

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

**NANCY SINGLETON CASE, and
DEBORAH A. McGEE,**

Petitioners,

v.

Civil Action No.: 19-C-___

**CORPORATION OF HARPERS FERRY
(the governing body of Harpers Ferry),
HARDWICK SMITH JOHNSON, and
CHARLOTTE WARD THOMPSON,**

Respondents.

PETITION FOR WRIT OF PROHIBITION

Petitioners, Nancy Singleton Case and Deborah A. McGee, by and through their counsel, Gregory A. Bailey, Esq., J. Daniel Kirkland, Esq., and the law firm of Arnold & Bailey, PLLC, and pursuant to W.Va. Code § 3-7-6, Rule 65 of the West Virginia Rules of Civil Procedure and other applicable statutory and common law, file the foregoing Petition for Writ of Prohibition and Request for Preliminary Injunction to prohibit members of the Harpers Ferry Town Council whose election is at issue from serving on the tribunal to judge the election, qualifications and returns from the June 11, 2019 Harpers Ferry municipal election at the tribunal hearing scheduled for August 24, 2019.

Parties

1. Petitioner, Nancy Singleton Case, was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.
2. Petitioner, Deborah A. McGee, was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

3. Respondent, Hardwick Smith Johnson was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019 and is currently a sitting member of the Harpers Ferry Town Council.

4. Respondent, Charlotte Ward Thompson was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019 and is currently a sitting member of the Harpers Ferry Town Council.

5. The Corporation of Harpers Ferry is a municipal governing body who has statutory jurisdiction to act as the tribunal to judge municipal election contests.

6. This Court has jurisdiction to hear this petition for writ of prohibition of a lower tribunal established under W.Va. Code § 3-7-6, which designates the municipal governing body as the tribunal to hear election contests.

Factual Background Supporting Issuance of Writ of Prohibition

An election was held for seats on the Harpers Ferry Town Council on June 11, 2019. A recount of that vote was held on June 26, 2019 and the election results were certified on June 28, 2019. Based upon the certified votes the margin between the “winning” candidates and those who did not win a seat on council was just several votes. [See Certification attached as Exhibit A]. Petitioner, Debbie McGee lost by three (3) votes and Petitioner, Nancy Singleton Case lost by only two (2) votes.

Petitioners, McGee and Case filed a contest to the election alleging that during the June 12, 2019, municipal election, five (5) Harpers Ferry citizens were denied the right to vote based upon erroneous records that indicated they were not Harpers Ferry residents (hereinafter “Provisional Ballot Voters”). The citizens who cast provisional ballots are: Linda McCarty, George McCarty, Leah Howell (who was also a candidate for town council), Adam Hutton and Jane Mumaw. Based upon information and belief four (4) of the Provisional Ballot Voters were mistakenly classified

by the Jefferson County Clerk as Bolivar, WV, residents because of a DMV address mistake, despite the fact that they each clearly reside within the corporate boundaries of Harpers Ferry and have voted in previous Harpers Ferry municipal elections. In fact, one of the Provisional Ballot Voters, Leah Howell, was actually on the ballot as a candidate for town council, yet even her vote through provisional ballot was rejected by the Board of Canvassers and was not tallied.

Although each of these citizens were appropriately permitted to cast provisional ballots in the June 11 election, the Board of Canvassers (which is comprised of the governing body) conducted a recount of the election on June 26, 2019, and refused to consider the provisional ballots at issue without explanation. The election results were certified by the Board of Canvassers on June 28, 2019, without tallying the provisional ballots cast by the Provisional Ballot Voters identified herein. Petitioners, thereafter, timely filed a Contest to the Election on July 8, 2019. [See Election Contest attached Exhibit B]

Pursuant to W.Va. Code § 3-7-6 contests to municipal elections are to be brought before the governing body of the municipality of the offices to-wit: the Harpers Ferry governing body (Town Council, Mayor and Recorder). That provision designating the governing body of Harpers Ferry as the tribunal to hear municipal election contests is expressly limited, however, by the clear language of W.Va. Code § 3-7-6, which prohibits the members of a tribunal whose election is being contested to participate on the tribunal in the election contest.

