

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

ICA EFiled: Aug 09 2024
04:24PM EDT
Transaction ID 74009042

GEORGE NICHOLAS PARSONS,

Plaintiff Below, Petitioner

vs.)

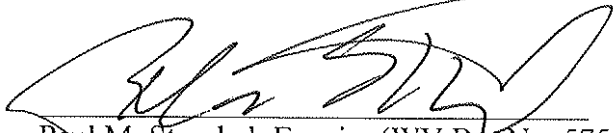
No. 24-ICA-193
(Case No. CC-07-2023-C-7)

WILEY TYLER RAINES and
CALHOUN COUNTY COMMISSION,

Defendants Below, Respondents

AMENDED BRIEF ON BEHALF OF GEORGE NICHOLAS PARSONS

Counsel for George Nicholas Parsons,



Paul M. Stroebel, Esquire (WV Bar No. 5758)
Stroebel & Stroebel, P.L.L.C.
Post Office Box 2582
Charleston, West Virginia 25329-2582
Telephone: (304) 346-0197
Email: paulstroeb@aol.com

TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii and iv
ASSIGNMENTS OF ERROR.....	1
STATEMENT OF CASE	1
SUMMARY OF ARGUMENT	2
STATEMENTS REGARDING ORAL ARGUMENT	3
STANDARD OF REVIEW	3
ARGUMENT/Assignments of Error 1-2	3
A. The Circuit Court Erred When It Dismissed Petitioner’s Claims Pursuant To West Virginia Rules of Civil Procedure 12(b)(6)	3
Assignments of Error 3,4 and 5	4
B. The Circuit Court Erred When It Ruled That Respondent Raines Is Entitled To Qualified Immunity On Petitioner’s Excessive Force/Violations Of Due Process Claims Made Pursuant To Rule 42 U.S.C. § 1983.....	4
Assignment of Error 6	8
C. The Circuit Court Erred When It Determined That Respondent Raines Is Entitled To Immunity For Claims Made Pursuant To W.Va. Code § 29-12A-5(b)(2).....	8
Assignment of Error 7	9
D. The Circuit Court Erred In Determining That Petitioner Is Precluded From Recovering Damages Pursuant To W.Va. Code § 55-7-13(d)(c).....	9
Assignment of Error 8	9
E. The Circuit Court Erred In Not Holding That West Virginia Code § 29-12A-4(C) Explicitly Creates Vicarious Liability For An Employee’s Negligent Use Of A Vehicle.....	9
CONCLUSION.....	11

TABLE OF AUTHORITIES

STATE CASES

<i>Albert v. City of Wheeling</i> 792 S.E. 2d 628, 632 (W.Va. 2016).....	10, 11
<i>Beckley v. Crabtree</i> 189 W.Va. 94 (1993)	10
<i>Chapman v. Kane Transfer Co.,</i> 160 W.Va. 530, 236 S.E. 2d 207 (1977).....	3
<i>Chrystal R.M. v. Charlie A.L.</i> 194 W.Va. 138, 456 S.E. 2d 415 (1995).....	3
<i>Kelley v. City of Williamson</i> 221 W.Va. 506, 513 (2007)	10
<i>John W. Lodge Distrib. Co. v. Texaco, Inc.</i> 161 W.Va. 603, 245 S.E. 2d 157, (1978).....	4
<i>Mallamo v. Town of Riversville</i> 197 W.Va. 616 (1996)	10
<i>Mandolidis v. Elkins Indus., Inc.,</i> 161 W.Va. 695, 246 S.E. 2d 907, 1978 W.Va. LEXIS 274, 96 A.L.R., 3d 1035 (1978).....	4
<i>Smith v. Burdette</i> 566 S.E. 2d 614, Syl. Pt. 4 (2002)	10
<i>State ex rel. McGraw v. Scott Runyan Pontiac-Buick</i> 194 W.Va. 770, 461 S.E. 3d 516 (1995).....	3

