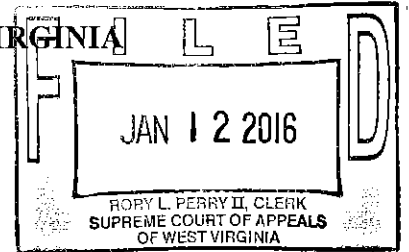


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA
NO. 16-0013



STATE OF WEST VIRGINIA ex rel.
BELINDA BIAFORE, in her capacity as
Chair of the West Virginia State Democratic
Executive Committee, and STEPHEN DAVIS,
LINDA KLOPP, DAVID THOMPSON, LINDA
PHILLIPS, STEPHEN EVANS, and PATRICIA
BLEVINS, each individually, and in their capacity
as the members of the West Virginia Democratic
Executive Committee for the Ninth Senatorial District,

Petitioners,

v.

EARL RAY TOMBLIN, in his capacity as Governor
of the State of West Virginia, and BEVERLY R. LUND,
JUSTIN M. ARVON, SUE "WAOMI" CLINE, TONY
PAYNTER, JOHN DOE, and JANE DOE, in their
capacity as the members of the West Virginia Republican
Executive Committee for the Ninth Senatorial District,

Respondents.

Respondents' Appendix

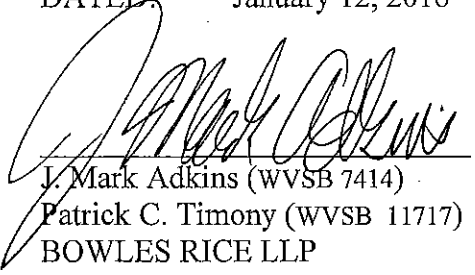
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CERTIFICATION

I, J. Mark Adkins, hereby certify, pursuant to the provisions of Rule 7(c)(2) and Rule 16(3) of the West Virginia Rules of Appellate Procedure, that the contents of this Appendix are, to the best of my knowledge and belief, accurate copies of the items that I have described in the *Table of Contents* of this Appendix and *Response in Opposition to Emergency Petition for Writ of Mandamus*.

DATED: January 12, 2016


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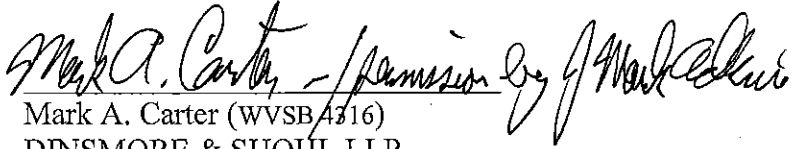

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Statewide Results

General Election - November 6, 2012

★★★ Official Results ★★★

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Number of Counties Reporting

55

U.S. President

Contest Code: AA

Candidate	Party	Votes	Percentage	State Total
MITT ROMNEY	Republican	417,655	62.30%	417,655
BARACK OBAMA	Democrat	238,269	35.54%	238,269
GARY JOHNSON	Libertarian	6,302	0.94%	6,302
JILL STEIN	Mountain	4,406	0.66%	4,406
RANDALL TERRY	No Affiliation	3,806	0.57%	3,806

Official

Total Votes: 670,438

U.S. Senate

Contest Code: BA

Candidate	Party	Votes	Percentage	State Total
JOE MANCHIN III	Democrat	399,908	60.57%	399,908
JOHN R. RAESE	Republican	240,787	36.47%	240,787
BOB HENRY BABER	Mountain	19,517	2.96%	19,517

Official

Total Votes: 660,212

Official	Total Votes: 36,426
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State Senate — District 9				
Contest Code: KA		District Name: 9th Senatorial District		
Candidate	Party	Votes	Percentage	State Total
DANIEL HALL	Democrat	18,502	53.67%	18,502
EPP E. CLINE	Republican	15,970	46.33%	15,970
Official	Total Votes: 34,472			

State Senate — District 10				
Contest Code: KA		District Name: 10th Senatorial District		
Candidate	Party	Votes	Percentage	State Total
WILLIAM R. LAIRD IV	Democrat	26,819	100%	26,819
Official	Total Votes: 26,819			

State Senate — District 11				
Contest Code: KA		District Name: 11th Senatorial District		
Candidate	Party	Votes	Percentage	State Total
CLARK BARNES	Republican	24,571	65.50%	24,571
MARGARET KERR BECKWITH	Democrat	12,941	34.50%	12,941
Official	Total Votes: 37,512			

State Senate — District 12				
Contest Code: KA		District Name: 12th Senatorial District		
Candidate	Party	Votes	Percentage	State Total
DOUG FACEMIRE	Democrat	29,173	100%	29,173
Official	Total Votes: 29,173			

State Senate — District 13				
Contest Code: KA		District Name: 13th Senatorial District		

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Election Results Center

Statewide Results

General Election - November 4, 2014

★★★ Official Results ★★★

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Statewide ▼

Official ▼

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Number of Counties Reporting

55

U.S. Senate

Contest Code: BA

Candidate	Party	Votes	Percentage	State Total
SHELLEY MOORE CAPITO	Republican	281,820	62.12%	281,820
NATALIE TENNANT	Democrat	156,360	34.47%	156,360
JOHN S. BUCKLEY	Libertarian	7,409	1.63%	7,409
BOB HENRY BABER	Mountain	5,504	1.21%	5,504
PHIL HUDOK	Constitution	2,566	0.57%	2,566

Official

Total Votes: 453,659

U.S. House of Representatives — District 1

Contest Code: CA

District Name: 1st Congressional District

Candidate	Party	Votes	Percentage	State Total
DAVID B. MCKINLEY	Republican	92,491	63.96%	92,491
GLEN B GAINER III	Democrat	52,109	36.04%	52,109

Official

Total Votes: 144,600

U.S. House of Representatives — District 2

GARY JOHNGRASS	Republican	7,394	34.28%	7,394
----------------	------------	-------	--------	-------

Official

Total Votes: 21,571

State Senate — District 8

Contest Code: KA

District Name: 8TH SENATORIAL DISTRICT

Candidate	Party	Votes	Percentage	State Total
ED GAUNCH	Republican	14,094	52.97%	14,094
ERIK P. WELLS	Democrat	11,472	43.12%	11,472
MIKE FISHER	Constitution	1,041	3.91%	1,041

Official

Total Votes: 26,607

State Senate — District 9

Contest Code: KA

District Name: 9TH SENATORIAL DISTRICT

Candidate	Party	Votes	Percentage	State Total
JEFF MULLINS	Republican	14,465	56.87%	14,465
MIKE GREEN	Democrat	10,970	43.13%	10,970

Official

Total Votes: 25,435

State Senate — District 10

Contest Code: KA

District Name: 10TH SENATORIAL DISTRICT

Candidate	Party	Votes	Percentage	State Total
RONALD F. "RON" MILLER	Democrat	13,776	53.83%	13,776
DUANE ZOBRIST	Republican	11,815	46.17%	11,815

Official

Total Votes: 25,591

State Senate — District 11


Contest Code: KA

District Name: 11TH SENATORIAL DISTRICT

Candidate	Party	Votes	Percentage	State Total
ROBERT L. KARNES	Republican	15,171	55.59%	15,171
GREGORY A. TUCKER	Democrat	12,122	44.41%	12,122

Official

Total Votes: 27,293

 URL: <http://www.wvgazettemail.com/article/20141105/DM05/141109591>

Republicans will control both chambers of state Legislature

By Jared Hunt



TOM HINDMAN/DAILY MAIL

Change is in the air at the state Capitol, where Republicans took the House and the defection of former Democrat Daniel Hall to the GOP on Wednesday tilted the Senate's membership to a new

18-16 majority.

The Republican Party is set to control both houses of the state Legislature for the first time since the Great Depression after Democratic state Sen. Daniel Hall switched his party affiliation Wednesday.

A source close to Hall confirmed he switched to the Republican Party at the Secretary of State's Office about 5 p.m. Wednesday. A formal announcement is expected today.

The state GOP saw unprecedented gains in Tuesday's midterm election. Unofficial results had put the balance of power in the Senate as a 17-17 tie Tuesday evening. Hall's switch to the Republican Party should put that body in firm GOP control in the upcoming legislative session.

With Republicans gaining an unofficial 64-36 majority in the House of Delegates on Election Day, Hall's move would give the GOP control of both houses of the Legislature at the beginning of next year — the first time the party has had complete control of the Legislature since 1931.

State GOP Chairman Conrad Lucas had yet to speak with Hall as of Wednesday evening, but said his switch was a sign that the GOP has fundamentally changed the partisan dynamics of the state.

"The message of our party has resonated with West Virginia," Lucas said. "We're excited to have growth in our ranks and look forward to making major differences to improve the state of West Virginia in this next legislative session."

Hall, who lives in Wyoming County, currently serves in the 9th Senatorial District with Sen. Mike Green, D-Raleigh, who lost re-election Tuesday to Republican Jeff Mullins by a 57-43 margin.

A source close to Hall said the results in Green's race and other races across southern West Virginia made it clear that voters there no longer wanted the Democratic Party to represent them at the statehouse.

"This election was just anti-Democrat across the board," they said. "Democrat numbers were horrible everywhere you went."

While Lucas had not talked to Hall about switching parties, he said Sens. Mitch Carmichael, R-Jackson, and Bill Cole, R-Mercer, had been lobbying Hall to switch.

This is not the first time Hall has been a Republican, however.

He initially ran as a Republican in 2006 when he first sought a seat in the House of Delegates. He switched to Democrat when he ran again in 2008 and won, later earning re-election in 2010 and his current seat in the Senate in 2012.

Hall had widely been rumored as one of several lawmakers that might switch parties should the GOP gain seats in this year's election. A source said further party defections could occur in coming weeks.

Political leaders were already beginning to adjust to plan for a more Republican Legislature, even prior to Hall's switch.

Gov. Earl Ray Tomblin made a commitment to work in a bipartisan manner in the upcoming 2015 session.

"Throughout my career I have supported bipartisan, collaborative solutions to meet the challenges we face, and I am committed to working with members of both parties to do all we can to move West Virginia forward," Tomblin said in an emailed statement.

State Chamber of Commerce President Steve Roberts — who was often at odds with House Democratic leadership — said Tuesday's election could only be described as a "game-changing election."

"The people of West Virginia spoke with a sure and strong voice that they desire a different direction for our state," Roberts said. "The West Virginia Chamber has tremendous appreciation for the historical significance of this election."

In total, 11 Republican state senators were elected, compared to six Democrats, eliminating the Democrats' current 24-10 majority. That brought the total for both parties to 17 members. Seven incumbent Democrats lost to Republicans, which helped trigger the results that experts did not expect going into the election.

Hall's switch further tipped the scales to the GOP's favor.

Current Senate Minority Leader Mike Hall — who is not related to Daniel Hall — said he was surprised at the Senate results.

"24 hours ago I wouldn't have anticipated this," Hall said Wednesday afternoon prior to Daniel Hall's party switch. "None of us ever thought Truman Chafin would lose."

Chafin, D-Mingo, lost by just 389 votes. In addition, Rocky Fitzsimmons, D-Ohio, Larry Edgell, D-Wetzel, Erik Wells, D-Kanawha, Mike Green, D-Raleigh, Gregory Tucker, D-Nicholas, and Donald Cookman, D-Hampshire, all lost to Republican challengers.

Two incumbent Republicans, David Nohe, R-Wood, and Dave Sypolt, R-Preston, defeated their opponents while Mike Hall, R-Putnam, faced no opposition.

Senate President Jeff Kessler, D-Marshall, did not respond to multiple requests for comment.

Capitol reporter Joel Ebert contributed.

Contact writer Jared Hunt at business@dailymailwv.com or 304-348-4836.

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Hall defends switch that gave Senate GOP majority

SHARE ARTICLE

EMAIL

By Shauna Johnson in News | November 06, 2014 at 6:24PM

CHARLESTON, W.Va. — The Wyoming County state senator who flipped to the GOP after its election landslide said he can best serve his district by being in the majority.



Sen. Daniel Hall
(R-Wyoming, 09)

Sen. Dan Hall (R-Wyoming, 09) switched his party registration from Democrat to Republican on Wednesday—giving Republicans the majority in the Senate, 18-16, for the first time in more than 80 years.

"If I'm going to work for the people of my district, which is what I'm sent to Charleston to do, I've got to be a part of leadership and be a part of the majority party to do that," Hall said on Thursday's MetroNews "Talkline."

Hall's party change came a day after the GOP won seven seats to force a 17-17 draw with Democrats in the Senate. On Election Day, Republicans won a 64-36 majority in the state House of Delegates, the first time that had happened since 1931.

With Hall's decision, Republicans will control both the state Senate and state House of Delegates when the 2015 Regular Legislative Session begins on Jan. 14.



Sen. Bill Cole (R-Mercer, 06)

State Sen. Bill Cole (R-Mercer, 06) said he had been recruiting Hall for some time as part of a comprehensive effort to put more Republicans in the legislature.

"I've been recruiting him for the last year or so, that he might switch to the Republican party," Cole said. "Quite frankly, he ran as a Republican in Raleigh County before he switched to Democrat."

Hall became a Democrat and was elected to the House of Delegates for two terms beginning with the 2008 election. He was elected to the state Senate as a Democrat in 2012. As recently as this week, Hall had been campaigning for Sen. Mike Green (D-Raleigh, 09) who lost his re-election bid Tuesday.

"People in my district who know me know I'm the same person today that I was 10 years ago. I still stand for the people of Wyoming, Raleigh and McDowell counties regardless of what party I'm in," Hall said.

"This decision was nothing more than supporting and giving my district the best chance to improve itself."

Sen. Roman Prezioso (D-Marion, 13), the chairman of the Senate Finance Committee, called Hall's decision surprising and said an evenly split Senate could have been an intriguing makeup.

"I think there was a clear message in this election that we want to quit drawing lines in the sand and work together. We could have made history," said Prezioso.

MOST POPULAR

West Virginia staff shakeup means DeForest, Cogdell won't be retained

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Snow to arrive for Tuesday's morning commute in much of W.Va.

He applauded Cole for doing a "masterful job" of helping Republicans win elections throughout West Virginia.

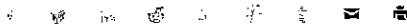
"You've got to really admire what he did by having the money and the resources and the time to recruit pretty good candidates and made a difference," Prezioso said. "With the help of the national mood out there, it was a perfect storm."

Cole was not ruling out other Democrat defections. "I certainly think the possibility's there," he said while deflecting questions, on Thursday's MetroNews "Talkline," about reports that he will be the next Senate President.

"We've been meeting. The meetings, the phone calls have started and there is nothing but solidarity among the (Republican) senators. There's no infighting, there's no rifts, there's no power struggles going on," Cole said.

"We've been in election mode for a year now and what we really want so much to do now is get to work."

Share this:



Shauna Johnson

sjohnson@wvradio.com

Shauna Johnson, a Fairmont native, is an award-winning reporter who has been covering news in West Virginia for more than a decade.

75 Comments

Matt

Hall's defense of his actions make no sense whatsoever. After the election the Senate was tied 17-17. He is the one who broke over to give Republicans the majority. The Republicans did not have a "majority party" for him to be a part of and be more effective for his district, as he claims. Hall also ignores the fact that there is still a Democratic Governor who controls the partnership grants. He and Senator Green made a big splash handing them out before the election. Does he reasonably think Governor Tomblin will be as supportive of his funding requests as in the past? How naïve. As recently as August he accepted appointment to the Wyoming County Democratic Executive Committee. In May he was elected to the State Democratic Executive Committee. Last week, he campaigned with Democratic party officials. So just when did his disillusion with the Democratic Party develop? It developed election night when he saw an opportunity to return to his roots, make state and national news, and feed his already obese ego. He wasn't an effective senator as a Democrat. That will not change with his new party affiliation.

November 8, 2014 at 10:48 am |

chef camille

I am wondering what he did with Oates? Wow he also dropped him like a purple lemons suit.

November 8, 2014 at 7:55 am |

LD,

If you have ever spent any time at the WV Legislature you soon realize there is very little difference between the 2 parties in this state.

November 7, 2014 at 10:05 pm |

Mason

So if the Democrats regain the majority in 2016, will he change back? I think Mr. Hall has shown that he is an opportunist who puts power, position and ego above all else.

November 7, 2014 at 8:10 pm |

Fred

So if the Democrats regain the majority in 2016, will he change back? I think Mr. Hall has

The Senate of West Virginia
Charleston



SENATOR DANIEL J. HALL
SENATE MAJORITY WHIP
9th SENATORIAL DISTRICT

STATE CAPITOL, ROOM 216-W
304-357-7807

January 3, 2016

President of the Senate
William P. Cole III
Room 229M, Building 1
State Capitol Complex
Charleston, WV 25305

Dear President Cole,

This letter is to inform you of my resignation from the West Virginia State Senate as Senator from the 9th District. My last day being January 3, 2016.

It has been my honor to serve with you while working for the citizens of the great state of West Virginia.

Warmest Regards,

A handwritten signature in dark ink, appearing to read "Daniel J. Hall". The signature is fluid and cursive, with the first name "Daniel" and last name "Hall" clearly distinguishable.

Daniel J. Hall
Senator-(R)Wyoming
9th District



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

January 5, 2016

(304) 558-2021
Fax (304) 558-0140

The Honorable William P. Cole III
President of the Senate
Building 1, Room 229M
1900 Kanawha Boulevard, East
Charleston, WV 25305

Dear President Cole:

You have asked for an Opinion of the Attorney General regarding the filling of a vacancy created by the resignation of a State Senator who was elected as a member of one political party but was affiliated with another political party at the time of his or her resignation. This Opinion is being issued pursuant to West Virginia Code § 5-3-1, which provides that the Attorney General shall "render to the president of the Senate and/or the speaker of the House of Delegates a written opinion or advice upon any questions submitted to the attorney general by them or either of them whenever he or she is requested in writing so to do." To the extent this Opinion relies on facts, it is based solely upon the factual assertions set forth in your correspondence with the Attorney General's Office.