Petitioners through counsel had made numerous demands that all three of the members of town council whose seats may be impacted (Thompson, Johnson and Pechuekonis) by the five (5) provisional ballots disqualify themselves from sitting on the tribunal at the election contest to no avail. Ultimately, the governing body of Harpers Ferry on August 12, 2019, finally set the trial on the election contest to occur on August 24, 2019, but again did not address repeated requests for disqualification of council members whose election is at issue in the election contest until

August 19, 2019, at which time they announced that Hardy Johnson would not recuse himself but Charlotte Thompson and Christian Pechuekonis would. Counsel requested an explanation of this seemingly contradictory “split-decision,” but received none. Then, on August 21, 2019, Charlotte Thompson announced she was withdrawing her recusal and intended to participate on the tribunal judging the election contest.

It is a mathematical truth that both Johnson and Thompson could lose their seats depending upon the five provisional ballots at issue.¹ Council Member Hardy Johnson received a total of 85 votes: (3) more votes than Contester, Nancy Singleton Case (who received 82 votes); and four (4) more votes than Contester, Debbie McGee (who received 81 votes). Council Member Thompson received 84 votes. Council Members Hardy and Thompson therefore have a clear legal duty to disqualify themselves from participation on the tribunal because their election is being contested on the grounds that the five (5) provisional ballots tallied could result in one or both of them losing their seat on Town Council.

LEGAL ARGUMENT FOR WRIT OF PROHIBITION

A Writ of Prohibition should issue in this case to prevent members of lower tribunal from exceeding its legitimate powers by sitting as the judge in their own election. The statutory prohibition against allowing a member of the tribunal from judging his own election is clear and is consistent with all notions of rules governing judicial impartiality and conflicts of interest. As such, the refusal to disqualify council members Johnson and Thompson is so clearly erroneous that it must be corrected through a writ of prohibition to avoid irreparable injury to our process of reviewing and protecting free and fair elections.

The utter absurdity of the conflict of interest is apparent by considering the presentation of evidence at the trial before the governing body. The private attorney retained by council members

¹ Each ballot allows a voter to select up to five council members.

Barbara Humes, Charlotte Thompson and Hardy Johnson to defend their seats in this election contest is going to be presenting evidence and arguing to his own clients on the tribunal that the provisional ballots should not be counted. An attorney arguing to his own clients sitting as judge. Ridiculous.

A. STANDARD OF REVIEW

The Court considers the following standard when deciding whether or not a writ of prohibition should issue:

[i]n determining whether or not to entertain and issue the writ of prohibition for not cases not involving an absence of jurisdiction but only where it is claimed that the lower tribunal exceeded its legitimate powers, this Court will examine five factors: (1) whether the party seeking the writ has no other adequate means, such as direct appeal, to obtain the desired relief; (2) whether the petitioner will be damaged or prejudiced in a way that is not correctable on appeal; (3) whether the lower tribunal's order is clearly erroneous as a matter of law; (4) whether the lower tribunal's order is an oft repeated error or manifests persistent disregard for either procedural or substantive law; and (5) whether the lower tribunal's order raises new and important problems or issues of law of first impression. These factors are general guidelines that serve as a useful starting point for determining whether a discretionary writ of prohibition should issue. Although all five factors need not be satisfied, it is clear that the third factor, the existence of clear error as a matter of law, should be given substantial weight.

Syl. Pt. 1, *State ex rel. Hamrick v. Stucky*, 220 W.Va. 180, 640 S.E.2d 243,(W.Va. 2006); *see also* Syl. Pt. 4, *State ex rel. Hoover v. Berger*, 199 W.Va. 12, 483 S.E.2d 12 (1996); *State ex rel. Games-Neely v. Sanders*, 220 W.Va. 230, 232-233, 641 S.E.2d 153, 155-156 (2206).

Prohibition does not lie to prevent a simple abuse of discretion:

“A writ of prohibition will not issue to prevent a simple abuse of discretion by a trial court. It will only issue where the trial court has no jurisdiction or having such jurisdiction exceeds its legitimate powers.”

Syl. Pt. 1, *State ex rel. Canton v. Sanders*, 215 W.Va. 755, 601 S.E.2d 75 (2004).

Further:

“Prohibition lies only to restrain inferior courts from proceeding in causes over which they have no jurisdiction, or, in which, having jurisdiction, they are exceeding their legitimate powers and may not be used as a substitute for writ of

error, appeal or certiorari.” Syl. pt. 1, *Crawford v. Taylor*, 138 W.Va. 207, 75 S.E.2d 370 (1953). Further, “[t]his Court is ‘restrictive in its use of prohibition as a remedy.’ *State ex rel. West Virginia Fire Cas. Co. v. Karl*, 199 W.Va. 678, 683, 487 S.E.2d 336, 341 (1997).