FEDERAL CASES

<i>Brown v. Mason County Commission</i> Civil Action No. 3:18-1496 (S.D.W.Va. 2019).....	10
<i>County of Sacramento v. Lewis</i> 523 U.S. 833 (1988).....	5
<i>Dean v. McKinney</i> 976 3d 407 (4 th Cir. 2020)	5, 6, 7
<i>Farmer v. Brennan</i> 511 U.S.825, 836-37, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994)	6

<i>Mendoza v. Block</i> 27 F. 3d 1357, 1361 (9 th Cir. 1994)	7
<i>Parrish ex rel. Lee v. Cleveland</i> 372 F. 3d 294, 303 (4 th Cir. 2004)	6
<i>Rich v. Bruce.</i> 129 F. 3d 336, 340 n.2 (4 th Cir. 1997)	6
<i>Siebert v. Severino.</i> 256 F. 3d 648, 654-55 (7 th Cir. 2001)	7
<i>Terrell v. Larson</i> 396 F. 3d 975	6

CONSTITUTIONAL PROVISIONS

Fourth and Fourteenth Amendments 42 U.S.C. §1983.....	1, 2, 3, 5, 7
--	---------------

WV RULES OF CIVIL PROCEDURE

12(b)(6)	3, 4
----------------	------

WV RULES OF APPELLATE PROCEDURE

Rule 19.....	3
--------------	---

WEST VIRGINIA STATUTES

§ 29-12A-1	1
§ 29-12A-4(c)	1
§ 29-12A-4(c)(2).....	10, 11
§ 29-12A-5(a)(5).....	2
§ 29-12A-5(b)(2)	2, 4, 8
§ 55-7-13-(d)(c)	1, 9

UNITED STATES CODE

42 U.S.C. §1983.....	2, 7, 9
----------------------	---------

ASSIGNMENTS OF ERROR

1. The Circuit Court erred in finding that Petitioner did not plead facts that established deliberate indifference.
2. The Circuit Court erred by failing to accept the facts set forth in Petitioner's Amended Complaint as true.
3. The Court failed to address whether the Respondent Raines violated Petitioner's constitutional rights under the 4th and 14th Amendments.
4. The Circuit Court erred in finding that Respondent Raines was immune under federal law.
5. The Court erred in granting the respondent Raines immunity under state law.
6. The Circuit Court erred in finding that Respondent Calhoun County Commission was immune from state law claims pursuant to WV Code §29-12A-1 et seq.
7. The Circuit Court erred in holding that Petitioner Is Precluded from Recovering Damages Pursuant to W.Va. Code § 55-7-13(d)(c).
8. The Circuit Court erred in not holding that West Virginia Code §29-12a-4(c) explicitly creates vicarious liability for an employee's negligent use of a vehicle.

The above assignments of error are interrelated and should be reviewed because the lower court has clearly erred in dismissing Petitioner's claims.

STATEMENT OF THE CASE

Petitioner filed his complaint on April 17, 2023. JA 1-5. Respondents filed a Motion to Dismiss on May 31, 2023. JA 6-9. Petitioner filed a Memorandum in Opposition to the Motion to Dismiss on September 9, 2023. JA 59-91. A Motion to Amend the Complaint was filed contemporaneously with the Memorandum. JA 92-98. The Motion to Amend was not opposed

and an Answer to the Amended Complaint was filed on November 2, 2023. JA 113-125. The Order granting Respondents' Motion to Dismiss was entered on April 9, 2024. JA 126-136. The Notice of Appeal was filed on May 8, 2024.

