

v.

**G. RUSSELL ROLLYSON, JR., and
JOHN MCCUSKEY, JR.,**

Respondents Below/Respondents.

RESPONSE TO PETITIONER'S BRIEF

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II. NATURE OF THE CASE

A. Factual Background

On March 30, 2022, the Petitioner, Jay Folse, filed an unverified “Petition to Compel Issuance of Deeds.” The unverified Petition sought, among other things, to compel G. Russell Rollyson, Jr., the Deputy Commissioner of Non-Entered Lands, and the Honorable John B. McCuskey, in his official capacity as the West Virginia State Auditor and as Commissioner of Delinquent and Non-entered Lands, Ex-Officio, to compel the issuance of certain tax deeds. (APP 00001-00006).¹

Each of the sales at issue in the Petition were tracts or lots sold at an annual auction held by the Deputy Commissioner of Non-Entered Lands.² (APP 00008-00050).

Pursuant to W.Va. Code §11A-3-60:

If the deputy commissioner fails or refuses to prepare and serve the notice to redeem as required in sections fifty-four and fifty-five of this article, the person requesting the notice may, at any time within two weeks after discovery of such failure or refusal, but in no event later than sixty days following the date the person requested that notice be prepared and served, apply by petition to the circuit court of the county for an order compelling the deputy commissioner to prepare and serve the notice or appointing a commissioner to do so. If the person requesting the notice fails to make such application within the time allowed, he shall lose his right to the notice, but his rights against the deputy commissioner under the provisions of section sixty-seven of this article shall not be affected. Notice given pursuant to an order of the court or judge shall be valid for all purposes as if given within the time required by section fifty-five of this article.

If the deputy commissioner fails or refuses to prepare and execute the deed as required in the preceding section, the person requesting the deed may, at any time after such failure or refusal, but not more than six months after his right to the deed accrued, apply by petition to the circuit court of the county for an order compelling the deputy commissioner to prepare and execute the deed or appointing a commissioner to do so. If the person requesting the deed fails to make such

¹ Recognizing the Court’s preference for reference to the Appendix Record to be formatted as “(AR xxxxx),” for the sake of consistency within this appeal, this Brief will follow the format established by the Petitioner in his preparation of the Appendix Record and the references in its Brief. Reference herein to “(APP 00001-00006)” and similar references throughout the Respondent’s Brief shall refer to the page designations contained in the Appendix Record by the Petitioner.

² W.Va. Code §11A-3-45.

application within the time allowed, he shall lose his right to the deed, but his rights against deputy commissioner under the provisions of section sixty-seven of this article shall remain unaffected. Any deed executed pursuant to an order of the court shall have the same force and effect as if executed and delivered by the deputy commissioner within the time specified in the preceding section.

Ten days' written notice of every such application must be given to the deputy commissioner. If, upon the hearing of such application, the court is of the opinion that the applicant is not entitled to the notice or deed requested, the petition shall be dismissed at his costs; but, if the court is of the opinion that he is entitled to such notice or deed, then, upon his deposit with the clerk of the circuit court of a sum sufficient to cover the costs of preparing and serving the notice, unless such a deposit has already been made with the deputy commissioner, an order shall be made by the court directing the deputy commissioner to prepare and serve the notice or execute the deed, or appointing a commissioner for the purpose, as the court or judge shall determine. The order shall be filed with the clerk of the circuit court and entered in the civil order book. If it appears to the court that the failure or refusal of the deputy commissioner was without reasonable cause, judgment shall be given against him for the costs of the proceedings, otherwise the costs shall be paid by the applicant.

Any commissioner appointed under the provisions of this section shall be subject to the same liabilities as the deputy commissioner. For the preparation of the notice to redeem, he shall be entitled to the same fee as is provided for the deputy commissioner. For the preparation and execution of the deed, he shall also be entitled to a fee of \$50 and recording expenses to be paid by the grantee upon delivery of the deed.

The Respondents argued to the Circuit Court that there is no evidence that the Auditor's Office refused to perform any statutory duty required by it. The Respondents further argued that the Petitioner's damages claims were improper and outside the scope of the relevant statute.