A writ of prohibition is an appropriate means of preventing a tribunal from exceeding its legitimate powers by failing to disqualify a judicial officer to avoid the appearance of impropriety. *See generally, State ex rel. Hamrick v. Stucky*, 220 W.Va. 180, 640 S.E.2d 243,(W.Va. 2006)(citations omitted).

B. Writ of Prohibition Should Be Issued to Protect the Process of Free and Fair Elections.

The West Virginia Supreme Court declared long ago that fairness, purity and freedom of elections are essential to free government. *Ralston v. Meyer*, 12 S.E. 783 (1891). That pronouncement which dates back to 1891 holds true today. W.Va. Code 3-1-3 provides that citizens of the state shall be entitled to vote at all elections held within the municipalities in which they respectively reside. An election that does not count all votes of its citizens fails to satisfy the criteria of fairness and is not a free election. The sole issue in this election contest is whether the five (5) provisional ballots should be tallied because they were cast by Harpers Ferry residents. That decision cannot be made by candidates who may win or lose their seat based upon that decision. To hold otherwise is to make a mockery of our election process.

1. The Failure of Council Members Johnson and Thompson to recuse themselves is clearly erroneous and manifests absolute disregard for procedural and substantive law.

Importantly, when a Court is considering whether to issue a writ of prohibition based upon a lower tribunal exceeding its powers, not all five factors need be present and the court should focus on and give substantial weight to whether the lower court’s order is clearly erroneous. Syl. Pt. 1, *State ex rel. Hamrick v. Stucky*, 220 W.Va. 180, 640 S.E.2d 243,(W.Va. 2006). Here, the

statutory mandate of automatic disqualification of council members Hardy Johnson and Charlotte Thompson could not be more clear. W.Va. Code § 3-7-6, provides:

In all cases of contested elections, the county commission shall be the judge of the election, qualifications and returns of their own member and of all county and district officers: Provided, That **a member of the county commission whose election is being contested may not participate in judging the election, qualifications and returns.**

(Emphasis added)²

Contesters are indeed challenging Mr. Johnson and Ms. Thompson's election. Hardy Johnson won his seat on the town council by three (3) votes over Contester Case and four (4) votes over Contester McGee. Ms. Thompson's margin of error is only 2 and 3 votes respectively. There are five (5) provisional ballots at issue. Accordingly, Mr. Johnson and Ms. Thompson's elections are clearly contested and clearly at issue depending upon the tally of provisional ballots. Indeed, the other council member who was within the margin of error of five votes, Mr. Pechuekonis appropriately disqualified himself. The governing body of Harpers Ferry has a duty to disqualify council members Hardy Johnson and Charlotte Thompson from participating in the tribunal. Petitioners have made repeated demands for disqualification of council members whose election is contested but have been rebuffed or ignored. Only recently did the governing body communicate through its attorney that two of the council members had disqualified themselves but gave no explanation or justification for Hardy remaining on the tribunal. Then today, just three (3) days before trial, council member Charlotte Thompson reversed course and changed her mind deciding to withdraw her recusal.

W. Va. Code § 3-7-6 could not be more clear on the issue of a member's disqualification from the tribunal when her election is being contested. That clear statutory provision must be

² W.Va. Code § 3-7-6, applies equally to municipal elections as follows: "The provisions of this section apply to all elections, including municipal elections, except that the governing body of the municipality is the judge of any contest of a municipal election."

followed. *See* Syl. Pt. 2, *State v. Epperly*, 135 W.Va. 877, 65 S.E.2d 488 (1951) ([a] statutory provision which is clear and unambiguous and plainly expresses the legislative intent will not be interpreted by the courts but will be given full force and effect.) To hold otherwise would not only bring into question the validity of the Harper's Ferry election, but moreover, would erode the public confidence in our election process as a whole. It is unclear what motivations exist for the current council's absolute disregard of statutory law. Indeed, the council has offered zero justification for its persistent refusal to follow West Virginia statutory law; and in fact; has wavered on his responsibilities and legal duties as an independent tribunal. Presumably, the council is willing to perpetuate the taint of impropriety in the Harper's Ferry election to further the desired outcome of the winning candidates. If true, such motivation threatens the very foundation of our constitutional founded election process and should not be permitted by this Court.

