

15-1213

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

JAMES H. BROWN, III,

Petitioner

vs.

CIVIL ACTION NO.: 13-C-165

LOGAN COUNTY DEPUTY SHERIFF
CIVIL SERVICE COMMISSION and
SONYA M. PORTER, Sheriff of Logan
County, West Virginia

Respondents.

ORDER GRANTING ATTORNEY FEES AND COSTS

On July 16, 2015, came the Petitioner in person and by his attorneys, George L. Partain and Shana O'Briant Thompson, and the Sheriff of Logan County, West Virginia, appeared by her attorney, John R. Teare, Jr. No one appeared for the Logan County Deputy Sheriff Civil Service Commission. Thereon the Court considered the Petitioner's Motion for Attorney Fees and Costs filed on May 21, 2015, Sheriff Porter's Response to said Motion filed on July 13, 2015 and the Petitioner's Reply filed on July 16, 2015.

Whereupon the Court after hearing arguments of counsel does hereby find as follows:

1. On November 9, 2012, Petitioner, James H. Brown, III, was a Deputy Sheriff of Logan County, West Virginia.
2. On November 9, 2012, the Petitioner received a Notice from W.E. Hunter, the then incumbent Sheriff of Logan County, West Virginia, advising the Petitioner he was being placed on "paid administrative leave" during the pendency of an Internal Investigation and stating, "This investigation could lead to punitive action up to and including termination of employment." While on "paid administrative leave," Petitioner was directed not to exercise any authority of the Sheriff's Department or engage in any law enforcement investigations.



3. The Notice directed the Petitioner to cease his secondary employment previously approved by the Sheriff's Department and to surrender all assigned equipment, uniforms, keys, etc., in his possession which were owned by the Sheriff's Department.
4. The Notice did not set forth a written statement of the reasons for the Sheriff's action in removing the Petitioner from his duties as a deputy sheriff and only stated Petitioner would be contacted and interviewed by Cpl. F. N. Ferrell.
5. On April 26, 2013, the Petitioner filed a Petition for Reinstatement with the Logan County Deputy Sheriffs' Civil Service Commission requesting it to forthwith convene and hold a hearing on said Petition.
6. On May 3, 2013, Sheriff Sonya M. Porter filed with the Logan County Deputy Sheriff's Civil Service Commission a Memorandum in Opposition to Petitioner's Motion for Reinstatement on the grounds the Logan County Deputy Sheriff's did not have jurisdiction to hear the Petition for Reinstatement.
7. On May 8, 2013, the Petitioner filed a Reply Memorandum to the Response Memorandum of Sheriff Porter again requesting that the Logan County Deputy Sheriff's Civil Service Commission forthwith schedule a hearing on his Petition for reinstatement.
8. On May 23, 2013, the Petitioner sent a letter to the Logan County Deputy Sheriffs' Civil Service Commission requesting for the third time that it forthwith convene and hold a public hearing on his Petition for Reinstatement.
9. Despite Petitioner's three requests, the Petitioner was not awarded a hearing on his Petition for Reinstatement, which was required by West Virginia Code § 7-14-17 to be held within ten (10) days of the filing of said Petition.
10. On June 27, 2013, the Petitioner filed the subject Mandamus action requesting the Court to (a) direct the Logan County Deputy Sheriffs' Civil Service Commission to forthwith

convene and hold a public hearing on Petitioner's Petition for Reinstatement; and (b) direct Sonya M. Porter, Sheriff of Logan County, to forthwith pursue and conclude the "Internal Investigation" referenced by the Sheriff in the November 9, 2012, Notice to the Petitioner.

11. Both Judges of the Logan County Circuit Court recused themselves from hearing this action and the case was assigned to the undersigned Judge on September 25, 2013.
12. Sheriff Porter filed a motion to dismiss Petitioner's mandamus action alleging the Court had no Jurisdiction.
13. Petitioner was interviewed by the Sheriff's representative on October 4, 2013, and subsequent to the Court's hearing on November 25, 2013, the Petitioner on December 16, 2013, received a written statement of the reasons for Sheriff Hunter's action on November 9, 2012.
14. On January 27, 2014, this Court held a hearing on the Petition for Mandamus and Ordered the Logan County Deputy Sheriff Civil Service Commission convene a hearing on or before April 27, 2014, and make a determination of the issues contained in Petitioner's Petition for Reinstatement filed with said Commission on April 26, 2013, and make a determination of whether the actions of the Sheriff placing the Petitioner on administrative leave and restricting his daytime movements constitute a "suspension" or punishment triggering the requirements of either West Virginia Code 7-14-1 et seq. and /or 7-14C-1 et seq. and, if so, what the appropriate remedy was to correct said violation.
15. The Logan County Deputy Sheriff Civil Service Commission held a hearing on April 4, 2014, and issued a ruling dated June 19, 2014, that was admitted to record on June 19, 2014, which held that a deputy placed on administrative leave must be given notice of each of the allegations against him without delay and the Sheriff had failed to give a

timely notice of the allegations against him and accordingly ordered the Sheriff to forthwith reinstate the Petitioner to full duties.

16. The Logan County Deputy Sheriff Civil Service Commission awarded the Petitioner his attorney fees for all matters related to Petitioner's attorney's work before the Commission but stated it did not have jurisdiction to award attorney fees for work related to the Mandamus action that Petitioner filed to compel the Logan County Deputy Sheriff Civil Service Commission to act on Petitioner's Petition for Reinstatement.
17. At the July 16, 2015, hearing on the Petitioner's Motion for Attorney Fees and Costs By the Court the Court stated that the Petitioner's counsel was entitled to attorney fees and directed the Petitioner's attorneys to submit an invoice for their work before this Court related to this mandamus action for the Court's consideration and to: (a) designate their legal work performed solely related to compelling the Sheriff to complete the internal investigation and set forth the reasons for Petitioner's removal from his deputy sheriff's duties on November 9, 2012; (b) designate their legal work performed solely related to compelling the Logan County Deputy Sheriff's Civil Service Commission to schedule a hearing on his Motion for Reinstatement; and (c) designate their legal work performed by them that would be jointly related to compelling both defendants to perform their duties as prescribed by law.
18. The Petitioner's attorneys submitted the attached invoice as directed which is ORDERED filed.

The Court has reviewed the detailed invoice submitted by Petitioner's attorneys and finds the time and charges to be reasonable and necessary and accordingly hereby ORDERS that the Logan County Deputy Sheriff Civil Service Commission pay unto Petitioner's counsel the sum of

\$10,744.22 and that the Sheriff of Logan County pay unto Plaintiff's Counsel the sum of \$7,262.22 forthwith; it is further

ORDERED that the Clerk of this Court forward a copy of this Order to all counsel of record.

