

18-8249  
No. \_\_\_\_\_

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

Sup. Court, U.S.  
FILED

OCT 22 2019

OFFICE OF THE CLERK

Rickey Morgan — PETITIONER  
(Your Name)

vs.

DALE STEAGER  
W.VA. TAX COMMISSIONER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

WEST VIRGINIA SUPREME COURT OF APPEALS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rickey Morgan  
(Your Name)

112 N.R.C. Dr.  
(Address)

Moundsville, W.Va. 26041  
(City, State, Zip Code)

None  
(Phone Number)

## QUESTIONS PRESENTED

- 1) Does The WEST Virginia STATE TAX Commissioner, Dale Steager, have a legal obligation pursuant to W.VA. CODE § 11-1-5, to provide The Petitioner the proper procedures of presenting a complaint of misconduct on part of a Prosecuting Attorney?
- 2) Is a writ of mandamus the appropriate remedy if The WEST Virginia STATE TAX Commissioner fails to perform his STATUTORY DUTY provided for in West Virginia CODE § 11-1-5?
- 3) Does The west Virginia Supreme Court have a DUTY TO TAKE SUCH ACTIONS NECESSARY TO insure The Petitioner is afforded the CONSTITUTIONAL right of Due Process of Law under The Fourteenth Amendment?
- 4) Does The west Virginia Supreme Court have a DUTY TO APPLY THE RULE OF LAW in issuing / Granting a Writ of mandamus?
- 5) Did The west Virginia Supreme Court APPLY THE RULE OF LAW when it Denied The writ of mandamus in APPENDIX - A?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the west virginia supreme court appears at Appendix B to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was 10/12/2017. A copy of that decision appears at Appendix B.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix C.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  .

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) Due Process of Law as guaranteed by the West Virginia State Constitution, Article III § 10 and the Fourteenth Amendment of the United States Constitution as applied to procedure in the Courts of the Land.
- 2) West Virginia Constitution, Article III § 17, that provides in pertinent part that... "Every person... shall have remedy by due course of law, and justice shall be administered without... denial.
- 3) W.VA. CODE § 11-1C-5, (3), "The writ of mandamus shall be the appropriate remedy if the Tax Commissioner fails to perform his statutory duty provided for in W.VA. CODE § 11-1-5.
- 4) W.VA. CODE § 11-1-5, holds in pertinent part, "The Tax Commissioner shall communicate to the circuit court and prosecuting attorney of the county, ANY instance of misconduct or neglect of official duty on part of any... prosecuting attorney... and any evidence of which he may be cognizant, and the court shall cause the same to be investigated, and if the charges are true, proper charges shall be filed.

5) The Black Letter Law of the West Virginia Supreme Court of Appeals standards for mandamus that, "A writ of mandamus will not issue unless three elements co-exist - (1) A clear legal right in the petitioner to the relief sought; (2) A legal duty on part of the respondent to do the thing which the petitioner seeks to compel; and (3) The absence of another adequate remedy." SEE SYL. PT. 2. *Kucera v. City of Wheeling*, 153 W. Va. 538, 120 S.E.2d 367 (1962).

## STATEMENT OF THE CASE

Petitioner Presented a Writ of mandamus to the West Virginia Supreme Court of Appeals, (SEE EXHIBIT-A), Pursuant to the West Virginia Supreme Court's Standards for mandamus that is, "A writ of mandamus will not issue unless three elements co-exist -- (1) A clear legal right in the Petitioner to the relief sought; (2) A legal duty on part of the Respondent to do the thing which the Petitioner seeks to compel; and (3) The absence of another adequate remedy." SEE SYL. PT. 2, Kucera v. City of Wheeling, 153 W.Va. 538, 120 S.E. 2d 367 (1969).