Petitioner's Amended Complaint contains claims for the following: (1) Violations of 42 U.S.C. § 1983 by Wiley Tyler Raines under the Fourth and Fourteenth Amendments to the United States Constitution for excessive force and a violation of due process; (2) reckless/malicious conduct for which Raines would be liable under §29-12A-5(b)(2); and (3) negligence/vicarious liability of the Calhoun County Commission for Raines' conduct in the alternative. JA 94-98. The Respondent, Wiley Tyler Raines, was employed as a Calhoun County Deputy Sheriff by the Respondent Calhoun County Commission. Respondent was acting in the scope of his employment and under the color of state law at the time of the crash described in the Amended Complaint and is being sued in his individual capacity.

On or about April 18, 2021, the Petitioner was driving a 2003 Volkswagen Jetta on Leading Creek Road. Respondent Raines was the driver of a 2010 Ford Explorer and was traveling on Leading Creek Road in the opposite direction when he intentionally crossed into the oncoming lane and struck plaintiff's vehicle. Petitioner's Amended complaint sets forth allegations that, if taken as true, support viable claims made pursuant to 42 U.S.C. § 1983 and state statutory law. The amended complaint further sets forth a factual and legal basis for the County Commission's vicarious liability.

SUMMARY OF ARGUMENT

Petitioner filed an Amended Complaint alleging that Respondent Raines violated his 4th Amendment right to be free from excessive force and 14th Amendment right to due process. Petitioner also filed claims alleging that Raines acted recklessly and maliciously in violation of

state statutory law. Finally, Petitioner filed a negligence claim, in the alternative, for which the Calhoun County Commission would be vicariously liable.

The Circuit Court erred when it held that Respondents were entitled to immunity and when it failed to accept the allegations of Petitioner's Amended Complaint as true. The Court further erred when it failed to address whether Raines' conduct violated Petitioner's Constitutional rights, under the 4th and 14th Amendments to the United States Constitution. Petitioner now seeks rescission of that order granting Respondents immunity and dismissing Petitioner's amended complaint and requests that the case be remanded to the Circuit Court for discovery.

STATEMENT REGARDING ORAL ARGUMENT

Petitioner asserts that oral argument is necessary and appropriate, pursuant to the criteria set forth in Rule 19 of the Rules of Appellate Procedure. Petitioner further asserts that this matter is appropriate for a memorandum decision.

STANDARD OF REVIEW

Appellate review of a circuit court's order granting a motion to dismiss a complaint is *de novo*." Syl. Pt. 2, *State ex rel. McGraw v. Scott Runyan Pontiac-Buick*, 194 W.Va. 770, 461 S.E. 2d 516 (1995). Additionally, "[w]here the issue on an appeal is clearly a question of law. . . we apply a *de novo* standard of review." Syl. Pt. 1, *Chrystal R.M. v. Charlie A.L.*, 194 W.Va. 138, 456 S.E. 2d 415 (1995).

ARGUMENT

ASSIGNMENTS OF ERROR 1-2

A. The Circuit Court Erred When It Dismissed Petitioner's Claims Pursuant To West Virginia Rules Of Civil Procedure 12(b)(6).

Motions to dismiss for failure to state a claim should be viewed with disfavor, particularly in actions to recover for personal injuries. *Chapman v. Kane Transfer Co.*, 160 W.Va. 530, 236

S.E. 2d 207(1977). The motion to dismiss for failure to state a claim should be viewed with disfavor and rarely granted. *Mandolidis v. Elkins Indus., Inc.*, 161 W.Va. 695, 246 S.E. 2d 907, 1978 W.Va. LEXIS 274, 96 A.L.R. 3d 1035 (1978). The standard which Petitioner must meet to overcome a motion under Rule 12(b)(6) is a liberal standard, and few complaints fail to meet it. The Petitioner's burden in resisting a motion to dismiss is a relatively light one. *John W. Lodge Distrib. Co. v. Texaco, Inc.*, 161 W.Va. 603, 245 S.E. 2d 157, (1978).