Dated this 16th day of Nov., 2015.

ENTERED:


ROBERT CHAFIN, JUDGE

Partain Law Office
Post Office Box 808, 305 Stratton Street
Logan, West Virginia 25601

Telephone: (304) 752-3638
 Fax: (304) 752-2487

Attorneys
George L. Partain
Erica Barker Cgok
Shana O'Briant Thompson

July 16, 2015

James H. Brown, III
 P. O. Box 52
 Davin, WV 25617

TAX ID NO. 62-1258458

TO FEE FOR ALL SERVICES RENDERED IN CONNECTION WITH MANDAMUS ACTION FROM 6-11-2013 TO 07-16-2015 related to Rule to show cause to Sheriff Commission

**Legal work related to both the Sheriff and the Deputy
 Sheriff Civil Service Commission**

06-11-13	Begin drafting writ of mandamus	0.8 hrs.-SLT
06-11-13	Work on writ of mandamus	0.7 hrs.-SLT
06-12-13	Revise writ of mandamus	0.3 hrs.-SLT
06-12-13	Revise writ of mandamus and draft rule to show cause	0.7 hrs.-SLT
06-13-13	Meet with client - re petition for writ of mandamus	1.2 hrs.-GLP
06-13-13	Review Code 53-1-1; work on rule to show cause and petition	1.1 hrs.-GLP
06-18-13	Complete work on petition for writ of mandamus	0.5 hrs.-GLP
06-18-13	Call client to set up meeting	0.1 hrs.-SLT
06-19-13	Make additional changes to petition; dictate suit sheet information and also summons information	0.6 hrs.-GLP
06-19-13	Prepare summons for service to civil service commission, sheriff, Rob Kuenzel, Bud Baldwin and Kendal Partlow	0.5 hrs.-SLT
06-19-13	Meet with client - have him execute verification; work on suit papers re service; review rule 71B and Rule 12	0.7 hrs.-GLP
06-20-13	Revise writ of mandamus against civil service commission and sheriff	0.3 hrs.-SLT
06-20-13	Revise writ of mandamus	0.2 hrs.-SLT
06-20-13	Work on revising complaint; call for client; review code 30-29-6	0.8 hrs.-GLP
06-20-13	Work on complaint; call for client	1.1 hrs.-GLP
06-27-13	Revise suit papers to allow 30 days to answer	0.2 hrs.-GLP
06-27-13	To courthouse to file suit and serve sheriff and civil service commission	0.5 hrs.-SLT
06-28-13	Dictate letter to Judge Perry re rules to show cause	0.3 hrs.-GLP
06-28-13	Review letter to Judge Perry and revise re rule to show cause	0.2 hrs.-SLT
07-01-13	Complete letter to Judge Perry re rules to show cause; to courthouse to give letter to Judge and discuss the filing	0.2 hrs.-SLT

07-10-13	Call from Josh Butcher; call to court to set up hearings re Rule to show cause	0.2 hrs.-SLT
07-11-13	Call client re hearing on petition	0.1 hrs.-SLT
07-11-13	Meet with Judge Perry - receive rule to show cause - file in clerk's office; draft letter to Sheriff and civil service commission	0.5 hrs.-SLT
08-06-13	Call from Josh in Judge Perry's office re rule to show cause and hearing	0.2 hrs.-SLT
08-12-13	To courthouse to meet with Judge Perry to discuss need for telephone status conference	0.2 hrs.-SLT
08-14-13	Draft notice of status conference and mail	0.2 hrs.-SLT
08-20-13	Work on file re phone conference; attend phone conference	0.5 hrs.-GLP
08-21-13	Begin draft of agreed order judge wanted re telephone status conference	0.3 hrs.-GLP
08-23-13	Draft letters to Logan County Bar Association and Logan County Deputy Sheriff's Association requesting them to appoint members	0.5 hrs.-SLT
08-29-13	Call from client re 9/4/13 conference hearing	0.2 hrs.-SLT
09-03-13	To courthouse to file returned summons and petition	0.1 hrs.-SLT
09-17-13	Call from client - discuss case	0.1 hrs.-SLT
11-06-13	Review hearing notice from Judge	0.1 hrs.-GLP
11-06-13	Draft letter for notice of hearing	0.2 hrs.-SLT
11-13-13	Work on preparation for argument on 11/25; dictate draft of argument	1.3 hrs.-GLP
11-13-13	Complete work on memo	0.2 hrs.-GLP
11-19-13	Call from James re motions hearing	0.2 hrs.-SLT
11-24-13	Work on argument for hearing tomorrow	0.2 hrs.-GLP
11-25-13	Prepare for hearing	1.8 hrs.-GLP
11-25-13	Meet with client and father - to court for hearing before Judge Chafin, wait, secure service information	1.7 hrs.-GLP
12-31-13	Message to James re hearing timeline before Judge Chafin	0.1 hrs.-SLT
01-25-14	Review file for hearing on Monday	0.4 hrs.-GLP
01-27-14	Work on file for hearing today; call for Tabit; email to Bill Murray; check on status of Federal Case; dictate on memo for argument at hearing today	2.4 hrs.-GLP
01-27-14	Attend hearing; meet with Teare; review document provided by Teare	2.2 hrs.-GLP
01-27-14	Prepare order re 1/27 hearing	0.3 hrs.-SLT
05-04-15	Work on motion for attorney fees; legal research	1.4 hrs.-GLP
05-05-15	Work on motion for attorney fees	1.8 hrs.-GLP
05-06-15	Revise order; email to John Teare re presenting order, etc	0.3 hrs.-GLP
05-07-15	Email from John Teare; dictate letter to Judge Chafin	0.2 hrs.-GLP
05-17-15	Meet with James and advise him status of the case	0.2 hrs.-GLP
05-19-15	Send Judge Chafin order and letter to Attorney Wolfe; work on motion for attorney fees in mandamus	0.5 hrs.-GLP
05-20-15	Complete work on Petition for attorney fees; dictate draft of memo of law in support of the petition	1.0 hrs.-GLP
05-21-15	Complete work on motion, memo of law; prepare letter to Judge; serve and file documents	0.3 hrs.-GLP
06-19-15	Letter to Judge Chafin re hearing, law, etc.	0.6 hrs.-GLP
06-19-15	Assist GLP with letter to Judge Chafin	0.6 hrs.-SLT N/C
07-06-15	Call from Judge Chafin; call Karen; prepare notice for hearing; serve and file	0.5 hrs.-GLP
07-08-15	Review file; email to Steve and Teare re hearing	0.5 hrs.-GLP
07-09-15	Review email from Teare	0.1 hrs.-GLP
07-14-15	Begin work on Reply Brief and work on putting together	2.5 hrs.-GLP