Accordingly, based upon clear statutory law, any member of the tribunal empaneled to judge the election whose individual election is being contested should be disqualified from participating in judging the election, qualifications and returns. Thus, pursuant to W.Va. Code § 3-7-6 Council Members Hardy Johnson and Charlotte Johnson should be disqualified from participating in the August 24, 2019, election contest proceedings.

2. Prohibition is Appropriate to Redress the Governing Bodies Flagrant Disregard of Clear Statutory Law.

It is clear that the municipal tribunal has exceeded its legitimate authority by failing to follow the mandate set forth in W.Va. Code § 3-7-6. This absolute refusal to follow statutory law has left the Petitioner with no other remedy other than to seek extraordinary relief from this Court. The citizens of Harper's Ferry, and Jefferson County in its entirety, have a fundamental constitutional right to a fair and impartial election process to choose the officials that will govern their community affairs. That right is being persistently eroded by the appearance of bias and impropriety in the manner in which the so-called elected officials are placing their individual

desires over that of the community. The issues related to the provisional ballots are neither complex, nor complicated. Rather, it requires a simple determination of whether or not the person casting the provisional ballots were registered voters residing in Harper's Ferry. It is undeniable that they were. That fact has and will be established by the Jefferson County Clerk's Office. Yet, instead of following statutory law and recusing themselves from judging an election that involves the validity of their own election, two members of the council are willfully refusing to recuse themselves.

The issue before this court is narrow and straightforward. How can any person(s) with a vested interest in the outcome of an election sit in judgment of the issues being contested? Simply put, they cannot. The refusal of Council Members Johnson and Thompson to recuse themselves will only further erode public confidence and delay the potential certification of rightfully elected public officials. Further, delay in these proceedings will continue to damage public confidence in the manner in which the citizens of Harper's Ferry are being governed.

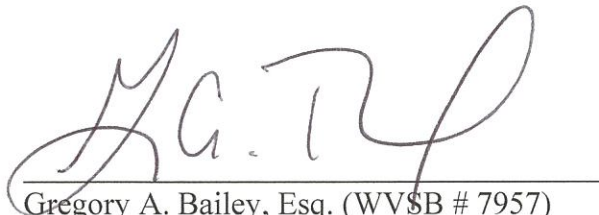
The Harper's Ferry Town Council and Council Members Johnson and Thompson have exceeded its legitimate authority by failing to follow clear statutory law; and therefore, this Court must issue an order forcing compliance with statutory law and prohibiting any person(s) whose election is being contested from sitting in judgment of the contested issues.

CONCLUSION

WHEREFORE, for the reason contained herein, Petitioner's respectfully pray that this Honorable Court issue the requested writ prohibiting Council Members Hardy Johnson and Charlotte Thompson from participating in the judgment of the contested June 12, 2019, Harper's Ferry municipal election pursuant to W.Va. Code § 3-7-6. Petitioner's further respectfully request that the Court grant Petitioners' Motion to Preliminary Injunction filed separately to prohibit Hardy

Johnson and Charlotte Thompson from participating as judges in the August 24, 2019 election contest before the Harpers Ferry governing body.

**NANCY SINGLETON CASE and
DEBORAH H. McGEE,
Petitioners, By Counsel**

A handwritten signature in black ink, appearing to read 'G.A. Bailey', written over a horizontal line.

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Counsel for Contestors

EXHIBIT "A"

Board of Canvassers Certification of Results
2019 Harpers Ferry Municipal Elections

The Board of Canvassers of the Corporation of Harpers Ferry, having carefully and impartially examined the returns of the election held in this municipality on the 11th day of June, 2019, and having observed a recount of the accepted ballots cast for Town Council member candidates, do hereby certify that in said municipality,

for the office of Town Council member,

Debbie McGee received 81 votes;

Christian Pechuekonis received 84 votes;

Nancy Singleton Case received 82 votes;

Midge Flinn Yost received 81 votes;

Barbara Humes received 91 votes;

Leah Howell received 15 votes;

Jay Premack received 87 votes;

Hardy Johnson received 85 votes; and

Charlotte Thompson received 84 votes.