Had the Circuit Court applied the well-established standards for reviewing motions to dismiss pursuant to West Virginia Rule of Civil Procedure 12(b)(6), the Court would not have dismissed Petitioner's Amended Complaint. Petitioner's Amended Complaint alleges that Raines used excessive force when he intentionally crashed his car head-on into Petitioner's vehicle with the intention of causing serious harm. JA 94-98 ¶¶ 21-23. Plaintiff's amended complaint also alleges facts that support claims for malicious/reckless conduct pursuant to W.Va. Code §29-12A-5(b)(2). *Id.* at ¶¶ 12-15. Finally, Petitioner has alleged, in the alternative, negligent operation of a vehicle for which the Calhoun County Commission would be vicariously liable. *Id.* ¶¶ 16-19. The allegations set forth in the Amended Complaint warrant discovery on the issues raised by Petitioner.

ASSIGNMENTS OF ERROR 3, 4 and 5

B. The Circuit Court Erred when it Ruled that Respondent Raines is Entitled to Qualified Immunity on Petitioner's Excessive Force/Violations of Due Process Claims made Pursuant to Rule 42 U.S. C. § 1983.

Petitioner's amended complaint asserts that Respondent intentionally drove and wrecked into Petitioner while acting under the color of state law, when posed no threat to the officer. *See Id.*, plaintiff's amended complaint ¶¶ 21-24. Petitioner has alleged the following in paragraphs 21-24 of his amended complaint:

21. Defendant Raines was acting under the color of state law at the time he used unnecessary and excessive force when he intentionally drove his vehicle into plaintiff's vehicle, striking him head on and causing serious physical injuries.

22. Defendant's conduct was a violation of the 4th Amendment to the United States Constitution and plaintiff's right to be free from such bodily interactions and/or excessive and unnecessary force. This conduct also violated plaintiff's due process rights. Defendant would have known at the time of the excessive/unnecessary force that crashing his car into plaintiff was a violation of plaintiff's 4th and 14th amendment rights as a result of his training and legal precedent.

23. Defendant's conduct was carried out with malice as is apparent from crashing plaintiff head on with the intention of inflicting harm on plaintiff.

24. Plaintiff was seriously injured in the crash, suffering medical bills, permanent injury and loss of physical ability as well as emotional distress.

The conduct set forth in the Amended Complaint alleges a clear violation of Petitioner's Fourth and Fourteenth Amendment rights protecting him from the use of excessive force during an arrest as well as a violation of Petitioner's due process rights. Moreover, these rights have been clearly established through Fourth Circuit Court of Appeals legal precedent and United States Supreme Court precedent. *See Dean v. McKinney*, 976 3d 407 (4th Cir. 2020).

In *Dean*, the complaint included a claim that the officer had violated the Petitioner's due process rights under the 14th Amendment by driving at an extreme speed while not responding to an emergency or chasing a criminal suspect.¹ The *Dean* Court explained, in reviewing and relying on *County of Sacramento v. Lewis*, 523 U.S. 833 (1988), that:

The Supreme Court in *Lewis* described a "culpability spectrum" along which behavior may support a substantive due process claim. *Id.* at 848-49, 118 S. Ct. 1708. The Court rejected "customary tort liability as any mark of sufficiently shocking conduct" and held that "liability for negligently inflicted harm is categorically beneath the threshold of constitutional due process." *Id.* At the other end of the spectrum, the Court explains is behavior "that would most probably support a substantive due process claim; conduct intended to injure [that is] in some way unjustifiable by any government interest." *Id.* at 849, 118 S. Ct. 1708, "[This]

¹ Respondent Raines has attempted to argue that plaintiff was fleeing from him, therefore justifying his conduct of striking petitioner's vehicle, however, petitioner was acquitted by a jury on this criminal charge.

sort of official action is most likely to rise to the conscience-shocking level.” *Id.* “[C]loser calls,” however, are presented by conduct that is “something more than negligence but ‘less than intentional.’” *Id.* A determination as to which of these standards of culpability – “intend to harm” or “deliberate indifference” – applies requires “an exact analysis of context and circumstances before any abuse of power is condemned as conscience shocking.” *Id.* at 850, 118 S. Ct. 1708.