	exhibits to submit to Judge and work on index	
07-15-15	Work on documents to file with Judge Chafin; dictate on Reply; confer with Rob Kuenzel; work on Reply; begin putting in references to exhibits	7.0 hrs.-GLP
07-15-15	Work on exhibits regarding response to Teare's objection to motion for attorney fees and costs	0.4 hrs.-SLT
07-16-15	Complete work on Reply and work on exhibits	0.4 hrs.-SLT
07-16-15	Prepare Reply and exhibit index	2.0 hrs.-GLP
07-16-15	Attend hearing	1.0 hrs.-GLP
07-16-15	Attend hearing w/GLP	1.0 hrs.-SLT N/C
07-16-15	Prepare separate billings	1.2 hrs.-GLP
07-16-15	Assist GLP w/preparing separate billings	1.2 hrs.-SLT N/C
<i>FEE</i>	<i>Shana Thompson – Total Hours (8.4 x \$120.00)</i>	<i>\$1,008.00</i>
<i>FEE</i>	<i>George L. Partain – Total Hours (38.7 x \$200)</i>	<i>\$7,740.00</i>
	SUBTOTAL FEES	\$8,748.00

Legal Work only related to the Logan County Deputy Sheriff's Civil Service Commission

06-19-13	Call Crystal Gunnoe	0.2 hrs.-GLP
06-25-13	Complete work on petition and rules to show cause; call for Rob Kuenzel; meet with Kuenzel re resignation needs to be filed	0.9 hrs.-GLP
06-26-13	Call for Chrystal Gunnoe; call for Rob Kuenzel	0.2 hrs.-GLP
08-31-14	Review Code re appeal; review decision re appeal points	0.7 hrs.-GLP
09-02-14	Legal and procedural research re administrative appeals	0.2 hrs.-SLT
09-02-14	Begin work on appeal docketing statement; go over rules of procedure	0.7 hrs.-GLP
09-03-14	Work on administrative appeal re CSC ruling	0.5 hrs.-SLT
09-03-14	Call from client re status of case and scheduling	0.2 hrs.-SLT
09-03-14	Continue work on administrative appeal re Civil Service Commission	1.0 hrs.-SLT
09-03-14	Call to Crystal Gunnoe re CSC filing	0.1 hrs.-SLT
09-03-14	Work on appeal documents - dictate drafts of fact errors and law errors	1.6 hrs.-GLP
09-04-14	Continue work on administrative appeal docketing statement and exhibits	1.2 hrs.-SLT
09-04-14	Work on appeal notice; draft exhibits 3,4 and 5 - add fee issue to appeal	0.9 hrs.-GLP
09-05-14	Work on completing the appeal statement	1.3 hrs.-GLP
09-18-14	Research legalities & Rules re discovery for appeal	0.5 hrs.-SLT
10-17-14	Work on letter to Judge re appeal, order, etc.	0.3 hrs.-GLP
10-17-14	Prepare letter to Judge Chafin re appeal; prepare draft order for records from CSC hearing and mail	0.6 hrs.-SLT
10-21-14	Call Judge Chafin re amended order; work on order	0.3 hrs.-GLP
10-21-14	Prepare amended order to send to Judge Chafin re sealed records	0.2 hrs. SLT
10-21-14	Letter to Judge Chafin	0.2 hrs. SLT
10-23-14	Work on letter to Judge Chafin	0.3 hrs.-GLP
11-17-14	Draft letter to Judge Chafin re status conference	0.3 hrs.-GLP
11-18-14	Call from James re update on case and dates of availability	0.2 hrs.-SLT
11-20-14	Review motion to dismiss filed by Teare; review file	0.2 hrs.-GLP

11-24-14	Call from Judge Chafin re date of hearing re appeal – advise him of motions filed by Teare; 2 calls for Brown	0.3 hrs.-GLP
11-24-14	Call from James – discuss proposal – draft email to Teare re proposal and motion he filed	0.9 hrs.-GLP
11-25-14	Review motion filed by Teare; legal research re final orders;	1.3 hrs.-GLP
12-04-14	Meet with James Brown – discuss how we will handle the appeal from Civil Service Commission	0.5 hrs.-GLP
12-04-14	Meet w/James with GLP re appeal status	0.5 hrs.-SLT N/C
01-23-15	Meet with Steven Wolfe re update on appeal	0.2 hrs.-SLT
03-09-15	Review email from John Teare re appeal	0.1 hrs.-SLT
03-09-15	Review file; cases, etc. re final order	0.5 hrs.-GLP
03-10-15	Draft agreed nunc pro tunc order re Civil Service Appeal	0.4 hrs.-SLT
03-10-15	Draft order re respondent's motion to dismiss civil service appeal	0.4 hrs.-SLT
03-12-15	Work on two orders nunc pro tunc	0.8 hrs.-GLP
03-12-15	Work on mandamus case order re appeal	1.0 hrs.-GLP
03-13-15	Work on orders to send to Teare; work on email to John Teare	0.7 hrs.-GLP
03-13-15	Email to John Teare re 2 orders re appeal	0.1 hrs.-SLT
03-13-15	Call to Judge Chafin re prepare notice of hearing and prepare for filing	0.2 hrs.-SLT
03-18-15	Work on reply to motion to dismiss appeal	1.1 hrs.-GLP
03-19-15	Work on response petition – review rules and regulations	0.9 hrs.-GLP
03-20-15	Work on Sheriff's motion to dismiss appeal	2.1 hrs.-GLP
03-24-15	Work on response to Sheriff's motion to dismiss	0.8 hrs.-GLP
03-25-15	Complete work on response to Sheriff's motion to dismiss	1.0 hrs.-GLP
04-22-15	Prepare for hearing before Judge Chafin	2.0 hrs.-GLP
04-22-15	Attend hearing	1.2 hrs.-GLP
04-22-15	Attend hearing with GLP	1.2 hrs.-SLT N/C
04-22-15	Meet with client	0.3 hrs.-GLP
04-27-15	Review order drafted by Teare; dictate draft of order	0.4 hrs.-GLP
04-28-15	Work on Order	0.3 hrs.-GLP
04-29-15	Complete work on order to send to Teare; email order to Teare	0.5 hrs.-GLP
06-05-15	Check on status of our filings, etc.	0.2 hrs.-GLP
06-09-15	Work on draft of email and order	1.5 hrs.-GLP
06-10-15	Work on proposed order re awarding attorney fees; work on email to Steve Wolfe	1.0 hrs.-GLP
06-11-15	Work on draft of order to send to Steve; complete work on email	0.8 hrs.-GLP
FEE	Shana Thompson – Total Hours (6.3 x \$120.00)	\$756.00
FEE	George L. Partain – Total Hours (28.0 x \$200)	\$5,600.00
	SUBTOTAL FEES	\$6,356.00