This certification is effective at 8:33 p.m. on the 28th day of June, 2019, as motioned, seconded, and approved by the Harpers Ferry Board of Canvassers, unless a petition for a recount is received by the Recorder before the stated time.

Kevin Carden, Recorder

Wayne Bishop

Barbara Humes

Hardwick S. Johnson, Jr.

Charlotte Thompson

Ed Wheelless

Midge Flinn Yost

Kevin Carden
~~Wayne Bishop~~
Barbara Humes
Hardwick S. Johnson, Jr.
Charlotte Thompson
Midge Flinn Yost

EXHIBIT "B"

BEFORE THE HARPERS FERRY TOWN COUNCIL

IN RE: THE MATTER OF CONTESTED TOWN COUNCIL ELECTION

**NANCY SINGLETON CASE, and
DEBORAH A. McGEE,**

Individual Contesters,

**HARDWICK SMITH JOHNSON,
CHARLOTTE WARD THOMPSON,
CHRISTIAN PECHUEKONIS,
MARJORIE FLINN YOST,
BARBARA HUMES, and
JAY PREMACK,**

Individual Contestees.

**NOTICE OF INTENT TO CONTEST
HARPERS FERRY TOWN COUNCIL ELECTION**

Comes now, Nancy Singleton Case and Deborah A. McGee, individual Contesters, by and through their counsel, Gregory A. Bailey, Esq., and the law firm of Arnold & Bailey, PLLC, and pursuant to W.Va. Code § 3-7-6 files the foregoing Notice of Intent to Contest the Harpers Ferry Town Council Election based upon the averments set forth herein:

Parties

1. Contester, Nancy Singleton Case, was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.
2. Contester, Deborah A. McGee, was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

3. Contestee, Hardwick Smith Johnson was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

4. Contestee, Charlotte Ward Thompson was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

5. Contestee, Christian Pechuekonis, was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

6. Contestee, Marjorie Flinn Yost was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

7. Contestee, Barbara Humes was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

8. Contestee, Jay Premack was a candidate who ran for the office of Town Council in the election held on June 11, 2019 and certified on June 28, 2019.

Jurisdiction and Venue

9. W.Va. Code § 3-7-6 provides that contests to municipal elections are to be brought before the governing body of the municipality of the offices contested.

Facts Supporting Election Contest

10. An election was held for seats on the Harpers Ferry Town Council during an early voting period, from May 29 through June 8, 2019, and on general election day June 11, 2019. The Board of Canvassers conducted the Canvass of Returns Meeting on June 17, 2019. A recount of that vote was held on June 26, 2019 and the election results were certified on June 28, 2019.

11. W.Va. Code 3-1-3 provides that citizens of the state shall be entitled to vote at all elections held within the municipalities in which they respectively reside.

12. During the early voting period of the 2019 municipal elections, which occurred from May 29 through June 8, 2019, and on the general election day June 11, 2019, no fewer than five (5) Harpers Ferry citizens sought to vote, but Harpers Ferry poll workers required these voters to vote using provisional ballots, based upon erroneous records of the Jefferson County Clerk that indicated they were not Harpers Ferry residents.

13. Each of these citizens were Harpers Ferry residents and registered voters appropriately permitted to cast provisional ballots in the election.

14. The citizens who cast provisional ballots are: Linda McCarty, George McCarty, Leah Howell (who was also a candidate for town council), Adam Hutton and Jane Mumaw.

15. Leah Howell was qualified to cast a ballot in the election as a duly registered voter who resides in the corporate limits of Harpers Ferry at 887 Washington Street, Harpers Ferry, West Virginia.

16. George McCarty was qualified to cast a ballot in the election as a duly registered voter who resides in the corporate limits of Harpers Ferry at 800 Washington Street, Harpers Ferry, West Virginia.

17. Linda McCarty was qualified to cast a ballot in the election as a duly registered voter who resides in the corporate limits of Harpers Ferry at 800 Washington Street, Harpers Ferry, West Virginia.

18. Adam Hutton was qualified to cast a ballot in the election as a duly registered voter who resides in the corporate limits of Harpers Ferry at 900 Washington Street, Harpers Ferry, West Virginia.

19. Jane Mumaw was qualified to cast a ballot in the election as a duly registered voter residing in the corporate limits of Harpers Ferry at 675 Cliff Street, Harpers Ferry, West Virginia.