In your letter, you suggest that West Virginia law designates the political party of the State Senator at the time of resignation as the state party responsible for submitting a list of potential replacements to the Governor. You point to West Virginia Code § 3-10-5, which is entitled "Vacancies in the State Legislature." In particular, you note that subsection (a) states that the "party executive committee of the party with which the person holding office immediately preceding the vacancy was affiliated" would be responsible for submitting a list of three potential replacements to the Governor. Based on this language, you believe that the responsible political party is the one to which the State Senator belonged at the time of his or her resignation.

Your letter raises the following legal question:

Which political party is responsible for submitting a list of potential replacements to the Governor to fill a vacancy created by the resignation of a State Senator who was elected to office as a member of one political party but was affiliated with another political party at the time of his or her resignation?

State Capitol Building 1, Room E-26, 1900 Kanawha Boulevard East, Charleston, WV 25305

R-APPENDIX 000010

As you note, the relevant statutory provision is West Virginia Code § 3-10-5. In its entirety, the provision reads:

(a) Any vacancy in the office of State Senator or member of the House of Delegates shall be filled by appointment by the Governor, from a list of three legally qualified persons submitted *by the party executive committee of the party with which the person holding the office immediately preceding the vacancy was affiliated*. The list of qualified persons to fill the vacancy shall be submitted to the Governor within fifteen days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the fifteen-day period, the Governor shall appoint within five days thereafter a legally qualified person of *the same political party as the person vacating the office*.

(b) In the case of a member of the House of Delegates, the list shall be submitted by the party executive committee of the delegate district in which the vacating member resided at the time of his or her election or appointment. The appointment to fill a vacancy in the House of Delegates is for the unexpired term.

(c) In the case of a State Senator, *the list shall be submitted by the party executive committee of the state senatorial district in which the vacating senator resided at the time of his or her election or appointment*. The appointment to fill a vacancy in the State Senate is for the unexpired term, unless section one of this article requires a subsequent election to fill the remainder of the term, which shall follow the procedure set forth in section one of this article.

W. Va. Code § 3-10-5 (emphases added). We are aware of no cases of the West Virginia Supreme Court of Appeals that have interpreted this statutory provision. The provision is mentioned in several previous Attorney General Opinions, but none of those addresses the question you pose. See 2013 WL 1287948 (Jan. 13, 2013); 63 W. Va. Op. Att'y Gen. No. 19 (Nov. 6, 1989); 53 W. Va. Op. Att'y Gen. 93 (Sept. 12, 1968).

Our first task is to "determine whether the language at issue is ambiguous." *Bd. of Trustees of Firemen's Pension & Relief Fund of City of Fairmont v. City of Fairmont*, 215 W. Va. 366, 370, 599 S.E.2d 789, 793 (2004); see also *State ex rel. Hall v. Schlaegel*, 202 W. Va. 93, 96, 502 S.E.2d 190, 193 (1998) ("As with all issues of statutory construction, we must first determine whether the language at issue presents any ambiguity."). That is true where a statutory provision "is susceptible of two *reasonable* constructions." *Firemen's Pension & Relief Fund*, 215 W. Va. at 370, 599 S.E.2d at 793 (emphasis added); *Lawson v. Cnty. Comm'n of Mercer Cnty.*, 199 W. Va. 77, 81, 483 S.E.2d 77, 81 (1996) (finding ambiguity where a "statute can be read by reasonable persons to have different meanings"). Thus, "[m]ere informality in phraseology or clumsiness of expression does not make it ambiguous, if the language imports one meaning or intention with reasonable certainty." *Jessee v. Aycoth*, 202

W. Va. 215, 218, 503 S.E.2d 528, 531 (1998) (quoting Syl. Pt. 13, *State v. Harden*, 62 W. Va. 313, 58 S.E. 715 (1907)). Similarly, “[t]he fact that parties disagree about the meaning of a statute does not itself create ambiguity or obscure meaning.” *T. Weston, Inc. v. Mineral Cnty.*, 219 W. Va. 564, 568, 638 S.E.2d 167, 171 (2006) (citation omitted); see also *State v. Chapman*, No. 13-0111, 2013 WL 5676630, at *4 (W. Va. Oct. 18, 2013) (“[a] statute is not ambiguous simply because different interpretations are conceivable” (internal quotations omitted)).

With respect to the question you ask, we do not find the statute to be ambiguous, as we believe “the language imports one meaning or intention with reasonable certainty.” *Jessee*, 202 W. Va. at 218, 503 S.E.2d at 531. Heeding the instruction of our Supreme Court of Appeals to read statutory language “in context,” *In re Estate of Lewis*, 217 W. Va. 48, 53, 614 S.E.2d 695, 700 (2005), and not to focus on “any single part, provision, section, sentence, phrase or word,” Syl. Pt. 5, *Fruehauf Corp. v. Huntington Moving & Storage Co.*, 159 W. Va. 14, 217 S.E.2d 907 (1975), our conclusion is informed by three sentences in the statute. First, “[a]ny vacancy in the office of State Senator . . . shall be filled by appointment by the Governor, from a list of three legally qualified persons submitted by the party executive committee of the party with which the person holding the office immediately preceding the vacancy was affiliated.” W. Va. Code § 3-10-5(a) (emphasis added). Second, “[i]f the list is not submitted to the Governor within the fifteen-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party as the person vacating the office.” *Id.* (emphasis added). Third, “the list shall be submitted by the party executive committee of the state senatorial district in which the vacating senator resided at the time of his or her election or appointment.” *Id.* § 3-10-5(c) (emphasis added). As explained in detail below, these three sentences together convey “with reasonable certainty” that the political party responsible for the list of potential replacements is the one to which the State Senator belonged at the time of his or her resignation. *Jessee*, 202 W. Va. at 218, 503 S.E.2d at 531.

Standing alone, the first sentence is arguably ambiguous. That sentence in subsection (a) states that the list of potential replacements is to come from the party executive committee “of the party” with which “the person holding the office immediately preceding the vacancy was affiliated.” W. Va. Code § 3-10-5(a). We believe this language suggests that the appropriate political party should be determined by identifying the party affiliation of the vacating senator at the time “immediately preceding the vacancy.” Without more context, however, we recognize that the phrase “was affiliated” might be understood one of two ways: to refer to the senator’s party affiliation at the time of election or appointment, or to the senator’s party affiliation at the time of the vacancy.

But the second sentence—which follows later in subsection (a)—makes clear that the Legislature intended for a vacated Senate seat to remain of the same political party that it was at the time of the vacancy. When a list of potential replacements is not timely submitted to the Governor by the responsible political party, the Governor is restricted to appointing a person “of the same political party as the person vacating the office.” *Id.* By using the word “vacating”—a present participle—the statute refers unambiguously to the political party of the person at the time of vacancy. See Merriam Webster Online, *Present Participle*, <http://www.merriam->

webster.com/dictionary/present%20participle (last visited Jan. 4, 2016) (defining “present participle” as “a participle that typically expresses present action in relation to the time expressed by the finite verb in its clause”). For example, if an announcer referred to “the hat worn by the person hitting the ball,” the announcer would clearly be referring to the hat worn by the person in the act of hitting the ball, not to the hat worn by that person months or years earlier. This sentence thus plainly limits the Governor, in the absence of a timely-submitted list of potential replacements, to appointing a replacement from the political party with which the previous senator was affiliated at the time of the vacancy. It would make no sense for a different rule to apply to determining the political party responsible for submitting the list of potential replacements.

Were there any remaining doubt, the third sentence provides yet more context confirming the Legislature’s intent for a replacement senator to come from the political party with which the vacating senator was affiliated at the time of the vacancy. In contrast to the first sentence, this sentence from subsection (c) addresses not the *identity* of the responsible political party but the *location* of the specific party executive committee responsible for the list, and it expressly qualifies that location as “the senatorial district” in which the vacating senator resided at “the time of his or her election or appointment.” W. Va. Code § 3-10-5(c).¹ This sentence shows that the Legislature knew how to (and did) specify “the time of . . . election or appointment” when it saw fit to do so. *Id.* The Legislature specifically did not include that same qualifier when referring to the vacating senator’s party affiliation in subsection (a), and our Supreme Court of Appeals has made clear that “we are obliged not to add to statutes something the Legislature purposely omitted.” *Banker v. Banker*, 196 W. Va. 535, 546–47, 474 S.E.2d 465, 476–77 (1996).

In sum, reading the statute in its entirety, as we must, we find that the statute can only be reasonably understood to refer to a vacating senator’s party affiliation at the time of the vacancy. The statute is therefore unambiguous as to the question you pose, and “it should be applied as written.” *State ex rel. Corp. of Charles Town v. Sanders*, 224 W. Va. 630, 633, 687 S.E.2d 568, 571 (2009).

¹ This geographical qualifier on the appropriate party committee has come into play previously in circumstances where there has been redistricting since an election or appointment. When current Agriculture Commissioner Helmick resigned his seat in the State Senate, it was undisputed under subsection (a) that the Democratic party would submit the list of potential replacements, but it was subsection (c) that dictated which county committees of the Democratic party would participate in compiling the list. Though there had been redistricting since then-Senator Helmick took office, the plain terms of subsection (c) required that the potential replacements be selected from the old senatorial district from which Helmick had been elected. Marla Pisciotto, WV Senate awaits Helmick’s replacement, *State Journal* (Jan. 4, 2013, 5:10 PM), <http://www.statejournal.com/story/20507029/wv-senate-awaits-helmicks-replacement> (last updated Feb. 3, 2013, 5:10 PM). Subsection (c) might also be relevant were a senator to resign after having moved out of his or her district.

Our conclusion is bolstered by a review of the statutory history. Prior to an amendment in 2010, West Virginia Code § 3-10-5 consisted only of a single paragraph first enacted in 1963. Ch. 64, Acts of the Legislature, 1963, at 377. In pertinent part, it read:

Any vacancy in the office of State Senator or member of the House of Delegates shall be filled by appointment by the Governor, in each instance from a list of three legally qualified persons submitted by the party executive committee of the delegate district in the case of a member of the House of Delegates, and by the party executive committee of the state senatorial district in the case of a state senator, of the party with which the person holding the office immediately preceding the vacancy was affiliated, and of the county or state senatorial district, respectively, in which he resided at the time of his election or appointment.

W. Va. Code § 3-10-5 (1963). Like today's version of the statute, the pre-2010 version provided that the list of potential replacements was to be submitted by the party executive committee "of the party with which the person holding the office immediately preceding the vacancy was affiliated," and "of the . . . state senatorial district . . . in which [that person] resided at the time of his election or appointment." Though the pre-2010 statute included a reference to "the time of . . . election or appointment," that reference did not qualify the party affiliation language. In 2010, the Legislature essentially broke this paragraph into the three subsections that exist today, but did not change the substance. See Ch. 78, Acts of the Legislature, 2010, at 950.² This statutory history confirms that the Legislature has knowingly chosen not to tie the replacement candidate to the former senator's party affiliation at the time of his or her election or appointment.

We also find support in a review of the laws of other States, which shows that our State's law is very different from those that have been construed to require vacancies to be filled by the party at the time of election or appointment. Some States have laws that expressly provide that the party at the time of election fills a vacancy.³ In other States, where courts have read that requirement into their states' laws, the laws have been truly ambiguous, referring without any

² An electronic version is available at: http://www.legis.state.wv.us/Bill_Status/bills_history.cfm?INPUT=557&year=2010&sessiontype=RS.

³ See, e.g., Nev. Const. art. IV, § 12 ("In case of the death or resignation of any member of the legislature, either senator or assemblyman, the county commissioners of the county from which such member was elected shall appoint a person *of the same political party as the party which elected such senator or assemblyman* to fill such vacancy" (emphasis added)); Md. Const. art. III, § 13 ("the Governor shall appoint a person to fill such vacancy from a person whose name shall be submitted to him in writing, within thirty days after the occurrence of the vacancy, by the Central Committee of the political party, if any, with which the Delegate or Senator, so vacating, *had been affiliated, at the time of the last election or appointment of the vacating Senator or Delegate*" (emphasis added)); N.J. Const. art. IV, § 4, ¶ 1 ("the vacancy shall be filled within 35 days by the members of the county committee *of the political party of which the incumbent was the nominee* from the municipalities or districts or units thereof which comprise the legislative district" (emphasis added)); Ind. Code § 3-13-5-1(b) ("A vacancy in a legislative office that was last held by a person *elected or selected as a candidate of a political party* described by IC 3-8-4-10 shall be filled by the state committee of the political party." (emphasis added)).

President William P. Cole III
January 5, 2016
Page 6

other context or elaboration to "the party" or "the political party" of the previous official.⁴ In contrast, our statute expressly references "the time of . . . election or appointment" but does not apply that qualifier to the vacating official's party affiliation, and also provides ample other context that makes clear that the party at the time of the vacancy fills the vacancy.

Sincerely,



Patrick Morrisey
Attorney General

Elbert Lin
Solicitor General

Erica N. Peterson
Assistant Attorney General

⁴ See *Richards v. Bd. of Cnty. Comm'rs of Sweetwater Cnty.*, 6 P.3d 1251 (Wyo. 2000) (interpreting statute that referred simply to "the political party to which the member whose office is vacant belonged"); *Wilson v. Sebelius*, 72 P.3d 553 (Kan. 2003) (interpreting statute that referred only to "the party").



The Awkward Case ...
Singular "their" might be a better choice.



Androgynous
A word from the influential musician ...



Vocab On Fleek
On fleek or not, fleek is a word worth knowing.



STRONG
A word worth knowing.



immediately

adverb - immediately
im-mē-dē-āt-ē-ly - im-ē-dē-āt-ē-ly, British often im-ē-jū-ly

Simple Definition of IMMEDIATELY

- 1 : with no person or thing in between
- 2 : without any delay

Full Definition of IMMEDIATELY

- 1 : in direct connection or relation : directly <the parties *immediately* involved in the case> <the house *immediately* beyond this one>
- 2 : without interval of time : straightaway <I'll make that call *immediately*>

See immediately defined for English-language learners

See immediately defined for kids

Examples of IMMEDIATELY

- the person *immediately* to my left
- Dinner was served *immediately* after the ceremony.
- The new law will become effective *immediately*.

First Known Use of IMMEDIATELY

15th century

Related to IMMEDIATELY

Synonyms
bang, directly, forthwith, headlong, incontinently, instantaneously.



WORD OF THE DAY

JANUARY 12, 2016

procrastinate

to put off intentionally and habitually

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Your email address

SUBSCRIBE



RESORT RENTALS
OF HILTON HEAD ISLAND

BROWSE DICTIONARY

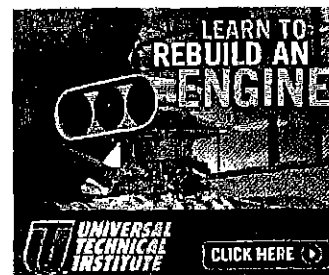
immediate constituent

immediate inference

Immediately

immediateness

immediatism



TRENDING NOW

- 1 Androgynous
A word from the influential musician ...
- 2 Revenant
The new Leonardo DiCaprio film ...
- 3 Epiphany
A religious word with religious uses ...

R-APPENDIX.000016

immediately

im-mē-dē-āt-ē-ly - im-ē-dē-āt-ē-ly

Simple Definition of IMMEDIATELY

- 1 : immediately after : as soon as



Winter Words Quiz
Winter has returned
along with cold weather.



to Sherlock Holmes...
The language in
Sherlock Holmes is



The Awkward Case...
Singular they might be
a better choice



Vocal
On the
air



preceding

ˈpreɪdʒɪŋ

Simple Definition of PRECEDING

: existing, happening, or coming before

Full Definition of PRECEDING

: existing, coming, or occurring immediately before in time or place «the preceding day» «preceding paragraphs»

See preceding defined for English-language learners

See preceding defined for kids

Examples of PRECEDING

The once refulgent reign of Queen Elizabeth had come to a stale and frustrated end in the preceding year, and a new monarch had been imported from Scotland ... —Christopher Hitchens, *New York Times Book Review*, 18 May 2003

The building code, layered with attempts to correct the ignorance of preceding generations, is a set of rules for coping with some of the most unruly moods of the land: mudslides, wildfires, steep slopes, a dearth of water and a surfeit of seismic activity. —Timothy Egan, *New York Times*, 20 Feb. 1994

I have had a fever of about three weeks during the last and preceding month, from which I am entirely recovered except as to strength. —Thomas Jefferson, letter, 4 Sept. 1823

The preceding week he had been on vacation.

«had not eaten since the preceding day»

Origin of PRECEDING

(see precede)

First Known Use: 15th century

Related to PRECEDING

Synonyms

antecedent, anterior, foregoing, former, precedent, previous, prior

Synonym Discussion of PRECEDING

PRECEDING, ANTECEDENT, FOREGOING, PREVIOUS, PRIOR, FORMER, ANTERIOR mean being before. PRECEDING usually implies being immediately before in time or in place «the preceding sentence». ANTECEDENT applies to order in time and may suggest a causal relation «conditions antecedent to the revolution». FOREGOING applies chiefly to statements «the foregoing remarks». PREVIOUS and PRIOR imply existing or occurring earlier, but PRIOR often adds an implication of greater importance

WORD OF THE DAY

JANUARY 12, 2016

procrastinate

to put off intentionally and habitually

Get Word of the Day daily email:

Your email address

SUBSCRIBE



BROWSE DICTIONARY

precedentless

precedently

preceding

precel

precellence



TRENDING NOW

1 Androgynous

A word from the influential mus.

2 Revenant

The new Leonardo DiCaprio film

3 Epiphany

A feast day which celebrates the

4 Hipsterism

A word from the influential mus.