Legal Work only related to the Sheriff of Logan County

08-13-13	Call from John Teare re confirming status conference and change of hearing	0.1 hrs.-SLT
08-21-13	Call from John Teare re order from telephone conference	0.2 hrs.-SLT
09-01-13	Review motion to dismiss; research cases cited by Teare	1.6 hrs.-GLP
09-02-13	Work on response to motion to dismiss; research re cases, law, etc.	3.2 hrs.-GLP
09-04-13	Work on motion to quash; work on response to motion of sheriff	0.9 hrs.-GLP
09-04-13	Work on motion to quash; work on response; attend hearing; meet with John Teare; meet with client - discuss issues	3.8 hrs.-GLP
09-18-13	Work on response to sheriff's Porter's motion to dismiss	1.2 hrs.-GLP
09-19-13	Work on response to motion to dismiss	0.6 hrs.-GLP
09-20-13	Work on motion to strike and response	0.7 hrs.-GLP
09-20-13	Revise motion to strike and response to motion to dismiss	0.5 hrs.-SLT
09-20-13	Prepare letter to client re filings on his behalf; to courthouse to file motion to strike and motion in response to sheriff's motion to dismiss	0.4 hrs.-SLT
10-31-13	Call from Judge Chafin; letter to Judge Chafin sending pending motions	0.3 hrs.-GLP
11-06-13	Review answer filed by Sheriff's department in the federal case and review	0.2 hrs.-GLP
11-12-13	Review Judge's Order, Rule 71B; review Cleckley's book; go over file to determine what should be done; go over answer re denials in the Federal Court case	1.0 hrs.-GLP
<i>FEE</i>	<i>Shana Thompson – Total Hours (1.2 x \$120.00)</i>	<i>\$ 144.00</i>
<i>FEE</i>	<i>George L. Partain – Total Hours (13.5 x \$200)</i>	<i>\$2,700.00</i>
	SUBTOTAL FEES	\$2,844.00

EXPENSES

	Postage	\$22.14
	Copies (663 x .10)	\$66.30
	TOTAL EXPENSES	\$88.44

SUMMARY OF FEES DUE

Sheriff of Logan County

½ of Legal Work related to both Defendants	\$4,374.00
Legal Work solely related to Sheriff	\$2,844.00
½ Legal Expenses	\$ 44.22
TOTAL FEES AND EXPENSES	\$7,262.22

Logan County Deputy Sheriff's Civil Service Commission

½ of Legal Work related to both Defendants	\$4,374.00
Legal Work solely related to Civil Service Commission	\$6,356.00
½ Legal Expenses	\$ 44.22
TOTAL FEES AND EXPENSES	\$10,744.22



STATE OF WEST VIRGINIA

Robert G. Chafin
Senior Judge

1755 Old Hwy. 75
Kenova, WV 25530

Telephone
(304) 453-2436
judgechafin@zoominternet.net

November 17, 2015

Vickie Kolota, Clerk
CIRCUIT CLERK OF LOGAN COUNTY
Logan County Courthouse
300 Stratton Street
Logan, West Virginia 25601

Re: ***James H. Brown, III v.
Logan County Deputy Sheriff Civil Service Commission, et al.***
Circuit Court of Logan County, WV
Civil Action No. 13-C-165

NOV 19 2015
LOGAN COUNTY

Dear Ms. Kolota:

I enclose herewith for filing and distribution in the above referenced action an executed ***Order Granting Attorney Fees and Costs.***

Thank you for your assistance in this matter.

Very truly yours,


Robert G. Chafin

IN THE CIRCUIT COURT OF LOGAN COUNTY, WEST VIRGINIA

JAMES H. BROWN, III,

Petitioner,

v.

CIVIL ACTION NO. 13-C-165

LOGAN COUNTY DEPUTY SHERIFF
CIVIL SERVICE COMMISSION and
SONYA M. PORTER, Sheriff of Logan
County, West Virginia,

Respondents.

ORDER

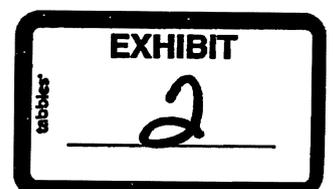
RECEIVED & FILED
2014 FEB 10 P 2:56
CLERK OF COURT
LOGAN COUNTY, WEST VIRGINIA

On January 27, 2014, came the Petitioner by his attorneys, George L. Partain and Shana L. O'Briant Thompson; the Respondent, Sonya M. Porter, Sheriff of Logan County, in person and by her attorney, John R. Teare, Jr.. The Logan County Civil Service Commission was called for by the Bailiff of the Court and did not appear either in person or by counsel. After hearing arguments on the two pending motions before the Court, it is accordingly

ORDERED that the Respondent Sheriff's Motion to Dismiss is overruled; it is further

ORDERED that Petitioner's Motion to Strike Respondent's Motion to Dismiss is overruled; it is further

ORDERED that the Logan County Deputy Sheriff Civil Service Commission convene a hearing and make a determination of the issues contained in Petitioner's Petition for Reinstatement filed with said Commission on April 26, 2013, and further make a determination of whether the actions of the Sheriff, placing the Petitioner on paid administrative leave and restricting his daytime movements constitute a "suspension" or punishment triggering the



requirements of either West Virginia Code 7-14-1 *et seq.* and/or 7-14C-1 *et seq.*; and if so, what is the appropriate remedy to correct the violation; it is further

ORDERED that on or before March 11, 2014, the Logan County Deputy Sheriff Civil Service Commission shall determine and schedule the date of the hearing; it is further

ORDERED that the Logan County Deputy Sheriff Civil Service Commission shall hold the hearing on or before May 11, 2014; it is further

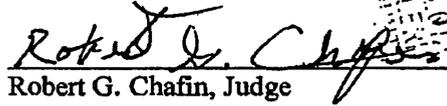
ORDERED that the rulings of the Logan County Deputy Sheriff Civil Service Commission would be appealable to the Circuit Court; it is further

ORDERED that all other matters related to Petitioner's Petition for Writ of Mandamus are held in abeyance; and it is further

ORDERED that the Clerk of this Court shall forward copies of this Order to George L. Partain, Esquire, John R. Teare, Jr., Esquire, and each member of the Logan County Deputy Sheriff Civil Service Commission.

