

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on February 12, 2025, the following order was made and entered:

RE: DECLINING TO PROMULGATE NEW RULES GOVERNING ELECTION CONTESTS AND DIRECTING PARTIES AND COUNSEL TO FOLLOW THE EXISTING WEST VIRGINIA RULES OF CIVIL PROCEDURE AND RULES OF APPELLATE PROCEDURE

In the 2024 Regular Session, the West Virginia Legislature amended West Virginia Code §§ 3-7-3, 3-7-6, and 3-7-7, relating to contested election procedures. The amendments became effective on January 1, 2025.

In pertinent part, West Virginia Code § 3-7-6 was amended to require that an election contest challenging the election of any person to any county, district, or municipal office, including the office of magistrate, must be brought as a civil action in the circuit court with jurisdiction over the county or district where the election took place. Prior to this amendment taking effect, such election contests were decided by the county commission. West Virginia Code § 3-7-7 was also amended to clarify that such decisions remain appealable to this Court.

Additionally, the amended statute designates the “pleadings, practice, and procedure to be employed during county, district, and municipal election contests in the courts of this state” as subject-matter appropriate for rules promulgated by this Court under West Virginia Code § 51-1-4.

This Court recognizes its rule-making authority under Article VIII, Section 3 of the West Virginia Constitution, which provides: “The court shall have power to promulgate rules for all cases and proceedings, civil and criminal, for all of the courts of the State relating to writs, warrants, process, practice and procedure, which shall have the force and effect of law.”

In this instance, the Court declines to exercise its rule-making authority to promulgate new rules governing election contests as the existing *West Virginia Rules of Civil Procedure* and *Rules of Appellate Procedure* are sufficient to govern the pleadings, practice, and procedure of civil actions under West Virginia Code § 3-7-6 and appeals under West Virginia Code § 3-7-7, respectively. Parties to such actions and their counsel are directed to follow the appropriate set of existing rules.

A True Copy

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