R-APPENDIX 000017

1. §17C-5A-2.Hearing; revocation; review

WV ST §17C-5A-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 17C. Traffic Regulations and Laws of the Road

Article 5A. Administrative Procedures for Suspension and Revocation of Licenses for Driving Under the Influence of Alcohol, Controlled Substances or Drugs

...or section one of this article within the ten years **immediately preceding** the date of arrest, the period of revocation shall be...

...or section one of this article within the ten years **immediately preceding** the date of arrest, the period of revocation shall be...

2. LOCAL RULE 24.PRISONER APPEALS

WV R CTA4 Rule 24 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Federal Court Rules

Federal Rules of Appellate Procedure with Local Rules and Internal Operating Procedures of the Fourth Circuit

Title VI. Habeas Corpus; Proceedings in Forma Pauperis

...account statement or institutional equivalent for the six-month period **immediately preceding** the filing of the notice of appeal, obtained from the...

...deposits to the prisoner's account for the six-month period **immediately preceding** the filing of the notice of appeal; or (2)the...

3. §23-4-15b.Determination of nonmedical questions; claims for occupational pneumoconiosis; hearing

WV ST §23-4-15b West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 23. Workers' Compensation

Article 4. Disability and Death Benefits

...of not less than two years during the ten years **immediately preceding** the date of his or her last exposure to the...

...of not less than ten years during the fifteen years **immediately preceding** the date of his or her last exposure to the...

4. §21A-1A-5.Base period; alternative base period

WV ST §21A-1A-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 21A. Unemployment Compensation

Article 1A. Definitions

...first four out of the last five completed calendar quarters **immediately preceding** the first day of the individual's benefit year.

(b)" Alternative base period " means the last four completed calendar quarters **immediately preceding** the first day of the individual's benefit year. CREDIT(S)...

5. §17A-6C-6.Refusal of license certificate

WV ST §17A-6C-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 17A. Motor Vehicle Administration, Registration, Certificate of Title and Antitheft Provisions

Article 6C. Automobile Auction Businesses

...e)Has been convicted of a felony within five years **immediately preceding** receipt of the application by the commissioner;

(f)Has been...

...license in any other state or jurisdiction within five years **immediately preceding** receipt of the application by the commissioner; (g)So far...

6. LOCAL RULE 21(c).FEES AND COSTS FOR PRISONER PETITIONS FOR MANDAMUS, PROHIBITION, OR OTHER EXTRAORDINARY RELIEF

WV R CTA4 Rule 21(c) West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Federal Court Rules

Federal Rules of Appellate Procedure with Local Rules and Internal Operating Procedures of the Fourth Circuit

Title V. Extraordinary Writs

...prisoner's trust fund account statement for the six-month period **immediately preceding** the filing of the notice of appeal, obtained from the...

...deposits to the prisoner's account for the six-month period **immediately preceding** the filing of the petition; or (b) the average monthly...

7. §23-4-1.To whom compensation fund disbursed; occupational pneumoconiosis and other occupational diseases included in "injury" and "personal injury"; definition of occupational pneumoconiosis and other occupational diseases; rebuttable presumption for cardiovascular injury and disease or pulmonary disease for firefighters

WV ST §23-4-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 23. Workers' Compensation

Article 4. Disability and Death Benefits

...of not less than two years during the ten years **immediately preceding** the date of his or her last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of his or her last exposure. An application...

...much as sixty days during the period of three years **immediately preceding** the date of last exposure to the hazards of occupational...

8. §16-5V-20.Awards and benefits for disability -- Due to other causes

WV ST §16-5V-20 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 16. Public Health

Article 5V. Emergency Medical Services Retirement System Act

...or her average monthly compensation for the twelve-month period **immediately preceding** the disability award, or if the member has not worked all twelve months during the twelve month period **immediately preceding** the disability award, the average of the months in which...

9. §11-13A-3a.Imposition of tax on privilege of severing natural gas or oil; Tax Commissioner to develop a uniform reporting form

WV ST §11-13A-3a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 13A. Severance and Business Privilege Tax Act

...feet of natural gas per day during the calendar year **immediately preceding** a given taxable period; (3) oil produced from any oil...

...half barrel of oil per day during the calendar year **immediately preceding** a given taxable period; and (4) for a maximum period...

10. §11-10-5z.Electronic filing for certain persons

WV ST §11-10-5z West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 10. West Virginia Tax Procedure and Administration Act

...single tax equal to or greater than \$100,000 during the **immediately preceding** taxable year shall file electronically all returns for all taxes...

...single tax equal to or greater than \$10,000 during the **immediately preceding** tax year shall file electronically all returns for all taxes...

11. §59-3-1. Definitions and general provisions

WV ST §59-3-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 59. Fees, Allowances and Costs; Newspapers; Legal Advertisements

Article 3. Newspapers and Legal Advertisements

...and has been published for at least one year **immediately preceding** the date on which the legal advertisement is delivered to.

... a) has been so published for at least one year **immediately preceding** the date on which the legal advertisement is delivered to...

12. §46A-6J-3.Prohibited unfair pricing practices

WV ST §46A-6J-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 46A, West Virginia Consumer Credit and Protection Act

Article 6J. Protection of Consumers from Price Gouging and Unfair Pricing Practices During and Shortly After a State of Emergency or State of Preparedness

...person for those goods or services on the tenth day **immediately preceding** the declaration of emergency state of preparedness, unless the increase. .

...in the usual course of business on the tenth day **immediately preceding** the declaration: Provided, however, That where a supplier of gasoline...

13. §5A-3-37.Preference for resident vendors; preference for vendors employing state residents; preference for veteran residents; exceptions

WV ST §5A-3-37 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 5A. Department of Administration

Article 3. Purchasing Division

...has resided in West Virginia continuously for the four years **immediately preceding** the date on which the bid is submitted or from...

...place of business within West Virginia continuously for four years **immediately preceding** the date on which the bid is submitted, if the...

14. §3-2-6a. Extended time for certain persons to register in person

WV ST §3-2-6a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 2. Registration of Voters

...who is discharged from active duty during the sixty days **immediately preceding** the election; (3)Any member of the Merchant Marine of...

...and returned to reside there during the twenty-one days **immediately preceding** the election. (c)A person qualifying and registering to vote...

15. §11-6C-2.Method for determining market value of dealer vehicle inventory, dealer motorboat inventory, farm equipment dealers inventory, daily passenger rental car inventory and house trailer and factory-built homes inventory

WV ST §11-6C-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 6C. Special Method for Appraising Dealer Vehicle Inventory

...who were not in business during the entire calendar year **immediately preceding** the first day of July of that calendar year, the...

...business on the first day of each month of the **immediately preceding** calendar year: Provided, That the daily passenger rental car business...

16. §33-7-9. Standard valuation law

WV ST §33-7-9 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 33. Insurance

Article 7. Assets and Liabilities

...the corresponding actual rate for similar policies issued in the **immediately preceding** calendar year by less than one half of one percent...

...shall be equal to the corresponding actual rate for the **immediately preceding** calendar year. For purposes of applying the **immediately preceding** sentence, the calendar year statutory valuation interest rate for life...

17. §3-8-5e. Precandidacy financing and expenditures

WV ST §3-8-5e West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 8. Regulation and Control of Elections

...received and such expenditures made only during the four years **immediately preceding** the term for which such person may be a candidate or during the term of office **immediately preceding** the term for which such person may be a candidate..

18. §64-11-3. Division of environmental protection, office of air quality

WV ST §64-11-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 64. Legislative Rules

Article 11. Technical Corrections to the Code of State Rules

...2, subsection 2.16, by striking out the word 'the' **immediately preceding** the words '45CSR2': On page 4, subdivision 3.4.g, by...

...title of the rule, by inserting the words 'OFFICE OF' **immediately preceding** the words 'AIR QUALITY': On page 1, subsection 1.2...

19. §21A-6A-1. Definitions

WV ST §21A-6A-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 21A. Unemployment Compensation

Article 6A. Extended Benefits Program

...that for the period consisting of such week and the **immediately preceding** twelve weeks, the rate of insured unemployment, not seasonally adjusted...

...if, for the period consisting of such week and the **immediately preceding** twelve weeks, none of the options specified in either subdivision...

20. §29-22B-503. Additional qualifications for an applicant for an operator's license

WV ST §29-22B-503 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 29. Miscellaneous Boards and Officers

Article 22B. Limited Video Lottery

Part 5. Requirements and Qualifications for Licensure

...a resident of this state for the four-year period **immediately preceding** the application; or (B)If the applicant is a corporation...

...and residents of this state for the four-year period **immediately preceding** the application. (2)The applicant has demonstrated the training, education...

21. §7-7-4.Compensation of elected county officials and county commissioners for each class of county; effective date

WV ST §7-7-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 7. County Commissions and Officers
Article 7. Compensation of Elected County Officials

...balance and any federal or state special grants, for the **immediately preceding** fiscal year, plus such additional amount as is necessary for..

...subsection, and related employment taxes over that paid for the **immediately preceding** fiscal year, and upon approval thereof by the auditor, which...

22. §30-14-3.Board of Osteopathic Medicine

WV ST §30-14-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 14. Osteopathic Physicians and Surgeons

...state for a period of not less than five years **immediately preceding** the appointment. (g)Each member of the board must be...

...state for a period of not less than five years **immediately preceding** the appointment and while serving as a member of the..

23. §11-15B-21.Notice for state tax changes

WV ST §11-15B-21 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 15B. Sales and Use Tax Administration

...new rate if: (A)The seller collected tax at the **immediately preceding** effective rate; and (B)The seller's failure to collect at...

...at the new rate or solicits purchasers based on the **immediately preceding** effective rate this relief does not apply.
CREDIT(S) Acts...

24. ARTICLE V.Officers

WV R BAR BYLAWS Art. 5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
State Court Rules
Constitution, By-Laws and Rules and Regulations of the West Virginia State Bar
By-Laws

...a copy of the annual independent audit report for the **immediately preceding** fiscal year, a statement of income and expenses for the **immediately preceding** fiscal year, a copy of projected income and expenses for...

25. §29-22B-504.Additional qualifications for an applicant for a limited video lottery retailer's license

WV ST §29-22B-504 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 29. Miscellaneous Boards and Officers
Article 22B. Limited Video Lottery
Part 5. Requirements and Qualifications for Licensure

...a resident of this state for the four-year period **immediately preceding** the application; (B)If the applicant is a corporation, partnership...

...and residents of this state for the four-year period **immediately preceding** the application; (2)The applicant has disclosed to the lottery...

26. §30-28-5. West Virginia Board of Occupational Therapy

WV ST §30-28-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 28. West Virginia Occupational Therapy Practice Act

...conducting research in occupational therapy for at least three years **immediately preceding** their appointments. (c)No board member may serve as an...

...state for a period of not less than three years **immediately preceding** the appointment. (g)Each member of the board must be...

27. §22C-9-16. Rules, orders and permits remain in effect

WV ST §22C-9-16 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 22C. Environmental Resources; Boards, Authorities, Commissions and Compacts

Article 9. Oil and Gas Conservation

...had been by the commission or commissioner exercising such functions **immediately preceding** the enactment of this article. CREDIT(S) Acts 1994, c...

28. §17C-5-2. Driving under influence of alcohol, controlled substances or drugs; penalties

WV ST §17C-5-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 17C. Traffic Regulations and Laws of the Road

Article 5. Serious Traffic Offenses

...for an offense which occurred within the ten-year period **immediately preceding** the date of arrest in the current proceeding; (2)Any

...this section, which offense occurred within the ten-year period **immediately preceding** the date of arrest in the current proceeding; and, (3...

29. §20-7-17. Motorboat muffling

WV ST §20-7-17 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 20. Natural Resources

Article 7. Law Enforcement, Motorboating, Litter

Part II. Motorboating

...runs during a period not to exceed seventy-two hours **immediately preceding** such regatta or race, and for such motorboats while competing...

30. §21A-1A-13. Computation date

WV ST §21A-1A-13 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 21A. Unemployment Compensation

Article 1A. Definitions

...Computation date" means the thirtieth day of June the year **immediately preceding** the first day of January on which an employer's contribution...

31. §33-5-14. Enforcement of contingent liability

WV ST §33-5-14 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 33. Insurance

...its members who at any time within the twelve months **immediately preceding** the date notice of such assessment was mailed to them...

WV ST §17A-6B-5 West's Annotated Code of West Virginia

Chapter 17A. Motor Vehicle Administration, Registration, Certificate of Title and Antitheft Provisions
Article 6B. License Services

33. §17A-6E-3. License required

Chapter 17A. Motor Vehicle Administration, Registration, Certificate of Title and Antitheft Provisions
Article 6E. Motor Vehicle Salesperson License

34. §17B-2-3a. Graduated driver's license

Chapter 17B. Motor Vehicle Driver's Licenses
Article 2. Issuance of License; Expiration and Renewal

...two intermediate license conviction free for the twelve-month period **immediately preceding** the date of the application;

WV ST §11-13A-2 West's Annotated Code of West Virginia

Article 13A. Severance and Business Privilege Tax Act

...of similar grade and quality and in the same condition **immediately preceding** the processing of the natural resources. (F)In all instances...

WV ST §18A-3-11 West's Annotated Code of West Virginia

Article 3. Training, Certification, Licensing, Professional Development

...the retirement system in which they were a member of **immediately preceding** their designation only applies to authorization to remain a member...

WV ST §33-33-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 33. Insurance
Article 33. Annual Audited Financial Report

...of the current year and the amounts as of the **immediately preceding** December 31. However, in the first year in which an...
...of the current year and the amounts as of the **immediately preceding** thirty-first day of December: Provided, That in the first...

38. §11-13R-3.Definitions

WV ST §11-13R-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 13R. Strategic Research and Development Tax Credit

...qualified research and development expenditure for the three taxable years **immediately preceding** the taxable year for which a credit is claimed under...

...combined qualified research and development expenditure for the number of **immediately preceding** taxable years, other than short taxable years, during which the...

39. §18B-8-4.Effect of leave of absence on academic tenure, rank, etc

WV ST §18B-8-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 18B. Higher Education
Article 8. Higher Education Faculty

...continuously in the position retained and held at the institution **immediately preceding** the absence if the following conditions are met: (1)The...

40. §3-12-13.Reporting requirements

WV ST §3-12-13 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 3. Elections
Article 12. West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program

...an accounting of all expenditures and obligations received during the **immediately preceding** month. The reports shall be on forms or in a...

41. §17A-6D-8.Refusal of license certificate

WV ST §17A-6D-8 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 17A. Motor Vehicle Administration, Registration, Certificate of Title and Antitheft Provisions
Article 6D. Daily Passenger Rental Car Business

...4)Has been convicted of a felony within five years **immediately preceding** receipt of the application by the commissioner;
(5)Has not...

42. §8-6-3.Governing body of municipality to certify annexation; order

WV ST §8-6-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 8. Municipal Corporations
Article 6. Annexation
Part II. Annexation by Election

...when the annexation proposed is adopted, as provided in the **immediately preceding** section of this article, shall forward a certificate to such...

43. §8-7-3.Governing body of municipality to certify decrease in corporate limits; order

WV ST §8-7-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 8. Municipal Corporations
Article 7. Decrease of Corporate Limits
Part II. Decrease of Corporate Limits by Election

...when the decrease proposed is adopted, as provided in the **immediately preceding** section of this article, shall forward a certificate to such...

44. §18-9A-10.Foundation allowance to improve instructional programs

WV ST §18-9A-10 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 18. Education
Article 9A. Public School Support

...the amount of the appropriation for this purpose for the **immediately preceding** school year. The sum of these amounts shall be distributed...

...the amount of the appropriation for this purpose for the **immediately preceding** school year. The sum of these amounts shall be distributed...

45. §21-5C-8.Civil remedy of employee; limitation of actions

WV ST §21-5C-8 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 21. Labor
Article 5C. Minimum Wage and Maximum Hours Standards

...authorizes payment of back overtime wages for two consecutive years **immediately preceding** an employee's action for unpaid wages. Code, 12-3-17...

...authorizes payment of back overtime wages for two consecutive years **immediately preceding** an employee's action for unpaid wages, though an employer could...

46. §33-33-15.Management's report of internal control over financial reporting

WV ST §33-33-15 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 33. Insurance
Article 33. Annual Audited Financial Report

...over financial reporting shall be filed as of December 31 **immediately preceding**. (b)Notwithstanding the premium threshold in subsection (a) of this...

...financial reporting identified by management as of the December 31 **immediately preceding**. Management is not permitted to conclude that the internal control...

47. §33-15-5.Optional policy provisions

WV ST §33-15-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 33. Insurance
Article 15. Accident and Sickness Insurance

...of change of occupation or from the policy anniversary date **immediately preceding** receipt of such proof, whichever is the more recent. In...

...his average monthly earnings for the period of two years **immediately preceding** a disability for which claim is made, whichever is the...

48. §52-2-12.Incompetency or disqualification of juror not to affect validity of finding

WV ST §52-2-12 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 52. Juries
Article 2. Grand Juries

...of the state and county for at least one year **immediately preceding** the preparation of the grand jury list, or if his...
...of the state and county for at least one year **immediately preceding** his service; and (4) that he be not an office...

49. §46A-6F-301.Registration of telemarketers

WV ST §46A-6F-301 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 46A, West Virginia Consumer Credit and Protection Act

Article 6F, Telemarketing

Part III, Registration, Security and Record Keeping

...the telemarketer's principal owner has engaged in for two years **immediately preceding** the date of the application;
(3)Whether any principal or...

50. §19-1-2.Commissioner of agriculture

WV ST §19-1-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 19, Agriculture

Article 1, Department of Agriculture

...agriculture his chief business for a period of ten years **immediately preceding** his election. CREDIT(S) Acts 1911, c. 35,
§§2...