Dated this 7th day of February, 2014.

ENTER:


Robert G. Chafin, Judge

RECEIVED & FILED
2014 FEB 10 P 2:55

Logan County Deputy Sheriff's Civil Service Commission

Steven S. Wolfe, President

718 Grace Avenue

Charleston, WV 25302

Robert "Bud" Baldwin

321 Ridgeview Terrace Drive

Chapmanville, WV 25508

Jason Freeman

P.O. Box 4548

Chapmanville, WV 25508



STATE OF WEST VIRGINIA

Robert G. Chafin
Senior Judge

1755 Old Hwy. 75
Kenova, WV 25530

February 7, 2014

Telephone
(304) 453-2436
judgechafin@zoominternet.net

Vickie Kolota, Clerk
CIRCUIT CLERK OF LOGAN COUNTY
Logan County Courthouse
300 Stratton Street
Logan, West Virginia 25601

Re: **James Brown III v.**
Logan County Deputy Sheriff Commission, et al.
Circuit Court of Logan County, WV
Civil Action No. 13-C-165

RECEIVED & FILED
2014 FEB 10 P 2:56

Dear Ms. Kolota:

I enclose herewith for filing and distribution in the above referenced action an executed **Order**.

Thank you for your cooperation and assistance in this matter.

Very truly yours,

Robert G. Chafin

**BEFORE THE LOGAN COUNTY
DEPUTY SHERIFFS' CIVIL SERVICE COMMISSION**

JAMES H. BROWN, III, Deputy,

Petitioner,

v.

**LOGAN COUNTY DEPUTY SHERIFFS
CIVIL SERVICE COMMISSION and
SONYA M. PORTER,
SHERIFF OF LOGAN COUNTY, WEST VIRGINIA,**

Respondent.

ADMITTED TO RECORD
2014 JUN 19 A 10:59
JAMES H. BROWN III
LOGAN CO. COMMISSION

**LOGAN COUNTY DEPUTY SHERIFF'S
CIVIL SERVICE COMMISSION
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND FINAL ORDER**

The above-captioned case came on for hearing before the Deputy Sheriff's Civil Service Commission on Friday, April 4, 2014, upon remand from the Circuit Court of Logan County, West Virginia. James Brown appeared in person and by his counsel, George Partain and Shana Thompson. The Sheriff appeared in person and by her counsel, John R. Teare, Jr.

Upon consideration of the entire record, including the Remand Order, the evidence and arguments of counsel, the Civil Service Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. James H. Brown, III is currently employed as a Deputy Sheriff in Logan County, West Virginia. Hearing Transcript ("HR") at 67.



2. Sonya Porter is the duly elected Sheriff of Logan County and has been serving as Sheriff since January 1, 2013. HR - 18.

3. W. E. Hunter was the duly elected and serving Sheriff on November 9, 2012.

4. On and before November 9, 2012, Sheriff Hunter was aware of five complaints of misconduct lodged against Deputy Brown. Sheriff Hunter assigned Sheriff's Deputy Freddie Ferrell to conduct an internal investigation on those five complaints of misconduct. See testimony of Corporal Ferrell.

5. The five complaints assigned to Corporal Ferrell included:

a. An allegation of unprofessional conduct toward a visiting Maryland State Police Major while Deputy Brown was off duty; this complaint also included the allegation that Deputy Brown had falsely represented himself as a West Virginia State Police Trooper;

b. An allegation that Deputy Brown had threatened and intimidated a female employee of the Logan Emergency Ambulance Service Authority ("LEASA") named Heidi Stump during the course of his on duty activities at a crime scene;

c. A complaint from the Prosecutor's Office;

d. A complaint involving the Verdunville Fire Department; and,

e. A complaint from Vickie Brewer regarding a traffic stop. HR - 52, 53.

6. Sheriff Hunter at the time, and Sheriff Porter when she took office as Sheriff, believed that the allegations against Deputy Brown, if proven, were sufficiently serious to warrant placing Deputy Brown on administrative leave to prevent additional official contact between Deputy Brown and the public while the investigations were underway. HR - 31.

7. On November 9, 2012, Sheriff Hunter and Lt. Brown personally delivered a notice which stated, "You are hereby placed on paid administrative leave during the pendency of

this investigation and until further notice. While on leave you are required to attend all scheduled court dates and to obey all rules and regulations of the department. You are also directed to be at your place of residence each Monday through Friday from 8:30am until 4:30pm unless another location is authorized by me. You are required to respond to each telephone call from this office and to be reasonably available for investigative purposes. While on leave you may not exercise any authority of the department or engage in any law enforcement investigation nor may you contact, or have others contact on your behalf, witnesses or suspects in any matter. Any secondary employment previously approved is no longer approved. You are required to surrender all the assigned equipment, uniform, keys, etc., in your possession that is owned by the department." The notice stated that the investigation would be conducted by Cp. F. N. Ferrell, and specifically states, "This investigation could lead to punitive action up to and including termination of employment." (TR 46, Ex.2) Deputy Brown was under investigation for various allegations of misconduct. Sheriff Hunter told Deputy Brown that he was being suspended pending investigation and that details were provided in the notice provided. When Deputy Brown asked why he was being suspended, Sheriff Hunter referred Deputy Brown to the letter that was delivered to him and further responded that he could not say until after the investigation was over. HR – 46-47, 68.

8. Former Sheriff Hunter has not provided to this commission or either party his justification for issuing the initial Notice to Deputy Brown.

9. Deputy Brown was required to surrender all Sheriff's Department property, directed not to conduct any investigations, contact witnesses, and engage in any previously approved employment secondary to his employment as a Deputy Sheriff. He was further directed to complete outstanding but incomplete time sheets and reports.

10. The November 9, 2012 notice informed Deputy Brown that Corporal Ferrell was going to contact him to schedule Deputy Brown's interview.

11. Corporal Freddie Ferrell began to investigate the individual complaints and was informed by the victim/complainants in three of the five complaints that they did not want to cooperate in any investigation. Those three complaints were not investigated further.

12. During the investigation of the threats made against Heidi Stump, Corporal Ferrell learned that Heidi Stump observed what appeared to her to be abuse of a handcuffed prisoner by Deputy Brown.