In the instant case, Petitioner has alleged that Respondent Raines intentionally crashed his vehicle into Petitioner’s car, causing Petitioner serious physical injury. Fourth Circuit case law has established three levels of conduct on the culpability spectrum: 1) intent to harm; 2) deliberate indifference and 3) negligence. Determining which level is applicable to the case before the Court is factually driven. Because factual development is necessary in determining the level of culpability applicable to the case before this Court, Respondent’s motion to dismiss should have been denied as factual development/discovery was necessary. At the very least, “the intent to harm standard” applies in instances such as the one plead in Petitioner’s complaint. *Id.* at 414. Under *Lewis* the “intent to harm” culpability standard applies to officers involved in emergency situations. *Id.* at 415. Deliberate indifference² can also establish a due process violation in situations not involving an emergency. Petitioner’s position is that either the deliberate indifference standard or the intent to harm standard should be applied in the present case, as petitioner was not fleeing the respondent in this case and there was no legitimate basis for crashing into petitioner’s vehicle³. *Dean* further addressed deliberate indifference as follows:

An officer’s actions demonstrate deliberate indifference where the evidence shows that the officer subjectively recognized a substantial risk of harm and that his actions were inappropriate in light of the risk. *Parrish ex rel. Lee v. Cleveland*, 372 F. 3d 294, 303 (4th Cir. 2004) (citing *Rich v. Bruce*, 129 F. 3d 336, 340 n.2 (4th Cir. 1997)). See also *Terrell*, 396 F. 3d at 984 (citing *Farmer v. Brennan*, 511 U.S. 825, 836-37, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994)) (deliberate indifference standard requires that the defendant disregard a known substantial risk of serious harm). A defendant’s subjective knowledge of the risk may be inferred from circumstantial evidence. *Parrish*, 372 F. 3d at 303 (quoting *Farmer*, 511 U.S. at 842, 114 S.Ct. 1970).

² Deliberate indifference is defined in *Dean* as conduct that is more than negligent but less than intentional. *Id.*

³ See Defendants’ Exhibit 2 – Judgment Order acquitting plaintiff of fleeing.

In such instance any officer would know that crashing their vehicle into another vehicle would present a substantial risk of serious harm. "A violation [of a constitutional right] may be clearly established if the violation is so obvious that a reasonable state actor would know that what they are doing violates the Constitution, *or* if a closely analogous case establishes that the conduct is unconstitutional." *Siebert v. Severino*, 256 F.3d 648, 654-55 (7th Cir. 2001) (emphasis added). When the conduct of a government official "is so patently *violative* of the constitutional right that reasonable officials would know without guidance from the courts' that the action was unconstitutional, closely analogous pre-existing case law is not required to show that the law is clearly established." *Mendoza v. Block*, 27 F.3d 1357, 1361 (9th Cir. 1994).

However, as set forth above, a review of legal precedent in the Fourth Circuit clearly establishes that a police officer carrying out conduct intended or expected to injure, that is unjustifiable by any government interest, is most likely to rise to an intent to harm event and is a clear violation of an individual's Fourth/Fourteenth Amendment Constitutional rights. *See Dean v. McKinney*, 976 3d 407, 415 (4th Cir. 2020) ("Under this legal framework and viewing the facts in the light most favorable to the Petitioner, we find that a jury could conclude that McKinney was not responding to an emergency and had time to deliberate his action"). Because the conduct alleged in petitioner's amended complaint sets forth a violation of a clearly established constitutional right, Respondents' Motion was without merit and should have been denied.