51. §30-26-9.Renewal of license

WV ST §30-26-9 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30, Professions and Occupations

Article 26, Hearing-Aid Dealers and Fitters

...twenty hours of instruction must have been gained during the **immediately preceding** two years. CREDIT(S) Acts 1973, c.
59; Acts 1977...

52. §49-1-204.Definitions related, but not limited, to custodians, legal guardians and family

WV ST §49-1-204 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 49, West Virginia Child Welfare Act

Article 1, General Provisions and Definitions

Part II, Definitions

...or (B)Has resided with the minor continuously during the **immediately preceding** period of six months or more. Custodian "
means a person...

53. §22B-1-12.Savings provisions

WV ST §22B-1-12 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 22B, Environmental Boards

Article 1, General Policy and Purpose

...and actions had been by a board exercising such functions **immediately preceding** the enactment of this chapter.
CREDIT(S) Acts 1994, c...

54. §26-3-2.Admission of inmates

WV ST §26-3-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 26, State Benevolent Institutions

Article 3, Home for Aged and Infirm Men and Women

...Has resided in the state for at least one year **immediately preceding** the application; (3)Has not made an assignment or
transfer...

55. §6A-1-8.Special emergency judges

WV ST §6A-1-8 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 6A. Executive and Judicial Succession

Article 1. Executive and Judicial Succession

...the unavailability of the regular judge or judges or persons **immediately preceding** them in the designation. The designating authority shall review and...

56. §18-22D-2.Definitions

WV ST §18-22D-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18. Education

Article 22D. Higher Education Student Assistance Loan Program

...a resident of the state for at least one year **immediately preceding** the date of application for a West Virginia higher education...

57. §4-1-21.Prefiling of bills and resolutions

WV ST §4-1-21 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 4. The Legislature

Article 1. Officers, Members and Employees; Appropriations; Investigations; Display of Flags; Records; Use of Capitol Building; Prefiling of Bills and Resolutions; Standing Committees; Interim Meetings; Next Meeting of the Senate

...of bills and resolutions (a)Within the thirty-day period **immediately preceding** the convening of the Legislature for commencement of a regular...

58. §15-2A-10.Same -- Due to other causes

WV ST §15-2A-10 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 15. Public Safety

Article 2A. West Virginia State Police Retirement System

...salary based on earnings from the agency through the day **immediately preceding** his or her disability. The recalculation of benefit upon a...

59. §5-10-2.Definitions

WV ST §5-10-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 5. General Powers and Authority of the Governor, Secretary of State and Attorney General; Board of Public Works; Miscellaneous Agencies, Commissions, Offices, Programs, Etc.

Article 10. West Virginia Public Employees Retirement Act

...service contained within the member's fifteen years of credited service **immediately preceding** the date his or her employment with a participating public...

...service contained within the member's fifteen years of credited service **immediately preceding** the date his or her employment with a participating public...

60. §18C-1-4.Eligibility of commuting students and children of military personnel for state funded student financial aid, grants and scholarships

WV ST §18C-1-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18C. Student Loans; Scholarships and State Aid

Article 1. Financial Assistance Generally

...a resident of this state for at least two years **immediately preceding** the student's attendance at the school; (B)The student commuted...

...a resident of this state for at least two years **immediately preceding** the student's attendance at the school; "(B)The student commuted...

61. §3-10-5.Vacancies in State Legislature

WV ST §3-10-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 10. Filling Vacancies

...of the party with which the person holding the office **immediately preceding** the vacancy was affiliated. The list of qualified persons to...

62. RULE 13.Financial Disclosure

WV R FAM CT Rule 13 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

State Court Rules

Rules of Practice and Procedure for Family Court

Prehearing Procedures

...the party's complete income tax returns for the two years **immediately preceding** the date the petition was filed, together with copies of...

63. §5A-3-1.Division created; purpose; director; applicability of article; continuation

WV ST §5A-3-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 5A. Department of Administration

Article 3. Purchasing Division

...Have spent a minimum of ten of the fifteen years **immediately preceding** his or her appointment employed in an executive capacity in...

64. §48-2-701.Premarital education encouraged; requirements

WV ST §48-2-701 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 2. Marriages

Part 7. Premarital Education

...course of at least four hours during the twelve months **immediately preceding** the date of the application for the license.
(b)A...

65. §3-6-3.Publication of sample ballots and lists of candidates

WV ST §3-6-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 6. Conduct and Administration of Elections

...on the last day on which a newspaper is published **immediately preceding** the general election, the ballot commissioners shall publish the official...

...on the last day on which a newspaper is published **immediately preceding** the general election, the ballot commissioners shall publish the sample...

66. §3-5-10.Publication of sample ballots and lists of candidates

WV ST §3-5-10 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

List of 204 results for adv: "immediately preceding"

Article 5. Primary Elections and Nominating Procedures

...on the last day on which a newspaper is published **immediately preceding** the primary election, the ballot commissioners shall publish the official...

...on the last day on which a newspaper is published **immediately preceding** the primary election, the ballot commissioners shall publish the sample...

67. §48-22-306. Conduct presumptively constituting abandonment

WV ST §48-22-306 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 22. Adoption

Part 3. Consent or Relinquishment; Abandonment

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition.

(b) Abandonment of a...

...visitation or contact with the child during the six months **immediately preceding** the filing of the petition for adoption by child's mother...

68. §21A-5-10. Experience ratings; decreased rates; adjustment of accounts and rates; debit balance account rates

WV ST §21A-5-10 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 21A. Unemployment Compensation

Article 5. Employer Coverage and Responsibility

...percent, until: (1) There have elapsed thirty-six consecutive months **immediately preceding** the computation date throughout which an employer's account was chargeable...

...percent, until: (1) There have elapsed thirty-six consecutive months **immediately preceding** the computation date throughout which an employer's account was chargeable...

69. §44B-4-401. Character or receipts

WV ST §44B-4-401 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 44B. Uniform Principal and Income Act

Article 4. Allocation of Receipts During Administration of Trust

Part 1. Receipts from Entities

...assets, as shown by the entity's year-end financial statements **immediately preceding** the initial receipt. (e) Money is not received in partial...

70. §11A-3-38. Redemption of nonentered or certified lands

WV ST §11A-3-38 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11A. Collection and Enforcement of Property Taxes

Article 3. Sale of Tax Liens and Nonentered, Escheated and Waste and Unappropriated Lands

Part II

...would have become due and payable during the ten years **immediately preceding** the date of the discovery of the nonentry. (c) In...

71. §18C-5-5. Eligibility for a grant

WV ST §18C-5-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18C. Student Loans; Scholarships and State Aid

Article 5. Higher Education Grant Program

...Has been a resident of the state for one year **immediately preceding** the date of application for a grant; (3) Meets the...

72. §15-2-31.Disability physical examinations; termination

WV ST §15-2-31 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 15. Public Safety
Article 2. West Virginia State Police

...paid for overtime service, for the twelve-month employment period **immediately preceding** the disability award: Provided.
That if the retirant had not...

73. §22-15A-24.Covered manufacturers; prohibited sales; effective date

WV ST §22-15A-24 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 22. Environmental Resources
Article 15A. The A. James Manchin Rehabilitation Environmental Action Plan

...covered electronic devices per year in the three-year period **immediately preceding** the initial registration required in
section twenty-five of this...

74. §30-34-3.Board of respiratory care

WV ST §30-34-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 34. Board of Respiratory Care Practitioners

...in the practice of respiratory care for the five years **immediately preceding** their appointment. One of the respiratory
practitioners appointed shall be...

**75. §8-22-16.Pension and relief funds for policemen and firemen; creation of boards of trustees;
definitions; continuance of funds; average adjusted salary**

WV ST §8-22-16 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 8. Municipal Corporations
Article 22. Retirement Benefits Generally; Policemen's Pension and Relief Fund; Firemen's Pension and Relief Fund;
Pension Plans for Employees of Waterworks System, Sewerage System or Combined Waterworks and Sewerage System
Part III. Policemen's Pension and Relief Fund; Firemen's Pension and Relief Fund

...the member in the two consecutive twelve-consecutive-month periods **immediately preceding** the twelve-consecutive-
month period used in determining benefits shall...

...determining benefits, "year-two" means the twelve-consecutive-month period **immediately preceding** the twelve-
consecutive-month period used in determining benefits and...

**76. §33-33-3.General requirements related to filing and extensions for filing of annual audited
financial reports and audit committee appointment**

WV ST §33-33-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 33. Insurance
Article 33. Annual Audited Financial Report

...or before June 1 for the year ending December 31 **immediately preceding**. The commissioner may require an insurer to file
an audited...

**77. §18C-7-5.Powers and duties of the West Virginia Higher Education Policy Commission regarding
the PROMISE Scholarship**

WV ST §18C-7-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 18C. Student Loans; Scholarships and State Aid

List of 204 results for adv: "immediately preceding"

Article 7. West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence Scholarship Program
...eight, chapter eighteen of this code for the two years **immediately preceding** application; (C) This subsection does not establish residency requirements for...

78. §33-33-10. Communication of internal control related matters noted in an audit

WV ST §33-33-10 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 33. Insurance

Article 33. Annual Audited Financial Report

...in an Audit" or its replacement, as of December 31 **immediately preceding**, so as to coincide with the audited financial report discussed...

79. §30-40-6. Commission created; membership; appointment and removal of members; qualifications; terms; organization

WV ST §30-40-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 40. West Virginia Real Estate License Act

...vocation for a period of not less than ten years **immediately preceding** the appointment. Each commissioner must have been a resident of...

80. §31A-7-12. Payment of expenses and debts; order of priority; rights of secured creditors

WV ST §31A-7-12 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 31A. Banks and Banking

Article 7. Regulation of Failing Financial Institutions

...employees of the financial institution for the ninety-day period **immediately preceding** the date of appointment of the receiver up to an...

81. §48-5-402. Petition for divorce

WV ST §48-5-402 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 5. Divorce

Part 4. Practice and Procedure

...is bona fide resident of state at least one year **immediately preceding** suit (Code 1913, c. 64, §7, as amended by...

...an actual bona fide citizen for more than a year **immediately preceding** suit, and that both parties were residents of a certain...

82. §11-12-3. Business registration certificate required; tax levied; exemption from registration; exemption from tax; penalty

WV ST §11-12-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 12. Business Registration Tax

...during that person's tax year for state income tax purposes **immediately preceding** the registration period for which a registration certificate is otherwise...

...during that person's tax year for state income tax purposes **immediately preceding** the registration period for which a registration certificate is required...

83. §15-2-30. Awards and benefits for disability due to other causes

WV ST §15-2-30 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 15. Public Safety
Article 2. West Virginia State Police

...aggregate of salary paid to the retirant through the day **immediately preceding** his or her disability award, to be determined in the...

84. §19-21-29. Cost of constructing ditch or drain across highway; constructing, enlarging or changing bridge, culvert or trestle; removal of structure for passage of boat or equipment
WV ST §19-21-29 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 19. Agriculture
Article 21. Drainage Districts

...aqueduct or other structure under the provisions in the paragraph **immediately preceding**, such changes shall be made within the time directed by...

85. §15-2A-9. Awards and benefits for disability -- Incurred in performance of duty
WV ST §15-2A-9 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 15. Public Safety
Article 2A. West Virginia State Police Retirement System

...salary based on earnings from the agency through the day **immediately preceding** his or her disability. The recalculation of benefit upon a...

86. §31C-1-7. Reports
WV ST §31C-1-7 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 31C. Credit Unions
Article 1. Supervision and Regulation

...in this state (excluding automated teller machines) as of the **immediately preceding** thirtieth day of June. CREDIT(S) Acts 1996, c. 98...

87. §61-7-4. License to carry deadly weapons; how obtained
WV ST §61-7-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 61. Crimes and Their Punishment
Article 7. Dangerous Weapons

...in subsection (7) of this section in the five years **immediately preceding** the application; (7) That the applicant has not been convicted...

...the misuse of a deadly weapon within the five years **immediately preceding** the application; "(6) That the applicant has not been convicted...

88. §35-1-3. Property not to be taken from a religious organization
WV ST §35-1-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 35. Property of Religious, Educational and Charitable Organizations
Article 1. Religious Organizations

...conveyed, devised, or dedicated, has application alone to the clause **immediately preceding**, providing that any conveyance for the use of two or...

89. §18B-10-5. Fee waivers--Undergraduate schools
WV ST §18B-10-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18B. Higher Education

Article 10. Fees and Other Money Collected at State Institutions of Higher Education

...equivalent undergraduate students registered during the fall semester of the **immediately preceding** academic year.

(2) Each undergraduate fee waiver entitles the recipient...

90. §23-3-1a. Transfer of silicosis fund to workers' compensation fund; claims under former article six

WV ST §23-3-1a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 23. Workers' Compensation

Article 3. Workers' Compensation Fund

...employed for as much as sixty days during two years **immediately preceding** filing of his application applies only to multiple employers and...

91. §19-2F-6. Beef Industry Council; appointment; terms; qualification of members; removal of members; officers; meetings; expenses

WV ST §19-2F-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 19. Agriculture

Article 2F. Beef Industry Self-Improvement Assessment Program

...occupation for a period of not less than five years **immediately preceding** the appointment and each member must be a United States...

92. §30-22-5. Board of Landscape Architects

WV ST §30-22-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 22. Landscape Architects

...state for a period of not less than one year **immediately preceding** the appointment. (c) Each member of the board must be...

93. §46-2-604. Buyer's options as to salvage of rightfully rejected goods

WV ST §46-2-604 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 46. Uniform Commercial Code

Article 2. Sales

Part 6. Breach, Repudiation and Excuse

...of rightfully rejected goods Subject to the provisions of the **immediately preceding** section on perishables if the seller gives no instructions within...

94. §18B-10-6. Fee waivers--Professional and graduate schools

WV ST §18B-10-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18B. Higher Education

Article 10. Fees and Other Money Collected at State Institutions of Higher Education

...corresponding fall semester, spring semester and summer term of the **immediately preceding** academic year. In addition to the five percent in this...

95. §19-2C-6a. Investigation of complaints; board of review

WV ST §19-2C-6a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 19. Agriculture

...and been practicing the profession of auctioneering for five years **immediately preceding** their appointment. The third member shall be a lay person...

WV ST §22A-2-24 West's Annotated Code of West Virginia

Chapter 22A. Miners' Health, Safety and Training

Coal Dust and Rock Dust

... rock dust purchased for a period not to exceed the **immediately preceding** six months. CREDIT(S) Acts 1985, c. 77; Acts 1987...

WV ST §30-38-6 West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 38. The Real Estate Appraiser Licensing and Certification Act

... years' experience in appraisal as a principal line of work **immediately preceding** their appointment, and shall remain certified real estate appraisers throughout...

WV ST §61-8-2 West's Annotated Code of West Virginia

Chapter 61. Crimes and Their Punishment

Article 8. Crimes Against Chastity, Morality and Decency

...a divorcee from criminal liability for violation of the section **immediately preceding** the latter. *State v. Snyder*, 1921, 108 S.E. 588, 89...

WV ST §18A-3B-2 West's Annotated Code of West Virginia

Chapter 18A. School Personnel

Article 3B. Educators' Professional Standards Board

...institutions in West Virginia for the period of five years **immediately preceding** appointment. In addition, members appointed to represent classroom teachers under...

WV ST §30-6-4 West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 6. Board of Funeral Service Examiners

...state for a period of not less than five years **immediately preceding** the appointment and each member must be a resident of...

WV ST §30-13A-4 West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 13A. Land Surveyors

...state for a period of not less than three years **immediately preceding** the appointment. (e)Each member must be appointed by the...

102. §30-8-4.Board of Optometry

WV ST §30-8-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 8. Optometrists

...state for a period of not less than three years **immediately preceding** the appointment. (d)Each member of the board must be...

103. §8-5-14.Municipal executive committees; election expenses; applicability of state primary and general election laws; election days

WV ST §8-5-14 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 8. Municipal Corporations
Article 5. Election, Appointment, Qualification and Compensation of Officers; General Provisions Relating to Officers and Employees; Elections and Petitions Generally; Conflict of Interest
Part VII. Elections and Petitions Generally

...five of this article nor less than twenty-five days **immediately preceding** the regular municipal election, unless a shorter period of time...

104. §48-16-102.Definitions

WV ST §48-16-102 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 48. Domestic Relations
Article 16. Uniform Interstate Family Support Act
Part I. General Provisions

...person acting as parent for at least six consecutive months **immediately preceding** the time of filing of a petition or comparable pleading...

...person acting as parent for at least six consecutive months **immediately preceding** the time of filing of a petition or comparable pleading...

105. §61-3-1.Burning, etc., of a dwelling or outbuilding; first degree arson; penalty; definitions

WV ST §61-3-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 61. Crimes and Their Punishment
Article 3. Crimes Against Property

...owner of the property burned, covering a series of years **immediately preceding** the burning of the building charged in the indictment, though...

...in immediate vicinity of home where crimes occurred during hours **immediately preceding** crimes and that during such time defendant had attempted to...

106. §23-4-8c.Occupational Pneumoconiosis Board; reports and distribution thereof; presumption; findings required of board; objection to findings; procedure thereon; limitations on refilings; consolidation of claims

WV ST §23-4-8c West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 23. Workers' Compensation
Article 4. Disability and Death Benefits

...for a period of ten years during the fifteen years **immediately preceding** the date of his or her last exposure to such...

...for a period of ten years during the 15 years **immediately preceding** the date of his last exposure" solely within the state...

107. §61-3-39I. Checks on consumer deposit accounts to show date account was opened; consumer deposit account defined

WV ST §61-3-39I West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 61. Crimes and Their Punishment

Article 3. Crimes Against Property

...at the same or another financial institution for twelve months **immediately preceding** his request for printed checks. (b) For purposes of this...

108. §61-8-1. Bigamy--Penalty

WV ST §61-8-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 61. Crimes and Their Punishment

Article 8. Crimes Against Chastity, Morality and Decency

...a divorcee from criminal liability for violation of the section **immediately preceding** the latter. State v. Snyder, 1921, 108 S.E. 588, 89...