13. Corporal Ferrell investigated the allegations from the Maryland State Police Major, which had originally been reported to the West Virginia State Police due to the Maryland Major believing that Deputy Brown was a State Police Sergeant at the Logan Detachment. These allegations, if true, reflect unfavorably on Deputy Brown's truthfulness and also the criminal violation of impersonating a State Police Trooper.

14. Corporal Ferrell had difficulties reaching certain witnesses for interview purposes delaying the completion of his investigations. HR – 61.

15. Corporal Ferrell essentially finished his investigations shortly after his last investigative contact at the end of January, 2013 and turned his reports over to Sheriff Porter. HR – 60, 61.

16. After taking Office, Sheriff Porter received additional complaints regarding Deputy Brown including a citizen statement to the Sheriff that one of her Deputies, James Brown, was a dirty officer and several unreported bar fights including an allegation that Deputy Brown brandished a weapon during one of the fights. HR – 22, 23.

17. Sheriff Porter determined that it would be more efficient and a better use of time and resources to complete all investigations and bring one set of charges in one hearing rather than having multiple hearings on multiple allegations. HR – 28.

18. Sheriff Porter hired Michael Mayes as her Chief Deputy and directed him to review the completed investigation and conduct an investigation into the new/additional allegations made against Deputy Brown. HR – 26, 27.

19. Sheriff Porter testified that none of the investigations had come to a complete and final decision (TR 25) and, on an unknown date in March, 2013, she was told by ABCA worker, Charlotte Blankenship, she was aware of an incident that occurred during a prior ABCA investigation involving Deputy Brown and another ABCA worker. (TR 26, 35, 42)

20. Once the investigations were far enough along that Chief Mayes was ready to interview Deputy Brown, Deputy Brown was given a notice of interview/interrogation pursuant to West Virginia Code §7-14C-2 which was dated September 26, 2013, identified Chief Mayes as the interviewer and identified the subjects of interrogation as including but not limited to “allegations of false arrest and excessive force (which have now become a federal civil rights lawsuit against you and the county), impersonating a West Virginia State Trooper, insubordination for disobeying direct written directives relating to the ongoing investigations, interference with investigations conducted by the WV State Police and WVABCA enforcement agents, engaging in physical altercations with individuals while off duty to include brandishing a weapon and appearing in public intoxicated.” HR – 30. The interview was scheduled for October 4, 2013. Hearing Exhibit 1.

21. After Chief Mayes completed his interview of Deputy Brown, and finalized his investigative findings, Sheriff Porter issued and served a “Notice of Termination, Statement of

Charges and Notice of a Right to a Hearing” upon Deputy Brown dated December 16, 2013. HR

– 31.

22. It appears that more than 14 months passed before any decision by the Sheriff was made regarding the initial notice of investigation and Deputy Brown’s subsequent informing of the allegations made against him; and at least 11 months had passed between the first initial Notice issued by Sheriff Hunter and the subsequent Notice issued by Chief Mayes.

23. A Hearing Board was held, pursuant to West Virginia Code §7-14-3, on March 14, 2014. The decision of the Hearing Board had not been rendered at the time of this Civil Service Commission hearing. HR – 32.

24. Deputy Brown’s evidence of additional compensation was too contingent to establish that he is owed such sums.

CONCLUSIONS OF LAW

1. The investigation of a Deputy Sheriff is controlled by the provisions of West Virginia Code §7-14C-1 *et seq.*

2. West Virginia Code §7-14C-2 (Investigation and interrogation of a deputy Sheriff) provides:

When any deputy Sheriff is under investigation and subjected to interrogation by his or her commanding officer, or any other member of the department, **which could lead to punitive action**, the interrogation shall be conducted under the following conditions:

(b) **Any deputy Sheriff under investigation shall be informed of the nature of the investigation prior to any interrogation.** The deputy Sheriff shall also be informed of the name, rank and command of the officer in charge of the interrogation, the interrogating officers and all other persons to be present during the interrogation. No more than three interrogators at one time may question the deputy Sheriff under investigation.

(e) Upon the filing of a formal written statement of charges or **whenever an interrogation focuses on matters which are likely to**

result in punitive action against any deputy Sheriff, then that deputy Sheriff shall have the right to be represented by counsel who may be present at all times during the interrogation.

Nothing herein prohibits the immediate temporary suspension from duty, pending an investigation, of any deputy Sheriff who reports for duty under the influence of alcohol or a controlled substance which would prevent the deputy from performing his or her duties as defined in chapter sixty-a of this code, or under the influence of an apparent mental or emotional disorder. (Emphasis added).

3. W. Va. Code §7-14C-2 only provides for a deputy's "immediate temporary suspension from duty of any deputy Sheriff who reports for duty under the influence of alcohol or a controlled substance . . ." There was no evidence presented against Deputy Brown concerning alcohol or a controlled substance.

4. W. Va. Code §7-14C-1 *et seq* has no provision that allows the Sheriff to place a Deputy on temporary leave during an investigation, but does allow the Sheriff, after notice is formally given to the Deputy regarding an investigation, to take property belonging to the Sheriff, restrict movements, receive payment, answer to investigators with or without counsel of his/her choosing, and other actions that strongly resemble some type of "administrative leave."

5. Deputy Brown was properly informed of the nature of the investigation by written notice on September 26, 2013, prior to the scheduled interview of Deputy Brown.

6. Subsequent to the interview of Deputy Brown, the Sheriff prepared a formal statement of charges and informed Deputy Brown of his statutory right to a Hearing Board.

7. Deputy Brown elected to have his discipline determined by a Hearing Board which convened and held the Hearing on March 14, 2014.

8. The controlling statute does not place any time limitations on how long an investigation shall last, but this board shall. W. Va. Code §7-14C-1 *et seq.* civil service law was

enacted to insulate and protect Deputy Sheriff's from unreasonable actions taken by their superiors who may or may not be subject to changing election cycles.

9. The Sheriff acknowledges that the investigation took longer than she anticipated, but the extended time to investigate the allegations was due to the increasing number of issues and allegations which were discovered during the course of the investigations.

10. Although the Sheriff testified that she believed that it was more beneficial for the Department to resolve all disciplinary issues against Deputy Brown in one hearing rather than separate hearings for each allegation. This Civil Service Commission does believe that the Sheriff's decision was unreasonable under the circumstances and finds that the Sheriff did abuse her discretion in that regard.

11. After the close of Cpr. Ferrell's investigation, the Sheriff should have taken some kind of action on the Notice given to Deputy Brown previously issued in November. The Sheriff may have elected at the time to institute a new investigation with formal notice, but chose not to do so.