On August 1, 2017, the United States District Court for the Southern District of West Virginia, issued a Memorandum Opinion and Order, ruling that where a notice of right to redeem is returned unclaimed, the Auditor must take additional reasonable steps to provide notice to identified owners.³ After that ruling, the Auditor's Office updated its policies which are that where any notices to redeem are returned as unclaimed, undeliverable or refused, personal service of the

³ O'Neal v. Wisen, 5:16-cv-08597; 2017 U.S. Dist. LEXIS 120395; 2017 WL 3274437 (2017).

notices will be necessary to satisfy the notice requirement. Further, the purchaser must provide the Auditor's Office with sufficient information to execute personal service. Upon notification of this additional requirement, the purchaser will have 14 days to provide sufficient information and the necessary funds to effect personal service. These policies apply to all tax lien purchasers.

Two tax liens are identified in the "Petition."

On September 17, 2021, the Petitioner purchased a tax lien identified as Certification Number 066637, described as LOT 10-11 COBB SUB 129 MARION ST, HUNTINGTON GIDEON CORP district. (APP 00012). The Petitioner claims that as part of his "title search" he determined that Drema McKee and Michael McKee were the owners of the property. (APP 00002). Thereafter, the Petitioner directed the Auditor's Office to serve: (1) Drema McKee via certified mail and personal service; (2) the City of Huntington via certified mail; and (3) Michael McKee via certified mail and personal service. (APP 00018). The notice to redeem forms sent via certified mail to Drema McKee and Michael McKee at the address provided by the Petitioner were returned unclaimed. (APP 00022 & APP 00027). Per the Affidavits from the process server, unsuccessful attempts at personal service on Drema McKee and Michael McKee were made on February 1, 2022, February 2, 2022, and February 9, 2022 (at the same address). (APP 00023 & APP 00028).

On March 21, 2023, Mr. Rollyson communicated to the Petitioner that service was not successful on Mr. or Ms. McKee and that a new address was needed for both. (APP 00033). The Petitioner failed to provide substitute addresses, and there is no indication in the Appendix record that once the Petitioner had that knowledge that he took any further steps to acquire a valid address for the recipients.

On September 17, 2021, the Petitioner purchased a tax lien identified as Certification Number 066686, described as BLK 38 LT 1-2-3 301 4th AVE, HUNTINGTON KYLE CORP

district. (APP 00013). The Petitioner claims that after performing a “title search” he determined that “A & A Transmissions INC.” was the owner of the property. (APP 00002). Thereafter, the Petitioner directed the Auditor’s Office to serve “A & A Transmissions INC.” via certified mail through the West Virginia Secretary of State’s Office. (APP 00035). That certified mail was returned unclaimed. (APP 00037). On March 21, 2022, Mr. Rollyson sent correspondence to the Petitioner asking for a physical address for personal service of process. (APP 00055). No such physical address has been provided. There is no evidence that the Petitioner took any additional steps to provide notice.

W.Va. Code §11A-3-52(a) states: (a) Within 45 days following the approval of the sale by the auditor pursuant to §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate purchased, shall: (1) Prepare a list of those to be served with notice to redeem and request the deputy commissioner to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this code; (2) When the real property subject to the tax lien was classified as Class II property, provide the deputy commissioner with the actual mailing address of the property that is subject to the tax lien or liens purchased; and (3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving the notice. W.Va. Code §11A-3-52(b) states: If the purchaser fails to fulfill the requirements set forth in subsection (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

The West Virginia Supreme Court of Appeals has provided that persons seeking to obtain complete title to property sold for taxes must comply literally with the statutory requirements.⁴ The burden is on the purchaser to show that the delinquency tax sale statutes have been complied with.⁵

⁴ Syl. Pt. 1, Cook v. Duncan, 171 W.Va. 747 (1983).

⁵ Archuleta v. U.S. Liens, LLC, 240 W.Va. 519, 526 (2018).