109. §33-33-5. Designation of independent certified public accountant

WV ST §33-33-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 33. Insurance

Article 33. Annual Audited Financial Report

...(c) If an accountant who was the accountant for the **immediately preceding** filed audited financial report is dismissed or resigns, the insurer...

110. §30-25-4. West Virginia Nursing Home Administrators Licensing Board

WV ST §30-25-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 25. Nursing Home Administrators

...state for a period of not less than five years **immediately preceding** the appointment. (f) Each member of the board must be...

111. §30-27-4. Board of Barbers and Cosmetologists

WV ST §30-27-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 27. Board of Barbers and Cosmetologists

...state for a period of not less than three years **immediately preceding** the appointment. (e) Each member of the board must be...

112. §33-48-8. Benefits

WV ST §33-48-8 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 33. Insurance

Article 48. Model Health Plan for Uninsurable Individuals Act

...received as to such conditions during the six-month period **immediately preceding** the effective date of coverage, except that no preexisting condition...

113. §30-9-3.Board of accountancy; appointment; terms, qualifications of members; removal of members; compensation of members

WV ST §30-9-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 9. Accountants

...state for a period of not less than five years **immediately preceding** the appointment and each member must be a resident of...

114. §36B-3-116.Lien for assessments

WV ST §36B-3-116 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 36B. Uniform Common Interest Ownership Act
Article 3. Management of the Common Interest Community

...due in the absence of acceleration during the six months **immediately preceding** institution of an action to enforce the lien.
This subsection...

115. §30-20-4.West Virginia Board of Physical Therapy

WV ST §30-20-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 20. Physical Therapists

...state for a period of not less than five years **immediately preceding** the appointment. (f)Each member of the board must be...

116. §30-10-4.Board of Veterinary Medicine

WV ST §30-10-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 10. Veterinarians

...state for a period of not less than three years **immediately preceding** the appointment. (f)Each member of the board must be...

117. §30-5-5.West Virginia Board of Pharmacy

WV ST §30-5-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 5. Pharmacists, Pharmacy Technicians, Pharmacy Interns and Pharmacies

...state for a period of not less than three years **immediately preceding** the appointment. (e)Each member of the board shall be...

118. §30-21-5.Creation of board of examiners of psychologists; members, terms, meetings, officers, oath and compensation; general provisions

WV ST §30-21-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 21. Psychologists; School Psychologists

...the state of West Virginia for at least two years **immediately preceding** his appointment and shall be the holder of a license...

119. §11-13A-5b. Creation of West Virginia Future Fund; legislative intent; calculation of deposits from excess severance tax revenues; permissible uses of investment income and limitations on expenditures; definitions

WV ST §11-13A-5b West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 13A. Severance and Business Privilege Tax Act

...no more than the average net investment return for the **immediately preceding** five fiscal years may be appropriated or expended in any...

120. §22A-2-70. Shafts and slopes

WV ST §22A-2-70 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 22A. Miners' Health, Safety and Training

Article 2. Underground Mines

Miscellaneous Safety Provisions and Requirements

...for inspection.--In all shafts and slopes within three hours **immediately preceding** the beginning of a work shift and before any workmen...

...analysis made. In all shafts and slopes within three hours **immediately preceding** the beginning of a work shift and before any workmen...

121. §30-3-5. West Virginia Board of Medicine powers and duties continued; appointment and terms of members; vacancies; removal

WV ST §30-3-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 3. West Virginia Medical Practice Act

...and actively practicing that profession for at least five years **immediately preceding** the date of appointment. Three lay members shall be appointed...

122. §11-6B-3. Twenty thousand dollar homestead exemption allowed

WV ST §11-6B-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 6B. Homestead Property Tax Exemption

...for two calendar years out of the ten calendar years **immediately preceding** the tax year for which the homestead exemption is sought...

123. §8-5-9. Terms of office

WV ST §8-5-9 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 8. Municipal Corporations

Article 5. Election, Appointment, Qualification and Compensation of Officers; General Provisions Relating to Officers and Employees; Elections and Petitions Generally; Conflict of Interest

Part V. Oath of Office; Terms of Office; Filling Vacancies

...shall hold their offices subject to the provisions of the **immediately preceding** sentence hereof. CREDIT(S) Acts 1882, c. 92, §§15...

124. §46-2-502. Buyer's right to goods on seller's repudiation, failure to deliver, or insolvency

WV ST §46-2-502 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 46. Uniform Commercial Code
Article 2. Sales
Part 5. Performance

...he has a special property under the provisions of the **immediately preceding** section may on making and keeping good a tender of...

125. §22-9-1.Definitions

WV ST §22-9-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 22. Environmental Resources
Article 9. Underground Gas Storage Reservoirs

...production of coal at any time during the twelve months **immediately preceding** the date its status is put in question under this...

126. §11-14A-5.Reports of carriers; joint reports; records; examination of records; subpoenas and witnesses

WV ST §11-14A-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 14A. Motor Carrier Road Tax

...the calendar year ending on the last day of the **immediately preceding** December. For good cause shown, the commissioner may extend the...

127. §11-14C-31.Claiming refunds

WV ST §11-14C-31 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 14C. Motor Fuel Excise Tax
Part V. Refunds

...July and October for purchases of motor fuel during the **immediately preceding** calendar quarter: Provided , That any application for refund made under...

128. §3-5-22.Other party and group nominations; procedure

WV ST §3-5-22 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 3. Elections
Article 5. Primary Elections and Nominating Procedures

...total vote cast only for governor at the general election **immediately preceding** may nominate candidates and select committees by party conventions, provided...

129. §30-17-4.State Board of Sanitarians

WV ST §30-17-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 17. Sanitarians

...science or public health sanitation for at least five years **immediately preceding** the appointment. (h)Each licensed or certified member shall maintain...

130. §8-6-4.Annexation without an election

WV ST §8-6-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 8. Municipal Corporations
Article 6. Annexation

Part III. Annexation Without Election

...commission shall thereupon enter an order as described in the **immediately preceding** section of this article. After the date of the order...

131. §62-12-13.Powers and duties of board; eligibility for parole; procedure for granting parole

WV ST §62-12-13 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 62. Criminal Procedure

Article 12. Probation and Parole

...in prison for a period of at least three months **immediately preceding** the date of his or her release on parole; "(4...

...in prison for a period of at least three months **immediately preceding** the date of his or her release on parole; "(4...

132. §11-10C-4.Monthly determination of increased revenue attributable to automated tax administration system; monthly report; deposit of moneys; creation and operation of automated tax administration system development fund; annual report

WV ST §11-10C-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 10C. Benefits-Funded Purchasing

...administration system pursuant to this article during the fiscal year **immediately preceding** the submission of the report. The report shall be made...

133. §18-9A-7.Foundation allowance for transportation cost

WV ST §18-9A-7 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18. Education

Article 9A. Public School Support

...enrollment increases when compared to the net enrollment the year **immediately preceding**, a school district may apply to the state superintendent for...

134. §21A-5-10b.Transfer of business

WV ST §21A-5-10b West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 21A. Unemployment Compensation

Article 5. Employer Coverage and Responsibility

...of the transferring employer which had, in the calendar quarter **immediately preceding** the date of the transfer, the higher or highest payroll...

135. §46-2-702.Seller's remedies on discovery of buyer's insolvency

WV ST §46-2-702 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 46. Uniform Commercial Code

Article 2. Sales

Part 7. Remedies

...sold on credit and has delivered goods to the buyer **immediately preceding** his insolvency being extended. Purposes of Changes and New Matter...

136. §31D-13-1302.Right to appraisal

WV ST §31D-13-1302 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 31D. West Virginia Business Corporation Act

Article 13. Appraisal Rights

Part 1. Right to Appraisal and Payment for Shares

...Is, or at any time in the one-year period **immediately preceding** approval by the board of directors of the corporate action...

137. §23-4-6b.Occupational hearing loss claims

WV ST §23-4-6b West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 23. Workers' Compensation

Article 4. Disability and Death Benefits

...much as sixty days during the period of three years **immediately preceding** the date of last exposure. The allocation is based upon...

138. §12-3-12.Expiration of unexpended appropriations

WV ST §12-3-12 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 12. Public Moneys and Securities

Article 3. Appropriations, Expenditures and Deductions

...Saturday, then warrants may only be drawn through the Friday **immediately preceding** such Saturday, but if such thirty-first day of July...

139. §21A-1A-28.Wages; average annual wage; threshold wage

WV ST §21A-1A-28 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 21A. Unemployment Compensation

Article 1A. Definitions

...is computed on or before September 30 of the year **immediately preceding** the rate year and is the total remuneration paid by.

140. §33-16D-12.Equality of terms; preexisting conditions; continuous coverage restrictions, eligibility for enrollment

WV ST §33-16D-12 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 33. Insurance

Article 16D. Marketing and Rate Practices for Small Employer Accident and Sickness Insurance Policies

...only relate to conditions which had, during the twelve months **immediately preceding** the effective date of coverage, manifested themselves in such a...

141. §3-1A-6.Powers and duties of Secretary of State; exercise of powers by appointees

WV ST §3-1A-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 1A. State Election Commission and Secretary of State

...or general emergency, if any of which occur during or **immediately preceding** an election. (2)For purposes of this subsection, a "general...

142. §18C-5-7.Higher education adult part-time student grant program

WV ST §18C-5-7 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18C. Student Loans; Scholarships and State Aid

Article 5. Higher Education Grant Program

...in West Virginia continuously for a minimum of twelve months **immediately preceding** the date of application for a HEAPS grant or renewal...

143. §48-9-209.Parenting plan; limiting factors

WV ST §48-9-209 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 9. Custody of Children

Part 2. Parenting Plans

...exercising custodial responsibility and in the twenty-four hour period **immediately preceding** such exercise; (6)Denial of overnight custodial responsibility; (7)Restrictions...

144. §29-19-5.Registration of charitable organizations; fee

WV ST §29-19-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 29. Miscellaneous Boards and Officers

Article 19. Solicitation of Charitable Funds Act

...statement or report of income and expenses for the organization's **immediately preceding** fiscal year or a financial statement reporting information showing the...

145. §11-16-9.Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs

WV ST §11-16-9 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 16. Nonintoxicating Beer

...having been in continuous operation for two years or more **immediately preceding** the date of application, is \$150: Provided, That railroads operating...

146. §18A-4-5.Salary equity among the counties; state salary supplement

WV ST §18A-4-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18A. School Personnel

Article 4. Salaries, Wages and Other Benefits

...salary supplement on first day of January of fiscal year **immediately preceding** that in which equity appropriation is distributed, violated state's equal...

147. §3-8-7.Failure to file statement; delinquent or incomplete filing; criminal and civil penalties

WV ST §3-8-7 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 8. Regulation and Control of Elections

...sworn statement as required by this article, relating to the **immediately preceding** primary election for any office by the eighty-fourth day...

148. §16-5N-6.License required; application; fees; duration; renewal

WV ST §16-5N-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 16. Public Health

Article 5N. Residential Care Communities

...history of nonrevocation of a license during the five years **immediately preceding** the application; (2)That the residential care community is under...

149. §30-4-4.Board of Dental Examiners

WV ST §30-4-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 4. West Virginia Dental Practice Act

...state for a period of not less than five years **immediately preceding** the appointment. (g)Each member of the board shall be...

150. §24-2-4e.Environmental control bonds

WV ST §24-2-4e West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 24. Public Service Commission
Article 2. Powers and Duties of Public Service Commission

...at any time between the date which is two years **immediately preceding** the effective date of this section and the date on...

...B)If: (i) For a period of twelve consecutive months **immediately preceding** the date of determination, the qualifying utility has had an...

151. §19-2B-6.Inspection, marking, labeling, branding, etc.; quarantine; segregation; scheduling of operations; disposition of carcasses, etc.; reinspection; health examination; rejection tags

WV ST §19-2B-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 19. Agriculture
Article 2B. Inspection of Meat and Poultry

...practicable, the commissioner shall forego the actions authorized in the **immediately preceding** subsection and permit reprocessing if such reprocessing will correct or...

152. §30-29-3.Duties of the subcommittee

WV ST §30-29-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 30. Professions and Occupations
Article 29. Law-Enforcement Training and Certification

...established law-enforcement training academy if earned within five years **immediately preceding** the date of application for certification, and shall provide that...

153. §47-11B-2.Definitions

WV ST §47-11B-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 47. Regulation of Trade
Article 11B. Closing-Out Sales, Fire Sales and Defunct Business Sales

...ninety-day period during any one of three years next **immediately preceding** the year in which the application is made or his...

154. §20-7-18b.Operating under influence of alcohol, controlled substances or drugs; penalties

WV ST §20-7-18b West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 20. Natural Resources
Article 7. Law Enforcement, Motorboating, Litter
Part II. Motorboating

...an offense which occurred within a period of five years **immediately preceding** the date of the offense; and (3)Any conviction under...

155. §22A-6-3.Board continued; membership; method of nomination and appointment; meetings; vacancies; quorum

WV ST §22A-6-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 22A. Miners' Health, Safety and Training
Article 6. Board of Coal Mine Health and Safety

...a person who has not been during the two years **immediately preceding** appointment, and is not during his or her term, an...

156. §21A-5-3a.Financing benefits paid to employees of nonprofit organizations

WV ST §21A-5-3a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 21A. Unemployment Compensation
Article 5. Employer Coverage and Responsibility

...seventy-two, such percentage of its total payroll for the **immediately preceding** calendar year as the commissioner shall determine. Such determination shall...

157. §16-5V-9.Transfer from Public Employees Retirement System

WV ST §16-5V-9 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 16. Public Health
Article 5V. Emergency Medical Services Retirement System Act

...board for completing the actuarial valuation for the plan year **immediately preceding** the first day of the plan year in which the...

158. §11-13A-3.Imposition of tax or privilege of severing coal, limestone or sandstone, or furnishing certain health care services, effective dates therefor; reduction of severance rate for coal mined by underground methods based on seam thickness

WV ST §11-13A-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 13A. Severance and Business Privilege Tax Act

...or less in thickness in the one hundred eighty days **immediately preceding** the effective date of this subsection. (iii)The seam thickness...

159. §12-3-17.Liabilities incurred by state boards, commissions, officers or employees which cannot be paid out of current appropriations

WV ST §12-3-17 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 12. Public Moneys and Securities
Article 3. Appropriations, Expenditures and Deductions

...authorizes payment of back overtime wages for two consecutive years **immediately preceding** an employee's action for unpaid wages. Code, 12-3-17...

160. §21-5C-1.Definitions

WV ST §21-5C-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 21. Labor
Article 5C. Minimum Wage and Maximum Hours Standards

...authorizing payment of back overtime wages for two consecutive years **immediately preceding** an employee's action for unpaid wages. Code, 21-5C-1...

161. §7-11B-15. Reports by county commissions and municipalities, contents, and publication; procedure to determine progress of project; reports by development office, content of reports; rule-making authority; development office to provide manual and assistance
WV ST §7-11B-15 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 7. County Commissions and Officers
Article 11B. West Virginia Tax Increment Financing Act

...that relocates to the development or redevelopment district during the **immediately preceding** fiscal year of the state. The executive director shall compile...

162. §11-13-2m. Business of generating or producing electric power; exception; rates
WV ST §11-13-2m West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 13. Business and Occupation Tax

...extent of and in accordance with the law in effect **immediately preceding** the effective date of this section as amended in one...

163. §11-13J-4a. Neighborhood investment program advisory board
WV ST §11-13J-4a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 13J. Neighborhood Investment Program

...disadvantaged citizens of the state that, for the taxable year **immediately preceding** the year of appointment to the board, had an annual...

164. §46-5-116. Choice of law and forum
WV ST §46-5-116 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 46. Uniform Commercial Code
Article 5. Letters of Credit

...is issued. Except in the unusual cases discussed in the **immediately preceding** paragraph, practice adopted in a letter of credit will override...

165. §33-13-30. Standard nonforfeiture law for life insurance
WV ST §33-13-30 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 33. Insurance
Article 13. Life Insurance

...as defined in this subsection, for policies issued in the **immediately preceding** calendar year: (B) Under any paid-up nonforfeiture benefit, including...

...as defined in this subsection, for policies issued in the **immediately preceding** calendar year: "(ii) Under any paid-up nonforfeiture benefit, including...

166. §6C-3-1. West Virginia Public Employees Grievance Board
WV ST §6C-3-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 6C. Public Employees
Article 3. West Virginia Public Employees Grievance Board

...state for a period of not less than one year **immediately preceding** the appointment and each member of the board shall remain...

167. §22-30-3.Definitions

WV ST §22-30-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 22. Environmental Resources

Article 30. The Aboveground Storage Tank Act

...an interest in an aboveground storage tank, including the owner **immediately preceding** the discontinuation of its use.
"Owner" does not mean a...

168. §18-5-11a.Joint governing partnership board pilot initiative

WV ST §18-5-11a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18. Education

Article 5. County Board of Education

...receiving county school from February 1 of the school year **immediately preceding** the opening of the school until January 1 following the...

169. §21A-6-3.Disqualification for benefits

WV ST §21A-6-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 21A. Unemployment Compensation

Article 6. Employee Eligibility; Benefits

...commissioner finds the individual who within twenty-four calendar months **immediately preceding** the decision, has made a false statement or representation knowing...

...commissioner finds such individual who within twenty-four calendar months **immediately preceding** such decision, has made a false statement or representation knowing...

170. §17A-6-2a.Dealer recovery fund created

WV ST §17A-6-2a West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 17A. Motor Vehicle Administration, Registration, Certificate of Title and Antitheft Provisions

Article 6. Licensing of Dealers and Wreckers or Dismantlers; Special Plates; Temporary Plates or Markers

Part I. Definitions; Legislative Findings and Public Policy

...following requirements: (1)Any dealer who, for the three years **immediately preceding** assessment of the fees, has not had a claim paid...