12. It is undisputed that Deputy Brown remained on the payroll during the entirety of the investigations and remains on the payroll to this day. This decision also reflects that at least one Commissioner believes that Deputies under investigation should not be given pay at all. Sheriff Porter testified that it was appropriate to assign Deputy Brown to his residence during the working hours that she was paying him. HR - 25. The Commission finds that this decision was neither unreasonable nor unlawful and within the spirit of the code that allows the Sheriff to conduct investigations upon belief that the Deputy Sheriff's under the Sheriff's command have perpetrated conduct that warrants termination.

13. The Sheriff testified that administrative leave with pay pending investigation is a standard procedure and that the administrative leave was not considered as punishment. HR – 24, 42. Punishment would only be considered after the investigations were complete. HR – 24. However, this commission board takes issue with the length of the delay of the investigation and finds that the length of delay was unreasonable. The protections afforded to Deputy Sheriff's under the §7-14C-1 *et seq* and its spirit invoke fairness and due process.

14. Lieutenant Brown, a 32 year veteran of the Sheriff's Department, testified that his understanding of administrative leave was essentially the same as Sheriff Porter's testimony and until the investigation of the officer or officers is concluded. Lt. Brown further testified that it is appropriate to investigate allegations of misconduct before charging a Deputy. HR – 47, 48.

15. This Commission believes that administrative leave is an appropriate response while allegations of misconduct are being investigated, but the investigation must be reasonably expedient.

16. The determination of Deputy Brown's status is to be determined as a matter of law, and this Commission rules that Deputy Brown should have been afforded a new Notice of Investigation once new issues came to the attention of the Sheriff and those new issues were directed towards Deputy Brown.

17. The statutory frame work for the investigation and discipline of a Deputy Sheriff requires consideration of West Virginia Code §7-14C-1 *et seq*.

18. All disciplinary actions against a Deputy Sheriff begin with proceedings under West Virginia Code §7-14C-1 *et seq*. See, syllabus point 5, *Burgess v. Moore*, 224 W.Va. 291, 685 S.E.2d 685 (2009) (W.Va. Code § 7-14C-3(a) (1995) (Repl. Vol. 2006) requires a Sheriff to

notify a deputy Sheriff facing discipline of his/her entitlement to a hearing on the issues giving rise to such discipline “before . . . punitive action” is taken.).

19. This Commission does, however, have the jurisdiction to conduct an investigation and hold hearings “concerning all matters touching the enforcement and effect of the provisions of this [Civil Service] article and the rules and regulations prescribed hereunder or concerning the action of any examiner or subordinate of the commission or any person in the public service with respect to the execution of this article . . .” West Virginia Code §7-14-6(3).

20. The Deputy Sheriffs’ Civil Service Code does not prescribe any rules for the investigation of complaints against a Deputy Sheriff. The Civil Service Code addresses the role of the Commission in matters of appointment, promotion, discipline (removal, discharge, suspension or reduction in rank or pay) and removal for prohibited political activity.

21. West Virginia Code §7-14-17 does not define “suspension” for purposes of the Commission’s jurisdiction. A plain reading of the section, however, makes clear that a Deputy Sheriff may contest a punitive disciplinary action.

22. “Punitive action” is defined in W.Va. Code §7-14C-1 as any action that “may lead” to dismissal, demotion, suspension, reduction in salary, written reprimand or transfer for purposes of punishment. Accordingly, this Commission finds that once the investigation of Cpl. Ferrell concluded and new allegations against Deputy Brown became to the Sheriff, that the Sheriff should have informed Deputy Brown of the pending allegations and reissued notice to comply with the spirit of the applicable provisions.

23. The Commission is unaware of any controlling case law or statute which equates administrative leave with pay with a punitive suspension or defines the scope of either term; however, the West Virginia Supreme Court of Appeals has had cases that tangentially deal with,

and apparently recognize, the concept of administrative leave without pay. *Adams v. W. Va. Dep't of Agric.* (Appeal No.: 12-0615, April 26, 2013)(Petitioner was placed on paid administrative leave until the investigation was completed.); *CSX Transp., Inc. v. Smith*, 229 W.Va. 316, 729 S.E.2d 151 (2012)(employee was placed on administrative leave pending an investigation of the charges). These cases demonstrate that the concept of administrative leave with pay is not a foreign concept to the Supreme Court.

24. In *Boggess v. Housing Authority of City of Charleston*, 273 F.Supp.2d 729 (S.D. W.Va. 2003), the United States District Court held that the Plaintiff was not terminated at a meeting where she was placed on administrative leave with pay, requested to turn in her keys, return the company car, not to correspond or contact her employer and told to be available for any questions from the acting director. Plaintiff Boggess was later terminated. The Court upheld the dismissal of the Plaintiff's allegations related to protected property and liberty interests on a variety of grounds, but made no comment suggesting that administrative leave with pay was improper or was a punitive act.

25. The Commission concludes that it was not unreasonable or unlawful for the Sheriff to require Deputy Brown to be at his residence and be available for investigative purposes during hours that the Sheriff is paying the Deputy to be at home.

26. The Commission further finds that it is not unreasonable or unlawful for the Sheriff to require Deputy Brown to surrender Sheriff's Department property during the investigation or to prohibit the Deputy from exercising any of the privileges of the Sheriff's Office while on leave for investigative purposes.

27. However, the Commission does find that the Sheriff's inaction in issuing proper notice to Deputy Brown was unlawful, and further, the Commission finds that the length of time

that Deputy Brown was on administrative leave, without action being taken by the Sheriff, was unreasonable.

CONCLUSION

For the reasons stated above, unless some other action is pending that would usurp this Commission's authority, the Civil Service Commission ORDERS as follows:

1. "Administrative leave with pay" is an action that is within the Sheriff's authority while an investigation of a Deputy Sheriff is pending, but the length and scope of the investigation must be reasonable in light of the allegations;

2. Proper Notice must be given to the Deputy, without delay, for each of the allegations against him/her;

3. Administrative leave with pay for the purposes of investigating allegations of misconduct is a standard procedure in the law enforcement community, but must follow the provision and spirit of West Virginia Code §7-14C-1 *et seq.* or West Virginia Code §7-14-17 in scope and reasonableness;

4. Deputy Brown was not given notice of all of the allegations which he faced and the length of Sheriff Porter's investigation exceeded its scope and reasonableness.