20. The Board of Canvassers for the election conducted a Canvass Meeting to canvass the vote returns of the June 11 election on June 17, 2019 but, based upon information and belief, a majority of those Canvassers (Councilmember Johnson, Councilmember Thompson, Councilmember Humes and Councilmember Yost) refused to consider, or even examine, any of the provisional ballots cast by the voters named herein, thereby denying these five provisional voters the right to vote.

21. On June 19, 2019, Town Council candidates Nancy Singleton Case and Deborah A. McGee requested an official recount of the June 11, municipal election results, and further urged the Board of Canvassers to consider all provisional ballots. The official recount was conducted on June 26, 2019, wherein the Board of Canvassers recounted all early, absentee and election day ballots, but once again, the Board of Canvassers refused to consider any of the provisional ballots cast by the voters named herein.

22. The official election results were certified on June 28, 2019, without consideration of any of the provisional ballots cast by the voters herein.

23. Each of the provisional ballots should have been properly examined by the Board of Canvassers, thoughtfully reviewed and considered, and when found to be valid, should have been tallied together with the regular ballots.

24. Upon information and belief, if the provisional ballots had been counted it would change the outcome of the election.

25. The West Virginia Supreme Court declared long ago that fairness, purity and freedom of elections are essential to free government. *Ralston v. Meyer*, 12 S.E. 783 (1891). That pronouncement which dates back to 1891 holds true today.

26. An election that does not count all votes of its citizens fails to satisfy the criteria of fairness and is not a free election.

27. Equally damaging to a free election is counting ballots cast by persons not qualified to vote in an election.

28. In the present election, at least four ballots were counted despite the fact that they were cast by those who are not residents or proper voters of Harpers Ferry, WV.

29. Based upon information and belief, Tess Bishop, who resides in the state of Utah, cast a ballot in the town council election, in violation of W.Va. Code § 3-1-3 and W.Va. Code § 3-1-34.

30. Based upon information and belief, Taylor Bishop, who resides in the state of Utah, cast a ballot in the town council election, in violation of W.Va. Code § 3-1-3 and W.Va. Code § 3-1-34.

31. Based upon information and belief, Jacob Morse, who resides in the state of Illinois, cast a ballot in the town council election, in violation of W.Va. Code § 3-1-3 and W.Va. Code § 3-1-34.

32. Based upon information and belief, Craig Yost, who resides outside the corporation of Harpers Ferry, West Virginia, cast a ballot in the town council election, in violation of W.Va. Code § 3-1-3 and W.Va. Code § 3-1-34.

33. Upon information and belief, it is impossible to review these improperly cast ballots to remove the votes from candidates they voted for.

34. Upon information and belief, the West Virginia Secretary of State's Office has undertaken an investigation of the failure of the Board of Canvassers to consider provisional votes, and of the illegal votes that were cast in this subject election.

35. The totality of circumstances surrounding the failure to count ballots cast by duly registered Harpers Ferry citizens while allowing ballots to be cast by non-residents, along with other election irregularities, has tainted the fairness and reliability of the election and Contesters reserve the right to contest the legality of the election as a whole.

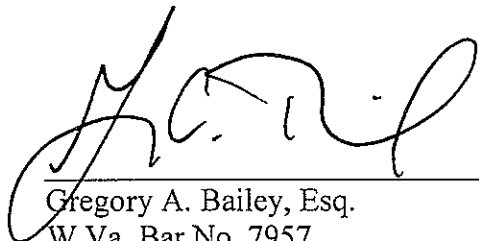
Based upon all of the foregoing, Contesters challenge the election results based upon the following contested votes by provisional ballots that should have been counted and contesting the votes by non-residents that should have been disallowed:

- a. Provisional ballot cast by Leah Howell, which should have been counted;
- b. Provisional ballot cast by George McCarty, which should have been counted;
- c. Provisional ballot cast by Linda McCarty, which should have been counted;
- d. Provisional ballot cast by Adam Hutton, which should have been counted;
- e. Provisional ballot cast by Jane Mumaw, which should have been counted;
- f. Ballot accepted from non-resident Tess Bishop, which should not have been cast nor counted;

- g. Ballot accepted from non-resident Taylor Bishop, which should not have been cast nor counted;
- h. Ballot accepted from non-resident Jacob Morse, which should not have been cast nor counted;
- i. Ballot accepted from non-resident Craig Yost, which should not have been cast nor counted;
- j. Fundamental unfairness calling into question the legality of the election; and
- k. Any other vote or basis discovered during the pendency of this election contest.