171. §53-4A-4.Inability to pay costs, etc.; appointment of counsel; obtaining copies of record or records in criminal proceedings or in a previous proceeding or proceedings to secure relief; payment of all costs and expenses; adjudging of costs

WV ST §53-4A-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 53. Extraordinary Remedies

Article 4A. Post-Conviction Habeas Corpus

...seem to the court to be right, consistent with the **immediately preceding** sentence of this subsection (c) and with the provisions of...

172. §30-29-5.Certification requirements and power to decertify or reinstate

WV ST §30-29-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 30. Professions and Occupations

Article 29. Law-Enforcement Training and Certification

...for a period of not less than five consecutive years **immediately preceding** the date of application for certification. To receive certification, the...

173. RULE 6.The Grand Jury

WV R RCRP Rule 6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

State Court Rules

West Virginia Rules of Criminal Procedure

III. Indictment and Information

...of the state and county for at least one year **immediately preceding** the preparation of the grand jury list, or if his...

...of the state and county for at least one year **immediately preceding** his service; and (4) that he be not an office...

174. §41-1-1.Who may make will and as to what property

WV ST §41-1-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 41. Wills

Article 1. Capacity to Make; Requisites; Validity

...though he was out of his mind for several days **immediately preceding** his death. Held, where the jury found against the will...

175. §18-30-6.West Virginia prepaid tuition trust

WV ST §18-30-6 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 18. Education

Article 30. West Virginia College Prepaid Tuition and Savings Program Act

...Tuition Trust Fund at the end of the fiscal year **immediately preceding** the date of the report. (2)The Prepaid Tuition Trust.

176. §59-3-3.Rates for legal advertisements; computation; filing affidavits with secretary of state

WV ST §59-3-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 59. Fees, Allowances and Costs; Newspapers; Legal Advertisements

Article 3. Newspapers and Legal Advertisements

...twelve month time period ending the thirtieth day of June **immediately preceding** the November in which the affidavit is filed, and sufficient...

177. CHAPTER VII.Rules to Govern Mandatory Continuing Legal Education

WV R BAR RULES AND REGS Ch. 7 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

State Court Rules

Constitution, By-Laws and Rules and Regulations of the West Virginia State Bar

Rules and Regulations

...legal ethics, office management, or substance abuse, within twelve months **immediately preceding** the application to change to active status. Effective July 1...

178. §23-4-14.Computation of benefits

WV ST §23-4-14 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 23. Workers' Compensation

Article 4. Disability and Death Benefits

...received during the two months, six months or twelve months **immediately preceding** the date of the injury, whichever is most favorable to...

179. §61-11-21.Cumulative sentences

WV ST §61-11-21 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 61. Crimes and Their Punishment

Article 11. General Provisions Concerning Crimes

...sentences in last three cases to begin when sentence in **immediately preceding** commitment should be completed did not change the sentences nor...

180. §48-20-102.Definitions

WV ST §48-20-102 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 20. Uniform Child Custody Jurisdiction and Enforcement Act

Part1. General Provisions

...child's home state at any time within the six months **immediately preceding** commencement of the action. In re K.R., 2012, 735 S.E...

181. §58-5-14.Appeal bond generally; limitation on amount

WV ST §58-5-14 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 58. Appeal and Error

Article 5. Appellate Relief in Supreme Court of Appeals

...published by the United States Department of Labor for the **immediately preceding** five years. and shall thereafter be adjusted on the first...

182. §52-1-17.Reimbursement of jurors

WV ST §52-1-17 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 52. Juries

Article 1. Petit Juries

...assessment of jury costs in criminal proceedings to those proceedings **immediately preceding** conviction; statute also required assessment of costs "anytime a panel...

183. §11-13J-3.Definitions

WV ST §11-13J-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 13J. Neighborhood Investment Program

...who during the current taxable year has, or during the **immediately preceding** taxable year had, an annual gross personal income not exceeding...

184. §11-3-5.Correction of previous property books; entry of omitted property

WV ST §11-3-5 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 3. Property Tax Assessments Generally

...was properly taxed for year 1939 and for the four **immediately preceding** years, as against contention that since property was omitted for...

185. §11-13C-14.Restrictions and limitations on credits allowed by this article

WV ST §11-13C-14 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 11. Taxation

Article 13C. Business Investment and Jobs Expansion Tax Credit

...the predecessor participant to offset taxes for the taxable year **immediately preceding** the taxable year in which such participant's obligations or interest...

186. §48-22-301. Persons whose consent or relinquishment is required; exceptions

WV ST §48-22-301 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 22. Adoption

Part3. Consent or Relinquishment; Abandonment

...otherwise communicate with child for continuous period of six months **immediately preceding** filing of adoption petition, and evidence showed that he could...

187. §48-20-201. Initial child custody jurisdiction

WV ST §48-20-201 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 20. Uniform Child Custody Jurisdiction and Enforcement Act

Part 2. Jurisdiction

...child's home state at any time within the six months **immediately preceding** commencement of the action. In re K.R., 2012, 735 S.E...

188. §33-12C-3. Definitions

WV ST §33-12C-3 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 33. Insurance

Article 12C. Surplus Line--Nonadmitted Insurance Act

...and casualty insurance premiums in excess of \$100,000 in the **immediately preceding** twelve months, and meets at least one of the following...

189. §3-5-13. Form and contents of ballots

WV ST §3-5-13 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 5. Primary Elections and Nominating Procedures

...prescribed by the Secretary of State, printed in bold type **immediately preceding** the names of the candidates for those offices on the...

190. §3-5-7. Filing announcements of candidacies; requirements; withdrawal of candidates when section applicable

WV ST §3-5-7 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 3. Elections

Article 5. Primary Elections and Nominating Procedures

...named in the certificate of announcement during the sixty days **immediately preceding** the filing of the certificate: Provided, That unless a signed...

191. §46-3-104. Negotiable instrument

WV ST §46-3-104 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 46. Uniform Commercial Code
Article 3. Negotiable Instruments
Part 1. General Provisions and Definitions

...was prepared on printed form containing words "the order of" **immediately preceding**, and words "negotiable and payable" (at certain bank) following, blank...

192. §18A-4-2.State minimum salaries for teachers

WV ST §18A-4-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 18A. School Personnel
Article 4. Salaries, Wages and Other Benefits

...salary supplement on first day of January of fiscal year **immediately preceding** that in which equity appropriation is distributed. violated state's equal...

193. §61-2-4.Voluntary manslaughter; penalty

WV ST §61-2-4 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 61. Crimes and Their Punishment
Article 2. Crimes Against the Person

...caused by a rock thrown by the prisoner, but that **immediately preceding** the act of throwing this rock the prisoner had been ...

194. §11-21-24.Senior citizen property tax relief credit for tax years beginning before 2012

WV ST §11-21-24 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 11. Taxation
Article 21. Personal Income Tax
Part II. Residents

...valorem taxes assessed on the homestead for the tax year **immediately preceding** the tax year for which the taxpayer's application for tax...

195. §5-10-14.Service credit; retroactive provisions

WV ST §5-10-14 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 5. General Powers and Authority of the Governor, Secretary of State and Attorney General; Board of Public Works; Miscellaneous Agencies, Commissions, Offices, Programs, Etc.
Article 10. West Virginia Public Employees Retirement Act

...or her employment occurred within a period of thirty years **immediately preceding** the date the political subdivision became a participating public employer...

196. §21-5-1.Definitions

WV ST §21-5-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 21. Labor
Article 5. Wage Payment and Collection

...all wages earned up to and including the twelfth day **immediately preceding** the regular payday. (j)The term " construction " means the furnishing...

197. §18B-10-1.Enrollment, tuition and other fees at education institutions; refund of fees

WV ST §18B-10-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia
Chapter 18B. Higher Education
Article 10. Fees and Other Money Collected at State Institutions of Higher Education

...total state base operating budget appropriations in the fiscal year **immediately preceding**; "(C)A new capital fee or an increase in an...

198. §48-5-105.Residency requirements for maintaining an action for divorce

WV ST §48-5-105 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 48. Domestic Relations

Article 5. Divorce

Part 1. General Provisions

...The residency has continued uninterrupted through the one-year period **immediately preceding** the filing of the action.
(b)An action for divorce...

199. §23-3-1.Compensation fund; catastrophe and catastrophe payment defined; compensation by employers

WV ST §23-3-1 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 23. Workers' Compensation

Article 3. Workers' Compensation Fund

...assessed against an employer wholly without the two-year period **immediately preceding** filing of claimant's application, and no award could be charged...

200. §17.Courts open to all--Justice administered speedily

WV CONST Art. 3, §17 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

The Constitution of West Virginia (1872)

Article III

...salary supplement on first day of January of fiscal year **immediately preceding** that in which equity appropriation is distributed, violated state's equal...

201. §61-2-12.Robbery or attempted robbery; penalties

WV ST §61-2-12 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 61. Crimes and Their Punishment

Article 2. Crimes Against the Person

...in immediate vicinity of home where crimes occurred during hours **immediately preceding** crimes and that during such time defendant had attempted to...

202. §55-2-12.Personal actions not otherwise provided for

WV ST §55-2-12 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 55. Actions, Suits and Arbitration; Judicial Sale

Article 2. Limitation of Actions and Suits

...only entitled to recover damages inflicted during period of limitations **immediately preceding** filing of complaint, since statute of limitations began to run...

203. §10.Safeguards for life, liberty and property

WV CONST Art. 3, §10 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

The Constitution of West Virginia (1872)

Article III

...salary supplement on first day of January of fiscal year **immediately preceding** that in which equity appropriation is distributed, violated state's equal...

204. §53-1-2. Jurisdiction of writs of mandamus and prohibition; by whom rule to show cause or peremptory writ issued

WV ST §53-1-2 West's Annotated Code of West Virginia

West's Annotated Code of West Virginia

Chapter 53. Extraordinary Remedies

Article 1. Prohibition and Mandamus

...maximum, it may, notwithstanding section 6, within the 90 days **immediately preceding** a general election, be compelled by mandamus to make such...

1. Buchanan v. Workers' Compensation Com'r

Supreme Court of Appeals of West Virginia. July 12, 1984 173 W.Va. 516 318 S.E.2d 460

Appeal was taken from an order of the Workers' Compensation Appeal Board affirming state Workers' Compensation Commissioner's ruling rejecting claimant's application for occupational pneumoconiosis benefits. The Supreme Court of Appeals, Miller, J., held that determination, in composite statute containing various nonmedical determinations that...

...period of not less than ten years during 15 years **immediately preceding** date of last exposure, is not an exposure eligibility requirement...

...period of not less than ten years during 15 years **immediately preceding** date of last exposure, is not an exposure eligibility requirement.

2. Zackery v. SWCC

Supreme Court of Appeals of West Virginia. April 10, 1979 162 W.Va. 932 253 S.E.2d 532

The Workmen's Compensation Appeal Board denied claimants statutory presumption of occupational pneumoconiosis, and claimants appealed. The Supreme Court of Appeals, Harshbarger, J., held that statute contained no requirement that claimant had to be exposed to hazards of occupational pneumoconiosis for a period of ten years during 15 years...

...pneumoconiosis for a period of ten years during 15 years **immediately preceding** date of his last exposure solely within state of West...

... for a period of ten years during the 15 years **immediately preceding** the date of his last exposure" solely within the state...

3. Harrison v. Workers' Compensation Com'r

Supreme Court of Appeals of West Virginia. July 07, 1989 181 W.Va. 598 383 S.E.2d 780

Widow appealed order of Workers' Compensation Commissioner which denied her dependent benefits for failure to establish that husband was exposed to asbestos for requisite periods. The Supreme Court of Appeals held that Commissioner's order was arbitrary and not supported by the evidence. Reversed and remanded.

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of such last exposure. See syl. pt. 1...

...for a period of ten years during the fifteen years **immediately preceding** the date of his last exposure to such hazard and...

4. Maynard v. State Workmen's Compensation Com'r

Supreme Court of Appeals of West Virginia. December 13, 1977 161 W.Va. 21 239 S.E.2d 504

Corporate employer of claimant appealed from Workmen's Compensation Commissioner's ruling granting claimant a 20% permanent partial disability award for occupational pneumoconiosis and charging 87.68% of the award to such corporation and 12.32% to company which had previously employed claimant. The Supreme Court of Appeals, Harshbarger, J., held...

... not less than two continuous years during the ten years **immediately preceding** the date of his last exposure. Proof by claimant that...

...for as much as sixty days during the three years **immediately preceding** the date of his last exposure to the hazards, makes...

5. Sluss v. Workers' Compensation Com'r

Supreme Court of Appeals of West Virginia. March 01, 1985 174 W.Va. 433 327 S.E.2d 413

Workers' compensation claimants appealed from decisions of the Workers' Compensation Appeal Board, denying them presumption that a claimant suffering from a chronic respiratory disease, after exposure to coal

dust for a period of ten years during 15 years **immediately preceding** date of his last exposure, is suffering from occupational pneumoconiosis...

...dust for a period of ten years during 15 years **immediately preceding** date of his last exposure, is suffering from occupational pneumoconiosis...

...for a period of ten years during the fifteen years **immediately preceding** the date of his last exposure," where time off due...

6. Marlin v. Bill Rich Const., Inc.

Supreme Court of Appeals of West Virginia. November 15, 1996 198 W.Va. 635 482 S.E.2d 620

Construction workers who had been exposed to asbestos while working on renovation project at public high school, together with members of their households, brought action against county board of education, general contractor, architect and asbestos consultant, seeking to recover damages for emotional distress. The Circuit Court, Wetzel...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of such last exposure. An application for benefits...

...much as sixty days during the period of three years **immediately preceding** the date of last exposure to the hazards of occupational...

7. Newman v. Richardson

Supreme Court of Appeals of West Virginia. October 16, 1991 186 W.Va. 66 410 S.E.2d 705

Widows of employees who alleged that employees' deaths resulted from exposure to asbestos dust petitioned for writ of mandamus to compel Workers' Compensation Commissioner to refer rejected claims to Occupational Pneumoconiosis Board for review. The Supreme Court, Neely, J., held that Commissioner exceeded his authority in finding that...

...meeting the definition of occupational pneumoconiosis set forth in the **immediately preceding** sentence [Emphasis added]. However, in order to be considered for...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of such last exposure. When a disease is...

8. Joshua D.R. v. David A.M.

Supreme Court of Appeals of West Virginia. April 18, 2013 231 W.Va. 545 746 S.E.2d 536

FAMILY LAW - Adoption. Evidence of father's abandonment of child should have allowed stepfather to invoke presumption of abandonment in order to adopt child.

...visitation or contact with the child during the six months **immediately preceding** the filing of the petition for adoption by child's mother...

...visitation or contact with the child during the six months **immediately preceding** the filing of the petition for adoption. The petitioners argue...

9. Moore v. Aker Oil and Gas US, LLC

Supreme Court of Appeals of West Virginia. May 07, 2015 Not Reported in S.E.2d 2015 WL 2166017

Petitioner Judy Moore, widow of Curtis R. Moore, by Cathy Greiner, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Aker Oil and Gas US, LLC, by Daniel Murdock, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated July 7, 2014, in which the Board...

...of not less than two years during the ten years **immediately preceding** the date of last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of last exposure. On July 7, 2014, the...

...of not less than two years during the ten years **immediately preceding** the date of his or her last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of his or her last exposure. Further, West...

10. Rogers v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. November 09, 1954 140 W.Va. 376 84 S.E.2d 218

Claimants, who were former employees of coal company, filed separate claims for silicosis benefits. The claims were consolidated. The Workmen's Compensation Appeal Board entered an order affirming order of Compensation Commissioner insofar as it awarded compensation to each claimant for silicosis in the first stage, but reversed the order of the...

...period of not less than two years during ten years **immediately preceding** date of his last exposure to that hazard and during...

...period of not less than two years during ten years **immediately preceding** date of his last exposure to that hazard and during...

11. Richardson v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. February 10, 1953 137 W.Va. 819 74 S.E.2d 258

Claim for workmen's compensation on account of silicosis. The Workmen's Compensation Appeal Board entered an order denying benefits, and the claimant appealed. The Supreme Court of Appeals, Lovins, J., held that since the claim had been filed within two years of the last exposure to the hazard of silicon dioxide dust, the application was timely,...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazard. Acts...

...of not less than 2 years during the 10 years **immediately preceding** the date of his last exposure to such hazard." Section ..

12. Bumpus v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. February 10, 1953 137 W.Va. 815 74 S.E.2d 262

Claim for workmen's compensation benefits on account of silicosis. The Workmen's Compensation Appeal Board entered an order affirming the commissioner's denial of the application, and claimant appealed. The Supreme Court of Appeals, Riley, J., held that since the application had been filed within two years of claimant's last exposure to the hazard...

...claimant had not worked 60 days during the two years **immediately preceding** the filing of his claim. Acts 1949, c. 136, art...

...much as sixty days during the period of two years **immediately preceding** the filing of the application. The allocation shall be based...

13. State v. Austin

Supreme Court of Appeals of West Virginia. May 08, 1923 93 W.Va. 704 117 S.E. 607

Error to Circuit Court, Mercer County. McTier Austin was convicted of forgery, and he brings error. Reversed and remanded.

...of the state and county for at least one year **immediately preceding** the preparation of the grand jury list, or if his...

...of the state and county for at least one year **immediately preceding** his service; and (4) that he be not an office...

14. Parks v. Parks

Supreme Court of Appeals of West Virginia. May 06, 1930 109 W.Va. 138 153 S.E. 242

Appeal from Circuit Court, Ritchie County. Suit for divorce by Lucille Dorothy Parks against William T. Parks, in which defendant filed cross-bill. From the decree, plaintiff appeals. Reversed and remanded.