Respondents also argue that petitioner's amended complaint alleges that this was accidental, thereby implying negligent conduct. While petitioner's complaint does plead different theories in the alternative, petitioner's 42 U.S.C. § 1983 claim clearly states that the crash was intentional and intended to harm. To the extent there was any confusion, petitioner's amended complaint establishes that Petitioner has set forth allegations of intentional/wrongful

(unconstitutional) conduct by respondent Raines. Petitioner should at a minimum, be allowed to conduct discovery on the events giving rise to these claims.

ASSIGNMENT OF ERROR 6

C. The Circuit Court Erred When it Determined That Respondent Raines is Entitled to Immunity For Claims Made Pursuant to W.Va. Code § 29-12A-5(b)(2).

W.Va. Code § 29-12A-5(b)(2) states as follows:

- (b) An employee of a political subdivision is immune from liability unless one of the following applies:
 - (1) His or her acts or omissions were manifestly outside the scope of employment or official responsibilities;
 - (2) His or her acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner; or

Petitioner's amended complaint clearly states and alleges that Respondent Raines' conduct intentionally crashing into Petitioner was malicious and/or reckless. *See* JA 94-98, plaintiff's amended complaint ¶¶ 12--15. Paragraphs 13-14 specifically state as follows:

13. Defendant Wiley Raines was a deputy for the Calhoun County Sheriff's Office when he engaged in reckless driving. His conduct was wanton, willful, reckless and intentional while violating policy and procedures established by the Calhoun County Commission as well as state traffic laws.

14. The participation in such reckless conduct caused the crash that is the subject of this complaint as well as the serious injuries suffered by the plaintiff. Defendant's conduct violated W.Va. Code § 29-12A-5(b)(2).

Because the amended complaint clearly sets forth a factual basis for Raine's liability pursuant to state statutory law specifically establishing liability under such circumstances, the motion should have been denied and Petitioner should be allowed to conduct discovery.

ASSIGNMENT OF ERROR 7

D. The Circuit Court Erred in Determining that Petitioner Is Precluded from Recovering Damages Pursuant to W.Va. Code § 55-7-13(d)(c).

It is well established that federal, not state law, would govern Petitioner's claims made pursuant to 42 U.S.C. § 1983. Moreover, taking petitioner's amended complaint as true, even if petitioner was convicted of a felony, his amended complaint makes it clear that the malicious/reckless/intentional conduct of Respondent Raines is the proximate cause of the crash. The intentional and illegal acts complained of by the petitioner and carried out by respondent Raines are the sole proximate cause of petitioner's injuries. Even if petitioner was driving on a suspended/revoked license, this was not the proximate cause of the crash. At a minimum, discovery is needed to properly evaluate this issue. Applying the law as requested by respondent would immunize and promote illegal conduct by law enforcement officers. Such an argument is clearly unconstitutional and unconscionable.

ASSIGNMENT OF ERROR 8

E. The Circuit Court Erred in Not Holding that West Virginia Code §29-12A-4(c) Explicitly Creates Vicarious Liability for an Employee's Negligent Use of a Vehicle.

Respondent Calhoun County Commission has admitted that West Virginia Tort Claims and Insurance Reform Act creates liability for the County when its employees cause injury or death as a result of the negligent use of an automobile. West Virginia Code §29-12A-4(c)(2) states as follows:

Political subdivisions are liable for injury, death, or loss to persons or property caused by the negligent performance of acts by their employees while acting within the scope of employment.

Petitioner's amended complaint asserts, in the alternative, that Raines was negligent when operating his automobile. These allegations subject the County to vicarious liability. Respondent

Calhoun County, however, relies upon West Virginia Code § 29-12A-5(a)(5) in arguing that it is entitled to statutory immunity. The Supreme Court of Appeals of West Virginia has addressed this issue on multiple occasions. In Syllabus points 3 and 4 of *Beckley v. Crabtree*, 189 W.Va. 94 (1993) the Court held that:

3. The phrase ‘method of providing police, law enforcement or fire protection’ contained in W.Va. Code §29-12A-5(a)(5) refers to the formulation and implementation of policy related to how police, law enforcement or fire protection is to be provided.