Petitioner did prior to filing the mandamus at issue make numerous requests to the West Virginia State Tax Commissioner for information regarding the proper procedures for presenting a complaint for official misconduct of a prosecuting attorney and for the provision of any required forms, applications or other stipulations required by the office of the West Virginia State Tax Commissioner before he can or will take actions for prosecutorial misconduct or neglect of official duty pursuant, W.Va. CODES 11-1-5.

Dale Steager, the West Virginia State Tax Commissioner refused to communicate or to provide the information or required forms and applications for the Petitioner to file a formal complaint, and by such, Petitioner was without any other adequate remedy, and he filed a writ of mandamus to seek legal relief.

The writ of mandamus was DENIED by the West Virginia Supreme Court of Appeals Justices without the Constitutional Rule of Law, Rather than Considering The merits of The ACTION. The West Virginia Supreme Court Justices simply denied to apply The Black-letter law standards that mandate three elements must co-exist for a writ of mandamus to issue, as held in; 541. Pt. 2. Kucker v. City of Wheeling, 153 W.VA. 538, 170 S.E. 2d 367 (1969), and by such, The West Virginia Supreme Court Justices Failed to exercise discretionary review.

END OF STATEMENT

## REASONS FOR GRANTING THE PETITION

IT IS CLEAR THAT YOUR PETITIONER ESTABLISHED ALL REQUISITES FOR THE ISSUANCE OF A PEREMPTORY WITI OF MANDAMUS TO COMPEL THE RESPONDENT, DALE STEAGER, WEST VIRGINIA STATE TAX COMMISSIONER, TO PROVIDE THE REQUESTED INFORMATION, FORMS AND APPLICATIONS AND TO EXPLAIN THE PROPER PROCEDURES TO PRESENT A COMPLAINT FOR PROSECUTORIAL MISCONDUCT PURSUANT TO W.V.A. CODE § 11-1-5.

W.V.A. CODES 11-1C-5, TAX COMMISSIONER POWER AND DUTIES: SUBSECTION 3, HOLDS IN PERTINENT PART; "THE WITI OF MANDAMUS SHALL BE THE APPROPRIATE REMEDY IF THE TAX COMMISSIONER FAILS TO PERFORM HIS STATUTORY DUTY PROVIDED FOR IN SECTION FIVE § 11-1-5.

W.V.A. CODE § 11-1-5 HOLDS IN PERTINENT PART, "THE TAX COMMISSIONER SHALL COMMUNICATE TO THE CIRCUIT COURT AND PROSECUTING ATTORNEY OF THE COUNTY, ANY INSTANCE OF MISCONDUCT OR NEGLECT OF OFFICIAL DUTY ON PART OF -- ANY PROSECUTING ATTORNEY... AND ANY EVIDENCE THEREOF OF WHICH HE MAY BE COGNIZANT, AND THE COURT SHALL CAUSE THE SAME TO BE INVESTIGATED, AND IF THE CHARGES ARE TRUE, PROPER CHARGES SHALL BE FILED."

By such, The instant Petition Should be granted to insure and to protect The Due process of law as guaranteed by The west virginia Constitution's Article III § 10 and The Fourteenth Amendment of The United States Constitution as when applied to procedure in The courts of The land which requires The right to be heard.

Furthermore, The west virginia Constitution's Article III § 17 Provides That The courts of The state shall be open, and every person, for an injury done to him, in his person, property or Reputation, shall have remedy by due course of law, and Justice shall be administered without sale, Denial or Delay.

Petitioner is in fact without any other available remedies.

END OF REASONS

## CONCLUSION

Petitioner recognizes that a Petition for Writ of Certiorari is an extraordinary remedy used in cases where there has been an error in Justice which cannot be reviewed and corrected by the ordinary forms of Procedure, and by such, Petitioner now presents the instant action in good faith to this Highest Honorable Court for decision and answer respectfully, and your Petitioner Prays that this Petition for Writ of Certiorari be Granted.

Respectfully Submitted  
Rickey Morgan

DATE, 10/22/2017