...is bona fide resident of state at least one year **immediately preceding** suit (Code 1913, c. 64, § 7 , as amended by...

...and (2) has resided therein for at least one year **immediately preceding** the bringing of the suit. Appeal from Circuit Court, Ritchie...

15. White v. White

Supreme Court of Appeals of West Virginia. January 15, 1929 106 W.Va. 569 146 S.E. 376

Case certified from Circuit Court, Barbour County. Suit by Florence B. White against Clarence S. White. On certified question relative to jurisdiction of circuit court. Ruling of the trial court reversed.

...and shall have resided therein for at least one year **immediately preceding** the bringing of the suit; and this is true, notwithstanding ..

...state, and has resided therein for a year or more **immediately preceding** the institution of the suit. Case certified from Circuit Court...

16. Spears v. Goldberg

Supreme Court of Appeals of West Virginia.	October 08, 1940	122 W.Va. 514	11 S.E.2d 532
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Error from Circuit Court, Randolph County. Action by Stella Ford Spears against Alex Goldberg and others, to recover damages for injuries sustained by the plaintiff in a fall on a ramp at entrance to a store. To review an adverse judgment, plaintiff brings error. Reversed and remanded.

...guilty of negligence in her manner of entering upon entranceway **immediately preceding** her fall. 1. What constitutes a nuisance is a question...

...guilty of negligence in her manner of entering upon entranceway, **immediately preceding** her fall. 192 279 Nuisance 279I
Private Nuisances 279I(D...

17. Turner v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. June 26, 1962 147 W.Va. 145 126 S.E.2d 379

Workmen's compensation case. The Workmen's Compensation Appeal Board awarded claimant compensation benefits for silicosis and an appeal was taken. The Supreme Court of Appeals, 123 S.E.2d 880, reversed. On rehearing, the Supreme Court of Appeals, Browning, J., held that claimant was not entitled to silicosis benefits where he was suffering from...

...assessed against an employer wholly without the two-year period **immediately preceding** filing of claimant's application, and no award could be charged...

...assessed against an employer totally without the two-year period **immediately preceding** the filing of claimant's application. Counsel for the claimant, in...

18. Deepwater Ry. Co. v. Honaker

Supreme Court of Appeals of West Virginia. November 02, 1909 66 W.Va. 136 66 S.E. 104

Error to Circuit Court, Mercer County. Condemnation proceedings by the Deepwater Railway Company. W. B. Honaker, committee for Huldah Alvis, intervened by petition setting up right and title to the condemnation money paid into court, and T. C. Gooch and others, trustees of the Methodist Episcopal Church South, filed their answer thereto...

...conveyed, devised or dedicated," has application alone to the clause **immediately preceding**, and was not intended to validate void deeds of conveyance...

...conveyed, devised, or dedicated, has application alone to the clause **immediately preceding**, providing that any conveyance for the use of two or...

19. Spears v. Goldberg

Supreme Court of Appeals of West Virginia.	December 30, 1940	122 W.Va. 514	12 S.E.2d 513
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Dissenting Opinion.

...guilty of negligence in her manner of entering upon entranceway, **immediately preceding** her fall. 192 279 Nuisance 279I
Private Nuisances 279I(A...

20. Payne v. State Compensation Director

Supreme Court of Appeals of West Virginia. March 16, 1965 149 W.Va. 316 140 S.E.2d 793

Appeal from an order of Workmen's Compensation Appeal Board allowing silicosis benefits to claimant and remanding claim for determination of disability. The Supreme Court of Appeals, Browning, P., held that where evidence was uncontradicted that claimant's silicotic condition was improved, and dust present at claimant's job did not contain...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure thereto, which findings were...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards. The..

21. Thornton v. West Virginia Office of Ins. Com'r

Supreme Court of Appeals of West Virginia. March 06, 2013 Not Reported in S.E.2d 2013 WL 829033

Petitioner Mildred Thornton, widow of Carl Thornton, by John Skaggs, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. The West Virginia Office of Insurance Commissioner, by Mary Rich Maloy, its attorney, and Danis Industries Corporation, by Timothy Huffman, its attorney, filed timely responses. This...

...of not less than two years during the ten years **immediately preceding** the date of his or her last exposure to such hazards. or for any five of the fifteen years **immediately preceding** the date of his or her last exposure." After reviewing...

22. McVey v. Pritt

Supreme Court of Appeals of West Virginia. November 30, 2005 218 W.Va. 537 625 S.E.2d 299

TRANSPORTATION - Motor Vehicles. Ten-year revocation of driver's license was required after arrest for DUI within ten years of prior license suspension for DUI offense.

...has been previously suspended or revoked within the ten years **immediately preceding** the date of arrest for driving while under the influence...

...weight," 3 which 1998 suspension was "within the ten years **immediately preceding** the date of [his] arrest" 4 for DUI at the...

23. Smith v. Shaw Group, Inc.

Supreme Court of Appeals of West Virginia. July 17, 2013 Not Reported in S.E.2d 2013 WL 3745879

Petitioner Clarence T. Smith Sr., by Patrick Maroney, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. The Shaw Group, Inc., by Michael Watson, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated September 21, 2011, in which the Board affirmed a March...

...of not less than two years during the ten years **immediately preceding** the date of his or her last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of his or her last exposure." The Office...

24. State ex rel. Lacko v. Richardson

Supreme Court of Appeals of West Virginia. October 28, 1994 192 W.Va. 52 450 S.E.2d 641

Claimants for occupational pneumoconiosis benefits brought original proceeding in mandamus to compel Workers' Compensation Commissioner to issue nonmedical orders. The Supreme Court of Appeals, Neely, J., held that: (1) claimants were entitled to writ, since Commissioner did not contact claimants about missing employment information on their...

...of not less than two years during the ten years **immediately preceding** the date of his or her last exposure thereto and...

...of not less than ten years during the fifteen years **immediately preceding** the date of his or her last exposure thereto. If...

25. State ex rel. Crosier v. Callaghan

Supreme Court of Appeals of West Virginia. May 17, 1977 160 W.Va. 353 236 S.E.2d 321

Conservation officers employed by the Department of Natural Resources brought action in mandamus to compel the director of the Department to pay them for hours worked in excess of 42 hours per week. The Supreme Court of Appeals, Harshbarger, J., held that: (1) nothing in the wage and hour law categorically denies wage and hour protections to...

...authorizes payment of back overtime wages for two consecutive years **immediately preceding** an employee's action for unpaid wages. Code, 12-3-17...

...authorizes payment of back overtime wages for two consecutive years **immediately preceding** an employee's action for unpaid wages, though an employer could...

26. Wooten v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. February 19, 1957 142 W.Va. 501 95 S.E.2d 643

Workmen's compensation proceeding. State Compensation Commissioner denied claimant's application for silicosis benefits on ground that application was not timely filed, and applicant appealed. The Workmen's Compensation Appeal Board affirmed commissioner's order, and claimant appealed. The Supreme Court of Appeals, Browning, J., held that...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards. An...

...much as sixty days during the period of two years **immediately preceding** the filing of the application. The allocation shall be based...

27. Office of Disciplinary Counsel v. Niggemyer

Supreme Court of Appeals of West Virginia. March 20, 2007 221 W.Va. 59 650 S.E.2d 158

LEGAL SERVICES - Discipline. Attorney's disregard of Supreme Court of Appeals' two prior orders in disciplinary proceedings warranted license suspension.

...of all receipts from clients for the three-month period **immediately preceding** January 31, 2007. and, on or before May 1, 2007...

...of all receipts from clients for the three-month period **immediately preceding** April 30, 2007. 3 FN3. In this regard, [t]he itemized...

28. Carlone v. United Mine Workers of America Welfare and Retirement Fund

Supreme Court of Appeals of West Virginia. March 21, 1978 161 W.Va. 351 242 S.E.2d 454

Retired miner brought action against trustees of miners' union retirement fund, asserting that he had wrongly been denied benefits under fund. The Circuit Court of Marion County, J. Harper Meredith, J., entered judgment for retired miner, and trustees of fund appealed. The Supreme Court, Miller, J., held that: (1) action of fund trustees, in...

...not have one year of continuous employment in the mines **immediately preceding** his retirement. This was not a requirement at the time...

...of employment for one year in the Bituminous Coal Industry **immediately preceding** retirement." Mr. Carlone wrote a number of letters through the...

29. Cline v. West Virginia Office of Ins. Com'r

Supreme Court of Appeals of West Virginia. December 14, 2011 Not Reported in S.E.2d 2011 WL 8183080

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated October 4, 2010, in which the Board affirmed a May 18, 2010, Order of the Workers' Compensation Office of Judges. In

its Order, the Office of Judges affirmed the claims administrator's August 4, 2009, decision to deny Mr. Cline's application for...

...not less than two years during the last ten years **immediately preceding** the date of his last exposure to such hazards, or for any five of fifteen years **immediately preceding** the date of such last exposure. The Board of Review...

30. Wriston v. West Virginia Office of Ins. Com'r

Supreme Court of Appeals of West Virginia. May 08, 2013 Not Reported in S.E.2d 2013 WL 1976054

Petitioner Robert W. Wriston, by Robert M. Williams, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. The West Virginia Office of Insurance Commissioner, by Jon H. Synder, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated June 17, 2011, in which the...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards or for any five of fifteen years **immediately preceding** the date of his last exposure, in order to be...

31. Gatrell v. Morris

Supreme Court of Appeals of West Virginia. January 20, 1925 98 W.Va. 34 126 S.E. 343

Petition by George M. Gatrell for prohibition to be directed to Hon. P. D. Morris, Circuit Judge, and others, to restrain enforcement of decree awarding temporary alimony and suit money in suit against petitioner for divorce by Lora Gatrell. Writ denied.

...an actual bona fide citizen for more than a year **immediately preceding** suit, and that both parties were residents of a certain...

...an actual bona fide citizen for more than a year **immediately preceding** suit, and that both parties were residents of a certain...

32. Nutter v. Harvey Trucking, Inc.

Supreme Court of Appeals of West Virginia. December 03, 2014 Not Reported in S.E.2d 2014 WL 6838818

Petitioner Wesley A. Nutter, by Patrick Kevin Maroney, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Harvey Trucking, Inc., by Patricia McCullagh, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated August 28, 2013, in which the Board affirmed a...

...for a period of ten years during the fifteen years **immediately preceding** the date of last exposure, West Virginia Code § 23...

...of occupational pneumoconiosis for sixty days during the three years **immediately preceding** the date of last exposure. Though Mountain Energy Transport, LLC...

33. White v. SWCC

Supreme Court of Appeals of West Virginia. February 05, 1980 164 W.Va. 284 262 S.E.2d 752

Employee appealed from an order of the Workmen's Compensation Appeal Board which affirmed a ruling of the Workmen's Compensation Commissioner rejecting his claim to compensation benefits for occupational pneumoconiosis. The Supreme Court of Appeals, McGraw, J., held that where a workmen's compensation claimant's original application for...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure. The sole issue for...

...continuous for at least 2 years in the 10 years **immediately preceding** the date of last exposure? 4. Was the claimant exposed. .

34. State ex rel. Kuhn v. Adams

Supreme Court of Appeals of West Virginia. May 27, 1958 143 W.Va. 551 103 S.E.2d 530

Habeas corpus proceeding for release from imprisonment in penitentiary. The Supreme Court of Appeals, Ducker, J., held that where defendant pleaded guilty to four indictments and was sentenced to varying terms but each sentence included provision putting defendant on probation for three years, such sentences were required by statute to run...

...sentences, in last three cases to begin when sentence in **immediately preceding** commitment should be completed did not change the sentences nor...

...sentences in last three cases to begin when sentence in **immediately preceding** commitment should be completed did not change the sentences nor...

35. Puritan Coal Corp. v. Davis

Supreme Court of Appeals of West Virginia. March 18, 1947 130 W.Va. 20 42 S.E.2d 807

Mandamus proceeding by the Puritan Coal Company against C. S. Davis, Director of Unemployment Compensation, to require the director to fix the rate of contribution for the petitioner to the Unemployment Compensation Fund for the calendar year of 1946 at 0.9 per cent. and to accept settlement of petitioner's account for 1946 on that basis. Writ...

...a current calendar year, for the last quarter of the **immediately preceding** calendar year, but which report is filed and which payment...

...with respect to benefits charged against his account during the **immediately preceding** three consecutive years in which his account was chargeable with...

36. State ex rel. Williams v. Department of Military Affairs and Public Safety, Div. of Corrections

Supreme Court of Appeals of West Virginia. October 11, 2002 212 W.Va. 407 573 S.E.2d 1

CRIMINAL JUSTICE - Prisons. Notice of inmates' alleged disciplinary violations was inadequate.

...for the restoration of good time credit until two years **immediately preceding** their discharge date; (2) the warden's practice was arbitrary and...

...for the restoration of good time credit until two years **immediately preceding** their discharge date; the Commissioner of Corrections had not approved...

37. In re K.R.

Supreme Court of Appeals of West Virginia. November 20, 2012 229 W.Va. 733 735 S.E.2d 882

FAMILY LAW - Child Custody. Record was insufficient to determine that court had jurisdiction over grandmother's petition for guardianship of children.

...child's home state at any time within the six months **immediately preceding** commencement of the action. West's Ann.W.Va.Code, 48-20-102(g)...

...child's "home state" at any time within the six months **immediately preceding** commencement of the action. 4. 'In the law concerning custody...

38. State ex rel. Bd. of Educ. for County of Randolph v. Bailey

Supreme Court of Appeals of West Virginia. December 15, 1994 192 W.Va. 534 453 S.E.2d 368

School board sued state officials, challenging statute providing for supplemental payments of salaries of teachers and service personnel. The Circuit Court, Kanawha County, A. Andrew MacQueen, C.J., entered judgment for state and appeal was taken. The Supreme Court of Appeals, Neely, J., held that statute providing for equalization...

...salary supplement on first day of January of fiscal year **immediately preceding** that in which equity appropriation is distributed; violated state's equal...

...on the first day of January of the fiscal year **immediately preceding** that in which the salary equity appropriation is distributed: Provided...

39. Franklin Ins. Co. v. State

Supreme Court of Appeals of West Virginia. July 01, 1872 5 W.Va. 349 1872 WL 2901

The act of March 2d, 1864, entitled "An act to amend the law concerning insurance and express companies," providing that insurance companies should make return of their premiums collected and uncollected, and pay into the State treasury a tax of three per cent thereon, is unconstitutional; being in conflict with the provisions requiring...

...long space of time, to-wit, for the six months **immediately preceding** the first day of February, 1866, and ever since, has...

...charged for a liability which accrued for the six months **immediately preceding** the first day of August, 1866; thus charging the defendant...

40. Shew v. Prince

Supreme Court of Appeals of West Virginia. December 14, 1937 119 W.Va. 524 194 S.E. 345

Error to Circuit Court, Raleigh County. Action by Annie Shew and Sarah Lewis against I. C. Prince, administrator, and others. To review a judgment of the circuit court on appeal from the county court, the defendants bring error. Judgment affirmed in part, and reversed in part.

...which they furnished him during the period of five years **immediately preceding** his death. 2. An attorney at law, to whom, as ..

...lodging, and essential service furnished him for 5-year period **immediately preceding** his death, where they were under no legal or moral...

41. Haggard v. Monongahela Transport Co.

Supreme Court of Appeals of West Virginia. December 11, 1928 106 W.Va. 522 146 S.E. 49

(Additional Syllabus by Editorial Staff.) Order of trial judge, granting a new trial after verdict in favor of bus passenger against transport company for injuries while riding as a passenger on a motorbus, held not so plainly wrong under the evidence as to constitute a wrongful invasion of the province of the jury. Error to Circuit Court,...

...not observe the bus until after passing a small car, **immediately preceding** the bus, when it "appeared to be pulling out to...

...Pertinent parts of his testimony in relation to the situation **immediately preceding** the accident follow: "Q. When did you first see the...

42. Turner v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. January 30, 1962 147 W.Va. 1 123 S.E.2d 880

Workmen's compensation case. The Workmen's Compensation Commissioner granted the claimant the statutory benefits for silicosis in the first stage. The Workmen's Compensation Appeal Board affirmed such order. The employer appealed. The Supreme Court of Appeals, Browning, J., held that the evidence was insufficient to establish perceptible...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure thereto; and, referred the...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure thereto,' are controlling since...

43. State v. Huffman

Supreme Court of Appeals of West Virginia. November 21, 1911 69 W.Va. 770 73 S.E. 292

Error to Circuit Court, Nicholas County. C. B. Huffman was convicted of arson, and brings error. Affirmed.

...owner of the property burned, covering a series of years **immediately preceding** the burning of the building charged in the indictment, though...

...owner of the property burned, covering a series of years **immediately preceding** the burning of the building charged in the indictment, though...

44. Charleston Nat. Bank v. Lemkuhl-Shepherd Co.

Supreme Court of Appeals of West Virginia. October 07, 1924 97 W.Va. 284 125 S.E. 241

Error to Circuit Court, Mercer County. Action by the Charleston National Bank against the Lemkuhl-Shepherd Company. There was an order setting aside the verdict, and defendant brings error. Affirmed.

...on a printed form containing the words "the order of" **immediately preceding**, and the words "negotiable and payable" (at a certain bank...

...was prepared on printed form containing words "the order of" **immediately preceding**, and words "negotiable and payable" (at certain bank) following, blank...

45. State ex rel. Willhide v. King

Supreme Court of Appeals of West Virginia. May 16, 1944 126 W.Va. 785 30 S.E.2d 234

Original mandamus proceeding by State of West Virginia, on the relation of Victor C. Willhide, against C. O. King, Mayor, and others to compel board of canvassers to count 12 votes cast in favor of relator in municipal election. Peremptory writ denied.

...county court at any time, except during the two weeks **immediately preceding** any election, to show cause why the challenge should be...