4. Resolution of the issue of whether a loss or claim occurs as a result of the ‘method of providing police, law enforcement or fire protection’ requires determining whether the allegedly negligent act resulted from the manner in which a formulated policy regarding such protection was implemented.

In *Brown v. Mason County Commission*, Civil Action No. 3:18-1496, (S.D.W.Va 2019) the Federal District Court in its Memorandum Opinion and Order, recognized that immunity is limited to the “decision-making or planning process in developing a governmental policy, including how that policy is to be performed.” *Smith v. Burdette*, 566 S.E. 2d 614, Syl. Pt. 4 (2002), overruled on other grounds by *Albert v. City of Wheeling*, 792 S.E. 2d 628, 632 (W.Va. 2016)). (Supreme Court of Appeals of West Virginia has limited immunity to the decision making or planning process in developing a governmental strategy). *See also, Mallamo v. Town of Riversville*, 197 W.Va. 616 (1996)(Court opined that the negligent discharge of a weapon did not arise from the method of providing police, law enforcement or fire protection); *Kelley v. City of Williamson*, 221 W.Va. 506, 513 (2007) (Jury must determine if officers behaved negligently, thereby subjecting the city to liability or acted recklessly, subjecting themselves to liability).

Respondent’s reliance on *Albert v. City of Wheeling*, 238 W.Va. 129 (2016) is misplaced. In *Albert*, the Court held that the maintenance of fire hydrants is an integral component of fire protection services. Therefore, the municipality’s policy of inspecting and maintaining fire

hydrants was directly related to the city's method of providing fire protection. This analysis resulted in application of West Virginia Code §29-12A-5(a)(5) and immunity for the City. The events giving rise to the claims in *Albert* are however not analogous to the present case and therefore not applicable herein.

A jury should determine if Respondent Raines was negligent or acted unconstitutionally and/or intentionally when he crashed into the Petitioner. Because the alleged negligent conduct is in no way related to the decision making or planning process of the County or method of law enforcement, 29-12A-5(a)(5) is not applicable, and Respondents' motion should be denied.

CONCLUSION

For the reasons set forth herein, Petitioner requests that this Honorable Court remand this case to the Circuit Court of Calhoun County for the purpose of completing discovery.

GEORGE NICHOLAS PARSONS,
By Counsel,

/s/ Paul M. Stroebe

Paul M. Stroebe (WV Bar #5758)

Attorney for Petitioner

Stroebe & Stroebe, PLLC

405 Capitol Street; Suite 102

P.O. Box 2582

Charleston, WV 25329

Telephone: (304) 346-0197

Fax: (304) 346-6029

E-mail: paulstroeb@aol.com

INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

GEORGE NICHOLAS PARSONS,

Plaintiff Below, Petitioner

vs.)

No. 24-ICA-193
(Case No. CC-07-2023-C-7)

WILEY TYLER RAINES and
CALHOUN COUNTY COMMISSION,

Defendants Below, Respondents

CERTIFICATE OF SERVICE

I, Paul M. Stroebe, do hereby certify that I have served a copy of the foregoing "*Amended Brief on Behalf of George Nicholas Parsons*" was sent via electronic submission on this 9th day of August 2024, upon the following:

Drannon L. Adkins, Esquire
Christopher T. Ferro, Esquire
Pullin, Fowler, Flanagan, Brown & Poe, PLLC
JamesMark Building
901 Quarrier Street
Charleston, WV 25301

/s/ Paul M. Stroebe
Paul M. Stroebe (WV Bar #5758)
Attorney for Petitioner
Stroebe & Stroebe, PLLC
405 Capitol Street; Suite 102
P.O. Box 2582
Charleston, WV 25329
Telephone: (304) 346-0197
Fax: (304) 346-6029
E-mail: paulstroeb@aol.com