If the Petitioner cannot provide a substitute address as requested, the Petitioner has failed to fulfill the requirements of W.Va. Code §11A-3-52(a), as he did not provide an accurate list of those entitled to notice to redeem within the statutory timeframe. The State Auditor is not permitted to make exceptions for a purchaser who is noncompliant with the statutory requirements. Adherence to the statutory timeframes is non-discretionary and ministerial in nature.⁶

After a hearing was held on the Respondents' Motion to Dismiss, the Circuit Court determined that based on the nature of the claims and demands set forth in the "Petition to Compel Issuance of Deeds", this action should have been filed as an application for a writ of mandamus by way of a verified petition. (APP 00081-00083). The Circuit Court dismissed the "Petition", without prejudice, allowing the Petitioner to re-file the action as an application for a writ of mandamus, subject to any statutory limits. (APP 00081-00083).

On September 8, 2022, the Petitioner, by counsel, Robert W. Bright, presented a notice of appeal to the Intermediate Court of Appeals of West Virginia from the order entered by the Circuit Court. The Petitioner filed his Brief on December 12, 2022. The Respondents filed their Response on January 26, 2023. On May 22, 2023, the Intermediate Court of Appeals of West Virginia issued a Memorandum Decision affirming the August 11, 2022, Circuit Court order and finding no error or abuse of discretion in the Circuit Court's determination. (APP 00084-00087).

III. SUMMARY OF RESPONSE TO ASSIGNMENTS OF ERROR

Two assignments of error are identified in the Petitioner's Brief.

The first is that the Intermediate Appellate Court of Appeals of West Virginia erred by "concluding that the action should have been brought as a petition for mandamus." The Petitioner is wrong. The Petitioner, in the underlying action, argues that he is entitled to damages for the

⁶ Foster Foundation v. Glen B. Gainer, III, West Virginia State Auditor, 228 W.Va. 99 (2011).

alleged failure of the Respondents to “perform their ministerial duties which are being refused in bad faith with the intent to cause harm.” (APP 00006). The nature of that claim is outside the scope of W.Va. Code §11A-3-60.

The second is that the Intermediate Appellate Court of Appeals of West Virginia erred by “not ordering the tax deeds to be issued.” The Petitioner is wrong. There was no ruling by the Circuit Court as to whether the Petitioner complied with the relevant statutes. The primary issue on appeal is whether the Court was correct in dismissing the action, without prejudice, finding that the action should have been filed as an application for a writ of mandamus by way of a verified petition. Further, there is no evidence that the Auditor’s Office refused to perform any statutory duty required by it.

IV. STATEMENT REGARDING ORAL ARGUMENT AND DECISION

The Respondents state that oral argument under W. Va. Rev. R.A.P. 18(a) is not necessary. The issues on appeal are adequately briefed and the case law related to the issues on appeal is well settled.

V. ARGUMENT

A. Standard of Review.

This Court reviews a final order, decision or judgment of the Intermediate Appellate Court of Appeals of West Virginia under a *de novo* standard.

B. The Intermediate Appellate Court of Appeals of West Virginia did not err by finding that the action below should have been filed as an application for a writ of mandamus.

The Petitioner’s own statements in his unverified “Petition to Compel Issuance of Deeds” and in his “Plaintiff’s Response to Motion to Dismiss” filed in the Circuit Court outline the fatal flaws in his arguments on appeal.

W.Va. Code §11A-3-60 provides that if the court is of the opinion that the applicant is not entitled to such notice or deed, then the petition shall be dismissed. W.Va. Code §11A-3-60 further provides that if the court is of the opinion that the applicant is entitled to such notice or deed, upon the applicant's deposit with the clerk of the circuit court of a sum sufficient to cover the costs of preparing and serving the notice, unless such a deposit has already been made with the deputy commissioner, an order shall be made by the court directing the deputy commissioner to prepare and serve the notice or execute the deed, or appointing a commissioner for the purpose, as the court or judge shall determine. This is the only remedy set forth in the statute.

The Petitioner goes further and requests additional remedies. The Petitioner asks for damages due to the Respondents' alleged "refusal to carry out their ministerial duties" in addition to compelling issuance of deeds and notices. (APP 00001). In the Respondents' Motion to Dismiss filed in the Circuit Court, the undersigned pointed out that no damages are allowable under W.Va. Code §11A-3-60.