ORDERS

5. The Sheriff of Logan County, West Virginia, shall forthwith reinstate Deputy Brown to full duties;

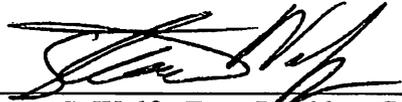
6. The Sheriff shall not be required to pay Deputy Brown additional sums of compensation for work procured outside of his employment with Logan County due to the nature of such work being contingent and unproven;

7. Petitioner's counsel shall within 10 days of the entry of this Order submit an itemized statement to the tenth of an hour reflecting their fees, together with receipts for expenses, for the Commission's consideration and further Order of this Commission, and;

8. The Commission's Clerk shall provide a copy of this decision to counsels and all interested parties and this matter shall be stricken from the Commission's docket.

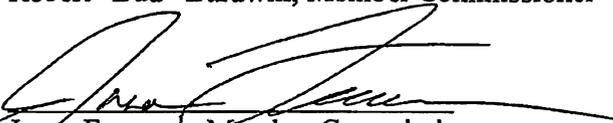
ENTERED this 9th day of June, 2014

Logan County Deputy Sheriff's Civil Service Commission,



Steven S. Wolfe, Esq., President Commissioner

Robert "Bud" Baldwin, Member Commissioner



Jason Freeman, Member Commissioner

IN THE LOGAN COUNTY, WEST VIRGINIA DEPUTY SHERIFF CIVIL SERVICE
COMMISSION

ADMITTED TO RECORD

JAMES H. BROWN

2015 SEP 21 P 3:14

APPELLANT/PETITIONER,

JAMES H. BROWN
LOGAN CO. COMMISSION

v.

Case No. _____

SONYA PORTER,

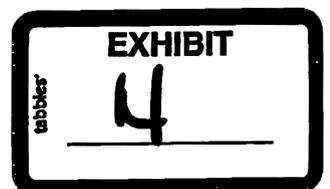
SHERIFF, APPELLEE/RESPONDENT,

FINAL ORDER GRANTING APPELLANT/PETITIONER FEES & COSTS

ON a previous day, the Appellant/Petitioner presented evidence at a hearing held before this Commission requesting reinstatement. This Commission found for the Appellant/Petitioner and entered an Order in accordance setting forth Findings of Fact and Conclusions. We hereby adopt that order as fully restated and set forth herein.

Subsequently, pursuant to West Virginia Code §7-14-17, the Appellant/Petitioner put forth a motion for an award of his attorney fees for prevailing on the appeal before the Logan County Deputy Sheriff Civil Service Commission. Counsel for Appellant/Petitioner was asked to present an itemized invoice for services which was tendered and submitted May 19, 2015.

The Commission finds that Attorney Partain invoiced 46.7 hours at the rate of \$200 per hour. The Commission finds that Attorney Thompson invoiced 7.7 hours at the rate of \$120 per hour. The costs submitted totaled \$493.48. The Commission finds that the invoice submitted represents a reasonable fee and costs in light of the time and effort expended prevailing in this matter. The Commission considered counsels professional experience in determining the reasonableness of his hourly rate. The Commission further considered the nature of the issues alleged in the matter, the time and labor required by counsel, the skill required to litigate the matter, the customary fee for similar services, time limitations imposed by the client or the lack thereof as this matter was extending for an unusually long period of time, the amount of compensation at issue for the Appellant/Petitioner and the result obtained, and the undesirability of the case.

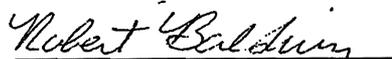


In addition to the previous Order setting out the Findings of Fact and Conclusions of Law in this matter, the Commission has reviewed the invoice of counsel, heard argument by counselors for Appellee/Respondent and Appellant/Petitioner, received evidence, and now hereby ORDERS the amount of TEN THOUSAND SEVEN HUNDRED FIFTY SEVEN AND FORTY-EIGHT CENTS (\$10,757.48) be paid to the Petitioner/Appellant for services rendered by counsel in this matter pursuant to West Virginia Code §7-14-17. Keeping in mind that the formal evidentiary requirements and functions of this Commission are not the same as the standards of circuit courts, this Order will be a Final Order on the matter with rights of appeal as granted by law. The Clerk of the Commission is to enter this order into the record and circulate this order to all parties and remove the case from the docket.

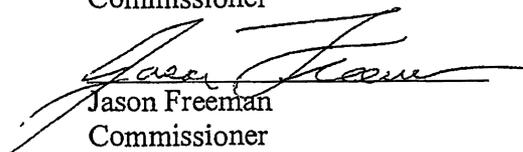
ORDERED this 21st day of Sept., 2015.



Logan County Deputy Sheriff
Civil Service Commission.
Steven S. Wolfe, Esq., President



Robert "Bud" Baldwin
Commissioner



Jason Freeman
Commissioner

A COPY TESTE:
JOHN A. TURNER, Clerk
By Michael Thomas
Deputy

BEFORE THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

SONYA M. PORTER,
Sheriff of Logan County
Respondent below
Petitioner,

v.

Appeal from decision of the
Circuit Court of Logan County
Case No.: 13-C-165

JAMES H. BROWN. III
Petitioner
Respondent.

CERTIFICATE OF SERVICE

I, John R. Teare, Jr., do hereby certify that on this 17th day of December, 2015, I served the foregoing "Notice of Appeal" upon the following by depositing the same in the United States mail, postage prepaid, addressed as follows:

George L. Partain, Esquire
Erica Barker Cook, Esquire
Shana L. O'Briant Thompson, Esquire
Partain Law Office
305 Stratton Street, Post Office Box 808
Logan, WV 25601

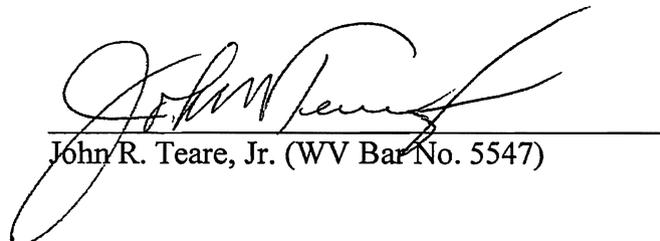
Steven S. Wolfe, President
Logan County Civil Service Commission
National Bank Building, Mezzanine
Logan, WV 25601

Jason Freeman, Member
Logan County Civil Service Commission
P.O. Box 4548
Chapmanville, WV 25508

Robert "Bud" Baldwin, Member
Logan County Civil Service Commission
321 Ridgeview Terrace Drive
Chapmanville, WV 25508

John A. Turner, Clerk of the
Logan County Civil Service Commission
P.O. Box 4548
Chapmanville, WV 25508

Circuit Clerk Vickie "Vance" Kolota
Logan County Courthouse
300 Stratton Street
Logan, WV 25601


John R. Teare, Jr. (WV Bar No. 5547)