WHEREFORE, based upon the election contest procedures set forth in W.Va. Code 3-7-7, Contesters request that this matter be set down for trial within the earliest possible time but no later than August 12, 2019.

NANCY SINGLETON CASE and
DEBORAH H. McGEE,
Contesters,
By Counsel



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BEFORE THE HARPERS FERRY TOWN COUNCIL

IN RE: THE MATTER OF CONTESTED TOWN COUNCIL ELECTION

**NANCY SINGLETON CASE, and
DEBORAH A. McGEE,**

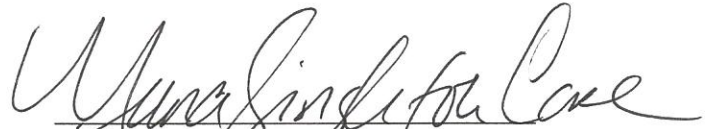
Individual Contesters,

**HARDWICK SMITH JOHNSON,
CHARLOTTE WARD THOMPSON,
CHRISTIAN PECHUEKONIS,
MARJORIE FLINN YOST,
BARBARA HUME, and
JAY PREMACK,**

Individual Contestees.

SWORN VERIFICATION OF CONTESTER NANCY SINGLETON CASE

Contester, Nancy Singleton Case, being first duly sworn, deposes and says that the averments contained in the Notice of Intent to Contest Harpers Ferry Town Council Election are true and correct insofar as they are therein stated to be upon information and belief, she believes them to be true.



Nancy Singleton Case

STATE OF WEST VIRGINIA

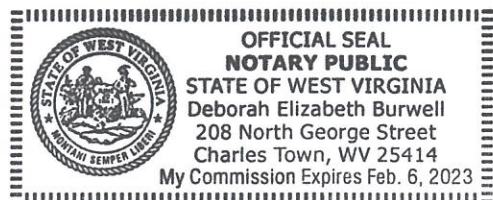
COUNTY OF JEFFERSON, to-wit;

Taken and subscribed and sworn by Nancy Singleton Case before me, in my said

State and County, this 8th day of July, 2019.


Notary Public

My commission expires: Feb. 6th, 2023



BEFORE THE HARPERS FERRY TOWN COUNCIL

IN RE: THE MATTER OF CONTESTED TOWN COUNCIL ELECTION

**NANCY SINGLETON CASE, and
DEBORAH A. McGEE,**

Individual Contesters,

**HARDWICK SMITH JOHNSON,
CHARLOTTE WARD THOMPSON,
CHRISTIAN PECHUEKONIS,
MARJORIE FLINN YOST,
BARBARA HUME, and
JAY PREMACK,**

Individual Contestees.

SWORN VERIFICATION OF CONTESTER DEBORAH MCGEE

Contester, Deborah McGee, being first duly sworn, deposes and says that the averments contained in the Notice of Intent to Contest Harpers Ferry Town Council Election are true and correct insofar as they are therein stated to be upon information and belief, she believes them to be true.


Deborah McGee

STATE OF WEST VIRGINIA

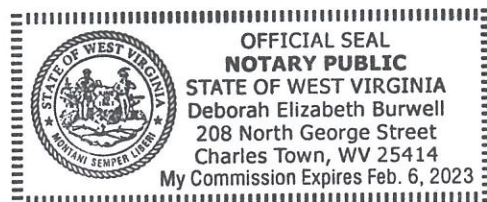
COUNTY OF JEFFERSON, to-wit;

Taken and subscribed and sworn by Deborah McGee before me, in my said

State and County, this 8th day of July, 2019.


Notary Public

My commission expires: Feb. 6th, 2023



IN THE CIRCUIT COURT OF JEFFERSON

CIVIL CASE INFORMATION STATEMENT
(Civil Cases Other than Domestic Relations)

I. CASE STYLE:

Case No. 19-

Plaintiff(s)

Judge:

NANCY SINGLETON CASE and
DEBORAH A. McGEE

vs.