In response to the Motion to Dismiss, the Petitioner argued that he is entitled to "costs and fees", not pursuant to the relevant statute, but based on West Virginia Supreme Court of Appeals case law related to a mandamus action. (APP 00054). The Petitioner cited to State v. Div. of Environmental Protection to support his "costs and fees" claim.⁷ The Petitioner relied on a citation in that case to Nelson v. W.Va. Public Employees Ins. Bd. where the West Virginia Supreme Court of Appeals held that in mandamus proceedings where a public officer willfully fails to obey the law, costs and attorney fees will be awarded.⁸ The Petitioner argued that the Respondents' refusal to issue the tax deeds "was not only willful but in bad faith." (APP 00055). He further argued that

⁷ State v. Div. of Environmental Protection, 193 W.Va. 650, 458 S.E.2d 88 (1995).

⁸ Syl. pts. 3 & 4, Nelson v. W.Va. Public Employees Ins. Bd., 171 W.Va. 445, 300 S.E.2d 86 (1982).

the Respondents allegedly “will continue their willful refusal to obey the law so long as courts allow them to do so freely.” (APP 00055).

Notably, at the hearing that was held before the Circuit Court, the Petitioner, while arguing why he is entitled to damages outside of the statutory construct, stated: “I want a jury trial to determine damages for the refusal of their ministerial duty.” (APP 00074).

The Petitioner’s Appeal Brief completely omits these claims asserted in the underlying proceeding. The Circuit Court determined that given the nature of the relief sought the action should have been filed as an application for a writ of mandamus. (APP 00077; APP 00081-00083). The Intermediate Court of Appeals of West Virginia (APP 00084-87) affirmed the Circuit Court’s order and found no error or abuse of discretion in the Circuit Court’s determination.

The general rule is that the writ of mandamus will not issue unless three elements 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 respondent to do the thing which the petitioner seeks to compel; and, (3) the absence of another remedy at law.⁹ Whether the Petitioner will succeed on that writ is a determination for the underlying tribunal. The relief sought by the Petitioner was key to the Circuit Court’s dismissal of the case.

The Petitioner, in his Appeal Brief, fails to address all types of relief sought by the Petitioner in the underlying action. In the unverified “Petition to Compel Issuance of Deeds”, the Petitioner does request that the Court either compel the Respondents’ to either issue new notices to redeem or tax deeds, both arguably valid requests under W.Va. Code §11A-3-60. However, in addition, the Petitioner asks for “damages for the alleged failure of the Respondents to perform their ministerial duties which are being refused in bad faith with intent to cause harm.” That request

⁹ Damron v. Ferrell, 149 W.Va. 773, 143 S.E.2d 469 (1965).

is outside the scope of W.Va. Code §11A-3-60. The Petitioner further requests a jury trial on the damages issue. Again, that request is outside the scope of W.Va. Code §11A-3-60.

W.Va. Code §11A-3-60 does not establish a right to the relief sought, i.e., damages for the alleged failure to perform a ministerial act. Those claims are outside the scope of the statute and require the Petitioner to satisfy certain procedural and substantive prerequisites such as statutory pre-suit notice pursuant to W.Va. Code §55-17-3 and compliance with the elements supporting a writ of mandamus.¹⁰ Further, numerous affirmative defenses are available to the Respondents for those types of claims.

W.Va. Code §11A-3-60 provides the statutory remedies. If the court is of the opinion that the applicant is entitled to such notice or deed, an order shall be made by the court directing the deputy commissioner to prepare and serve the notice or execute the deed. If it appears to the court that the failure or refusal of the deputy commissioner was without reasonable cause, judgment shall be given against him for the costs of the proceedings, otherwise the costs shall be paid by the applicant. Those are the only remedies. Any relief sought outside the scope of the statute is improper. Therefore, given the additional relief sought, the Circuit Court correctly dismissed the action, without prejudice, and directed the Petitioner to file an application for a writ of mandamus by way of a verified petition. The Circuit Court did not err in its findings.