Days to
Answer

Type of Service

Defendant(s)

CORPORATION OF HARPERS FERRY

20

Personal - Private Process

Name

1000 Washington Street

Street Address

Harpers Ferry WV 25425

City, State, Zip Code

II. TYPE OF CASE:

- General Civil
- Mass Litigation [As defined in T.C.R. 26.04(a)]
 - Asbestos
 - FELA Asbestos
 - Other: _____
- Habeas Corpus/Other Extraordinary Writ
- Other: _____
- Adoption
- Administrative Agency Appeal
- Civil Appeal from Magistrate Court
- Miscellaneous Civil Petition
- Mental Hygiene
- Guardianship
- Medical Malpractice

III. JURY DEMAND: Yes No CASE WILL BE READY FOR TRIAL BY (Month/Year): ____ / ____

IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS?

Yes No

IF YES, PLEASE SPECIFY:

- Wheelchair accessible hearing room and other facilities
- Reader or other auxiliary aid for the visually impaired
- Interpreter or other auxiliary aid for the deaf and hard of hearing
- Spokesperson or other auxiliary aid for the speech impaired
- Foreign language interpreter-specify language: _____
- Other: _____

Attorney Name: Gregory A. Bailey, Esq., WVSB #7957

Firm: Arnold & Bailey, PLLC

Address: 208 North George Street, Charles Town WV 25414

Telephone: (304) 725-2002

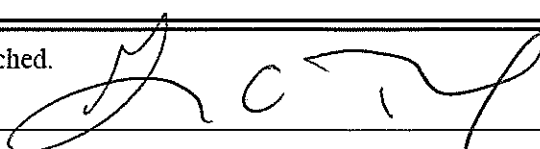
Representing:

- Plaintiff Defendant
- Cross-Defendant Cross-Complainant
- 3rd-Party Plaintiff 3rd-Party Defendant

Proceeding Without an Attorney

Original and ____ copies of complaint enclosed/attached.

Dated: 08 / 21 / 2019

Signature: 

Plaintiff: NANCY SINGLETON CASE and , et al Case Number: 19-

vs.

Defendant: CORPORATION OF HARPERS FERRY , et al

**CIVIL CASE INFORMATION STATEMENT
DEFENDANT(S) CONTINUATION PAGE**

Hardwick Smith Johnson

Defendant's Name

1000 Washington Street

Street Address

Harpers Ferry WV 25425

City, State, Zip Code

Days to Answer: 20

Type of Service: Personal - Private Process

Defendant's Name

Charlotte Ward Thompson

Street Address

1000 Washington Street

City, State, Zip Code

Days to Answer: 20

Type of Service: Personal - Private Process

Harpers Ferry WV 25425

Defendant's Name

Street Address

City, State, Zip Code

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Days to Answer: _____

Type of Service: _____

Defendant's Name

Street Address

City, State, Zip Code

Days to Answer: _____

Type of Service: _____

SUMMONS

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

**NANCY SINGLETON CASE and
DEBORAH A. MCGEE,**

Petitioners,

v.

Civil Action No. 19-_____

**CORPORATION OF HARPERS FERRY
(the governing body of Harpers Ferry),
HARDWICK SMITH JOHNSON and
CHARLOTTE WARD THOMPSON,**

Respondents

To the above-named Defendant: **CORPORATION OF HARPERS FERRY
1000 Washington Street
Harpers Ferry WV 25425**

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon Gregory A. Bailey, Esquire, Petitioners' attorney whose address is 208 North George Street, Charles Town WV 25414, an Answer including any related counterclaim you may have to the Petition filed against you in the above-styled action, a true copy of which is herewith delivered to you. You are required to serve your Answer within 20 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Petition and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action.

Dated:

Clerk of Court

By

Deputy

SUMMONS

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

**NANCY SINGLETON CASE and
DEBORAH A. MCGEE,**

Petitioners,

v.

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(the governing body of Harpers Ferry),
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CHARLOTTE WARD THOMPSON,**

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1000 Washington Street
Harpers Ferry WV 25425**

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Dated:

Clerk of Court

By

Deputy

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**NANCY SINGLETON CASE and
DEBORAH A. MCGEE,**

Petitioners,

v.

Civil Action No. 19-_____

**CORPORATION OF HARPERS FERRY
(the governing body of Harpers Ferry),
HARDWICK SMITH JOHNSON and
CHARLOTTE WARD THOMPSON,**

Respondents

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1000 Washington Street
Harpers Ferry WV 25425**

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Dated:

Clerk of Court

By

Deputy