As it relates to the Intermediate Court of Appeals of West Virginia's reliance on the West Virginia Supreme Court of Appeals' decision in Lemley v. Phillips, the Intermediate Court is correct that, while W.Va. Code §11A-3-60 has been amended since the Supreme Court's decision, the substantive statutory language related to a purchaser filing a petition in circuit court for an order compelling the issuance of a notice to redeem and a tax deed has remained unchanged.¹¹ The

¹⁰ Damron, 149 W.Va. 773 (1965).

¹¹ Lemley v. Phillips, 113 W. Va. 812, 169 S.E. 789 (1933).

statutory construct, as cited above, is singular in its intent and remedies. The Intermediate Court was correct to find no error on the part of the Circuit Court.

C. The Circuit Court did not err by not ordering the tax deeds to be issued.

The Petitioner incorrectly asserts in his Appeal Brief that the Intermediate Court of Appeals of West Virginia should have ordered the tax deeds to be issued. The primary issue on appeal is whether it was appropriate for the Intermediate Court to affirm the Circuit Court's ruling that the action should have been filed as an application for a writ of mandamus by way of a verified petition.

However, as it relates to the Petitioner's arguments that the tax deeds should have been issued, the Respondents state that as set forth by the West Virginia Supreme Court of Appeals in Archuleta v. US Liens, LLC, the Legislature has carved out detailed statutes that regulate every aspect of the sale of real property for delinquent taxes and the redemption of such property.¹² The Supreme Court has previously observed that "this area of law has undergone significant change in the last several years, with each change increasing the protections afforded the delinquent land owner."¹³ Many of the changes in this area of the law took place after a decision by the United States Supreme Court recognized certain constitutional due process notice requirements for owners of real property subject to delinquent tax sales.¹⁴

As a prerequisite to receiving a deed to property sold for delinquent taxes, W.Va. Code §11A-3-52(a) states: (a) Within 45 days following the approval of the sale by the auditor pursuant to §11A-3-51 of this code, the purchaser, his or her heirs or assigns, in order to secure a deed for the real estate purchased, shall: (1) Prepare a list of those to be served with notice to redeem and

¹² Archuleta v. US Liens, 240 W.Va. 519, 522, 813 S.E.2d 761, 764 (2018); See W. Va. Code § 11A-3-1 *et seq.*

¹³ Mingo Cty. Redev. Auth. v. Green, 207 W. Va. 486, 491, 534 S.E.2d 40, 45 (2000).

¹⁴ Archuleta, 240 W.Va. 519, 521 (2018).

request the deputy commissioner to prepare and serve the notice as provided in §11A-3-54 and §11A-3-55 of this code; (2) When the real property subject to the tax lien was classified as Class II property, provide the deputy commissioner with the actual mailing address of the property that is subject to the tax lien or liens purchased; and (3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving the notice. W.Va. Code §11A-3-52(b) states: If the purchaser fails to fulfill the requirements set forth in subsection (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

In Archuleta, the Supreme Court ruled that noncompliance with the mandatory requirements of the statute is a jurisdictional defect not subject to curative measures.¹⁵ The property owner must be served notice of the right to redeem property as outlined under W.Va. Code §11A-3-55.

On August 1, 2017, the United States District Court for the Southern District of West Virginia, issued a Memorandum Opinion and Order, ruling that where a notice of right to redeem is returned unclaimed, the Auditor's Office must take additional reasonable steps to provide notice to identified owners.¹⁶ After that ruling, the Auditor's Office updated its policies as set forth above, and to state where the Auditor's Office has knowledge that a property owner has not been informed of his/her notice of right to redeem prescribed by one of the statutory means, it requires a lien purchaser to provide substitute addresses so that a means can be employed to actually inform the interested party. As set forth in Jones v. Flowers, the means employed must be such as one desirous of actually informing the interested party.¹⁷ The State can determine how to proceed in that regard.¹⁸

¹⁵ Archuleta, 240 W.Va. 519, 522 (2018).

¹⁶ O'Neal v. Wisen, 5:16-cv-08597; 2017 U.S. Dist. LEXIS 120395; 2017 WL 3274437 (2017).

¹⁷ Jones v. Flowers, 547 U.S. 220, 238, 126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006).

¹⁸ Id.

In the context of this appeal, neither Dreama McKee nor Michael McKee received notice. Further, A & A Transmissions INC. did not receive notice. The Petitioner failed to provide substitute addresses so that service could be perfected on these individuals. There is no evidence in the factual record that the Petitioner did anything after learning that service was not achieved.

As with his other appeals, the Petitioner does not address any of these salient facts. Nor does he identify any further steps taken to address the notice issues raised by the Auditor's Office. Where, as here, the Auditor's Office, has knowledge that a property owner has not been informed of his/her notice of right to redeem prescribed by one of the statutory means, granting a deed with the knowledge that notice failed and no additional reasonable efforts were attempted is a due process violation. Requiring a lien purchaser to provide substitute addresses so that a means can be employed to actually inform an interested party is not onerous.

It is the tax sale grantee who bears the burden of proving full compliance with the statutory and due process notice requirements.¹⁹ An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.²⁰ This test has long been applied to determine whether notice passes constitutional muster.²¹

The notifying party must utilize methods or means that anyone honestly seeking to actually effectuate the notice would reasonably employ. Like the fact pattern in Kelber, LLC v. WVT, LLC, the addresses provided by the Petitioner are either not valid or are no longer valid.²² As with Kelber, here, despite the knowledge that the addresses were not valid, the Petitioner failed to take

¹⁹ Mason v. Smith, 233 W.Va. 673, 760 S.E.2d 487, 494 (2014).

²⁰ Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950).

²¹ See, e.g., Jones v. Flowers, 547 U.S. 220, 226 (2006).

²² Kelber, LLC v. WVT, LLC, 213 F.Supp.3d 789 (Dist. Ct., ND W.Va. 2016).

any further steps to notify the relevant individuals. In fact, as shown by the factual record, the Petitioner has demonstrated no desire whatsoever to provide notice to these individuals.

Once a party is on notice that the recipient's address is no longer valid, it must undertake a reasonably diligent effort to acquire a valid address, if ascertainable, so long as that effort is not extraordinary.²³ There is no evidence that the Petitioner took any additional efforts to acquire a valid address for the identified individuals.

The State must ensure that its citizens receive proper notice before the State takes action against them. Here, the State exerts extraordinary power against a property owner – taking and selling a house he/she owns. The Auditor's Office's policies are not unreasonable to ensure that proper notice is received before issuing a tax deed. The State's due process requirements outweigh any public policy concerns as it pertains to the investments of tax lien purchasers or the State's collection of tax revenue.

The State Auditor's ministerial duties to issue a notice to redeem or to issue a deed are only triggered once the Petitioner has complied with the statutory mandates. Purchasers bear the burden of the additional efforts required to notify property owners of their right to redeem. The State in granting a deed with the knowledge that notice failed and no additional reasonable efforts were attempted would be a due process violation.

The Petitioner's arguments are without merit.

CONCLUSION

For the foregoing reasons, the Respondents, G. Russell Rollyson, Jr., the Deputy Commissioner of Non-Entered Lands, and the Honorable John B. McCuskey, in his official

²³ Kelber, 213 F.Supp.3d at 799 (2016).

capacity as the West Virginia State Auditor, respectfully ask that the Court affirm the Intermediate Appellate Court of Appeals of West Virginia's decision.

Respectfully submitted this 13th day of November, 2023.

/s/ David P. Cook, Jr.

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*G. Russell Rollyson, Jr., the Deputy Commissioner
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in his official capacity as the West Virginia State Auditor*

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

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G. RUSSELL ROLLYSON, JR., and
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Respondents Below/Respondents.

CERTIFICATE OF SERVICE

I, David P. Cook, Jr., counsel for Respondents, G. Russell Rollyson, Jr., the Deputy Commissioner of Non-Entered Lands, and the Honorable John B. McCuskey, in his official capacity as the West Virginia State Auditor, do hereby certify that on November 13, 2023, I served a true and correct copy of the foregoing **RESPONSE TO PETITIONER'S BRIEF** upon all counsel/parties of record, via the Court's electronic filing system, and addressed as follows:

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