...be made throughout the year except during the two weeks **immediately preceding** any election, and if any voter shall move from one...

46. Wheeling Clinic v. Van Pelt

Supreme Court of Appeals of West Virginia. December 09, 1994 192 W.Va. 620 453 S.E.2d 603

Medical partnership sued former partner, seeking to enforce liquidated damages provision calling for payment to partnership of 100% of aggregate earnings from last year of participation in partnership. The Circuit Court, Ohio County, Ronald Wilson, J., entered judgment upholding validity of covenant not to compete but reducing liquidated damages to...

...rendered to the partnership in the twelve (12) calendar months **immediately preceding** the effective date of his retirement from the partnership." 3...

...rendered to the partnership in the twelve (12) calendar months **immediately preceding** the effective date of his retirement from the partnership. FN4...

47. State ex rel. Hatfield v. Logan County Court

Supreme Court of Appeals of West Virginia. September 13, 1924 97 W.Va. 141 124 S.E. 603

Original mandamus by the State, on the relation of Coleman Hatfield, against the County Court of Logan County and others. Writ awarded.

...6, c. 3 of the Code, within the 90 days **immediately preceding** a general election, be compelled by mandamus to make such...

...maximum, it may, notwithstanding section 6, within the 90 days **immediately preceding** a general election, be compelled by mandamus to make such...

48. Strother, Sale, Curd & St. Clair v. McDowell County Nat. Bank

Supreme Court of Appeals of West Virginia. November 22, 1932 113 W.Va. 75 166 S.E. 818

Error to Circuit Court, McDowell County. Action by D. J. F. Strother and others against the McDowell County National Bank. To review a judgment for the defendant, the plaintiffs bring error. Affirmed. MAXWELL, J., dissenting.

...visiting the bank during a period of approximately six months **immediately preceding** the time of its ceasing to do business. Written communications...

...in question were extraordinary. Pending negotiations between the two banks, **immediately preceding** the transfer, First National Bank, through its cashier, prepared and...

49. State v. Snyder

Supreme Court of Appeals of West Virginia. September 20, 1921 89 W.Va. 96 108 S.E. 588

Certified from Circuit Court, Barbour County. Amanda Belle Snyder was indicted for a felony for marrying within the time in which she was forbidden to marry by a divorce decree under Code 1918, c. 64, § 14 (Code Supp. 1918, § 3648a). Defendant's demurrer to and motion to quash the indictment were overruled, and the court certified its...

...from the criminal liability for the violation of the section **immediately preceding** the latter. The Legislature lawfully may authorize a provision in...

...a divorcee from criminal liability for violation of the section **immediately preceding** the latter. 190 134 Divorce 134VI Operation and Effect of...

50. Staton v. Wyoming County Bd. of Educ.

Supreme Court of Appeals of West Virginia. December 20, 1990 184 W.Va. 369 400 S.E.2d 613

Unsuccessful candidate to be high school principal sought writ of mandamus to obtain the position. The Circuit Court, Wyoming County, John S. Hrko, J., refused to award position to unsuccessful candidate, and he appealed. The Supreme Court of Appeals held that: (1) calculation of seniority of candidates should not have...

...the principal of Herndon High School for the four years **immediately preceding** his application, had served as assistant principal at Mullens High...

...assistant principal at Mullens High School for the four years **immediately preceding** his application, and was classified for salary purposes as masters...

51. West Virginia Libertarian Party v. Manchin

Supreme Court of Appeals of West Virginia. September 16, 1980 165 W.Va. 206 270 S.E.2d 634

Third-party political parties, third-party gubernatorial candidate and independent presidential candidate filed petition for writ of mandamus challenging constitutionality of various provisions of state code governing their access to ballot for general election. The Supreme Court of Appeals, Miller, J., held that: (1) failure to provide reasonable...

...total vote cast only for governor at the general election **immediately preceding** may nominate candidates and select committees by party conventions, provided...

...disaffiliated from any political party for a one-year period **immediately preceding** the primary election and also not to have voted in the **immediately preceding** primary. It was claimed that these restrictions were an undue...

52. Mounts v. Chafin

Supreme Court of Appeals of West Virginia. November 15, 1991 186 W.Va. 156 411 S.E.2d 481

Deputy sheriff petitioned for mandamus to compel reinstatement. Writ was issued by the Circuit Court, Mingo County, Elliott E. Maynard, J., and sheriff appealed. The Supreme Court of Appeals, Miller, C.J., held that: (1) once Governor's Committee on Crime, Delinquency and Correction advised sheriff that deputy was not properly...

...for a period of not less than five consecutive years **immediately preceding** the date of application for certification." 2 W.Va.Code, 30-29...

...for a period of not less than seven consecutive years **immediately preceding** the date of application for certification." W.Va.Code, 30-29-5...

53. Tillis v. Wright

Supreme Court of Appeals of West Virginia. July 07, 2005 217 W.Va. 722 619 S.E.2d 235

GOVERNMENT - Elections. Board's refusal to certify candidate in county general election was a disqualification allowing nomination of replacement.

...the time of her nomination and throughout the sixty days **immediately preceding** that date. The Board based its refusal to certify Ms...

...named in the certificate of announcement during the sixty days **immediately preceding** the filing of the certificate: Provided, That unless a signed...

54. Harrison v. Commissioner, Div. of Motor Vehicles

Supreme Court of Appeals of West Virginia. June 03, 2010 226 W.Va. 23 697 S.E.2d 59

TRANSPORTATION - Motor Vehicles. Enhanced license revocation based on prior no-contest plea did not violate due process.

...this section for conduct which occurred within the ten years **immediately preceding** the date of arrest; (2)Any suspension or revocation on...

...this chapter for conduct which occurred within the ten years **immediately preceding** the date of arrest; or (3)Any revocation under the...

55. State v. Dickey

Supreme Court of Appeals of West Virginia. April 08, 1899 46 W.Va. 319 33 S.E. 231

Brannon, J., dissenting. Error to circuit court, Braxton county; W. G. Bennett, Judge. John Dickey was convicted of manslaughter, and brings error. Reversed.

...caused by a rock thrown by the prisoner, but that **immediately preceding** the act of throwing this rock the prisoner had been...

...caused by a rock thrown by the prisoner, but that **immediately preceding** the act of throwing this rock the prisoner had been...

56. Stone v. Rudolph

Supreme Court of Appeals of West Virginia. December 12, 1944 127 W.Va. 335 32 S.E.2d 742

Error from Circuit Court, Fayette County. Action of trespass on the case by William H. Stone against Vernon Rudolph, trading and doing business as Krispy Kreme Doughnut Company, and against Holly Hopkins to recover for injuries sustained in a collision between automobile, owned by defendant Rudolph and operated by defendant Hopkins, in which...

...forty-four times or six times a week during the **immediately preceding** six months. He had returned, of course, at a different...

...driving this route six days every week for six months **immediately preceding** this, and that is your observation, that the fog wasn't...

57. Greene Line Terminal Co. v. Martin

Supreme Court of Appeals of West Virginia. October 01, 1940 122 W.Va. 483 10 S.E.2d 901

Appeal from Circuit Court, Cabell County. Statutory proceeding by the Greene Line Terminal Company against W. M. Martin, Assessor, etc., and others, for review of an assessment of property for taxation purposes. From an adverse judgment, plaintiff brings error. Affirmed.

...was properly taxed for year 1939 and for the four **immediately preceding** years, as against contention that since property was omitted for...

...error in back taxing a chattel real for four years **immediately preceding** the year for which it is currently taxed. 4. Under...

58. State v. Harden

Supreme Court of Appeals of West Virginia. June 04, 2009 223 W.Va. 796 679 S.E.2d 628

CRIMINAL JUSTICE - Self-Defense. Evidence supported finding that defendant's act of shooting her husband was done in self-defense.

...that the decedent brutally attacked the defendant during the hours **immediately preceding** the decedent's death. The State concedes this point, acknowledging that...

...had sexually assaulted the defendant. Finally, the defendant testified that **immediately preceding** her shooting the decedent, the decedent had again threatened her...

59. Fenton Art Glass Co. v. West Virginia Office of Ins. Com'r

Supreme Court of Appeals of West Virginia. June 26, 2008 222 W.Va. 420 664 S.E.2d 761

LABOR AND EMPLOYMENT - Workers' Compensation. BOR erred in substituting its judgment on occupational pneumoconiosis claim for that of OP Board and OJO on a medical issue of fact.

...for a period of ten years during the fifteen years **immediately preceding** the date of his or her last exposure to such...

...of not less than two years during the ten years **immediately preceding** the date of his or her last exposure to the..

60. West Virginia Consol. Public Retirement Bd. v. Carter

Supreme Court of Appeals of West Virginia. June 14, 2006 219 W.Va. 392 633 S.E.2d 521

LABOR AND EMPLOYMENT - Benefit Plans. Payments for unused accrued vacation time could not be included when calculating retirement benefits for public employees.

...pay, totaling \$14,471.10, in installments over the three months **immediately preceding** his retirement (May, June and July, 2001). Trembush explained that...

...service contained within the member's ten years of credited service **immediately preceding** the date his or her employment with a participating public...

61. Cleavenger v. Franklin Fire Ins. Co. of Wheeling, W.Va.

Supreme Court of Appeals of West Virginia. March 31, 1900 47 W.Va. 595 35 S.E. 998

Appeal from circuit court, Roane county; Reese Blizzard, Judge. Suit by John C. Cleavenger against the Franklin Fire Insurance Company of Wheeling, W. Va. Decree for plaintiff, and defendant appeals. Affirmed.

...estimated according to the actual cash value of said property **immediately preceding** the fire or the time the loss should happen, to...

...in the property, nor the actual value of the property **immediately preceding** the fire, which cash value should in no case exceed...

62. In re Adoption of C.R.

Supreme Court of Appeals of West Virginia. May 08, 2014 233 W.Va. 385 758 S.E.2d 589

FAMILY LAW - Adoption. Biological father abandoned child so as to warrant termination of his parental rights to permit stepfather to adopt child.

...the lack of communication to exist for the six months **immediately preceding** the adoption petition, the support requirement of subsection (1) contains...

Supreme Court of Appeals of West Virginia. September 03, 2010 227 W.Va. 285 708 S.E.2d 479

...but who has resided continuously with the minor for the **immediately preceding** six month period, may consent to health care and treatment.

...or who has resided with a minor continuously during the **immediately preceding** six month period, to consent to health care and treatment...

Supreme Court of Appeals of West Virginia.	January 23, 1968	152 W.Va. 37	158 S.E.2d 896
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...of the State and county for at least one year **immediately preceding** the preparation of the list, and shall not be officeholders...

...of the State and county for at least one year **immediately preceding** the preparation of the list, and shall not be officeholders...

Supreme Court of Appeals of West Virginia. December 15, 1993 190 W.Va. 590 439 S.E.2d 455

...previously suspended or revoked the person's license within ten years **immediately preceding** the date of arrest, the period of revocation shall be...

... the person's license more than once within the ten years **immediately preceding** the arrest, the period of revocation shall be for the...

Supreme Court of Appeals of West Virginia.	December 18, 1985	175 W.Va. 792	338 S.E.2d 393
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... was committed on November 21, 1977, thus within five years **immediately preceding** September 1, 1981. FN8. Former Code, 17C-5A-2 (d...

...of this chapter, which offense was committed within five years **immediately preceding** the effective date [September 1, 1981] of said section two...

Supreme Court of Appeals of West Virginia.	July 07, 2005	217 W.Va. 406	618 S.E.2d 415
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LABOR AND EMPLOYMENT - Contracts. Employees' agreement was enforceable non-piracy agreement, rather than covenant not to compete.

...of Employer at any time within the two year period **immediately preceding** Employee's termination; or (3) whom Employee called upon while in...

...prospective client, customer or insured during the two year period **immediately preceding** the termination of Employee's employment. 2 FN2. The Employment Agreement...

68. Kubachka v. State Workmen's Compensation Com'r

Supreme Court of Appeals of West Virginia. October 23, 1979 163 W.Va. 601 259 S.E.2d 21

Claimant appealed from Workmen's Compensation Appeal Board decision affirming Workmen's Compensation Commissioner's and Occupational Pneumoconiosis Board's determination that claimant had occupational pneumoconiosis but had no disability. The Supreme Court of Appeals, Miller, J., held that: (1) award for permanent disability could not be denied to...

...meeting the definition of occupational pneumoconiosis set forth in the **immediately preceding** sentence." W.Va.Code, 23-4-6a, provides: "If an employee is...

...for a period of ten years during the fifteen years **immediately preceding** the date of his last exposure, [FN2] it is presumed...

69. In re Jeffries

Supreme Court of Appeals of West Virginia. December 14, 1998 204 W.Va. 360 512 S.E.2d 873

FAMILY LAW - Adoption. Finding that biological father did not abandon child was clearly erroneous.

...otherwise communicate with child for continuous period of six months **immediately preceding** filing of adoption petition, and evidence showed that he could...

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition.
(d)Notwithstanding any provision...

70. In re Adoption of S.A.W.

Supreme Court of Appeals of West Virginia. December 07, 2015 Not Reported in S.E.2d 2015 WL 8232703

Petitioner D.S., pro se, appeals two orders of the Circuit Court of Nicholas County regarding the adoption of the minor child, S.A.W. In the first order, entered on August 22, 2014, the circuit court determined that petitioner, S.A.W.'s biological father, abandoned her pursuant to West Virginia Code § 48-22-306, and granted the...

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition." to. 10.
After an...

.. whether the respondent provided financial support during the six months **immediately preceding** the filing of the petition for adoption. Id. at 543...

71. State ex rel. Lawhead v. Kanawha County Court

Supreme Court of Appeals of West Virginia. July 23, 1946 129 W.Va. 167 38 S.E.2d 897

Mandamus proceeding by the state of West Virginia on the relation of Jean Powell Lawhead, relatrix, against the County Court of Kanawha County and others, respondents, to compel the respondents to register the relatrix as a voter in a certain precinct in the city of Charleston. Writ awarded.

...case pertaining to registration cannot be held within twenty days **immediately preceding** an election in which the person desiring to register seeks...

...no such hearings shall be held within the twenty days **immediately preceding** the election in which the person whose registration is affected...

72. Sams v. Boston

Supreme Court of Appeals of West Virginia. July 27, 1989 181 W.Va. 706 384 S.E.2d 151

Mother filed a petition for modification of a divorce decree so as to obtain permanent legal, as well as physical, custody of the parties' children, who had been taken by father to Florida. The Circuit Court, Wood County, Handlan, J., held that West Virginia had jurisdiction under the Uniform Child Custody Jurisdiction Act, and awarded...

...UCCJ Act to mean the state in which the child **immediately preceding** the time involved lived with his parents, a parent or...
...the state where the child lived for six consecutive months **immediately preceding** commencement of the custody proceeding, extended to include the six...

73. Jamison Coal & Coke Co. v. Carnegie Natural Gas Co.

Supreme Court of Appeals of West Virginia. October 26, 1915 77 W.Va. 30 87 S.E. 451

Appeal from Circuit Court, Marion County. Suit by the Jamison Coal & Coke Company against the Carnegie Natural Gas Company and others. From decree for plaintiff, defendants appeal. Reversed, and bill dismissed. Poffenbarger and Williams, JJ., dissenting.

...for the plaintiff, on this hearing, have summoned the provision **immediately preceding** it, as well as the two subsequent provisions thereof. The...

...the grantee. They argue that in the reservation and exception **immediately preceding** and in those immediately following this reservation the grantors took...

74. White v. Aetna Life Ins. Co.

Supreme Court of Appeals of West Virginia. March 17, 1936 117 W.Va. 214 185 S.E. 236

Error to Circuit Court, Mingo County. Action by Mary S. White against the Aetna Life Insurance Company. To review a judgment for defendant, plaintiff brings error. Affirmed.

...did teach a number of years prior to her marriage. **Immediately preceding** November 17, 1933, she had taught two terms of school...

75. Watkins v. State Compensation Commissioner

Supreme Court of Appeals of West Virginia. September 16, 1930 109 W.Va. 409 157 S.E. 89

Proceeding under the Workmen's Compensation Act by Scott E. Watkins. From a finding of the State Compensation Commissioner that the alleged disability did not result from any injury received in the course of, and arising out of, his employment, claimant appeals. Affirmed.

...and the fact that his monthly earnings for the year **immediately preceding** the alleged injury were very small. Claimant sought to explain...

76. Johnston v. CRW West Virginia

Supreme Court of Appeals of West Virginia. September 12, 2013 Not Reported In S.E.2d 2013 WL 5011857

Petitioner Kenna Johnston, by John H. Shumate Jr., his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. CRW West Virginia, by H. Toney Stroud, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated November 30, 2011, in which the Board affirmed a May 13, 2011,...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards. It...

77. Furman v. Hunt

Supreme Court of Appeals of West Virginia. May 01, 1951 135 W.Va. 716 65 S.E.2d 1

Linnie Furman filed a claim against William French Hunt, Admr., of the estate of Eva B. McVicker for services allegedly performed over a period of six years prior to the death of Mrs. McVicker, at the rate of \$100 per month for all of said period. The finding of the special commissioner of accounts that claimant was entitled to sum of \$4,871, was...

...service which they furnished him during period of five years **immediately preceding** his death. [7] 205H Implied and Constructive Contracts 205HI Nature...

...which they furnished him during the period of five years **immediately preceding** his death.' See also In Re Fox' Estate. 131 W.Va...

78. Munday v. State Workmen's Compensation Commissioner

Supreme Court of Appeals of West Virginia. November 10, 1970 154 W.Va. 571 177 S.E.2d 221

Appeal by employer from final order of Workmen's Compensation Appeal Board affirming final order of the State Workmen's Compensation Commissioner awarding claimant 30% Permanent partial disability for silicosis. The Supreme Court of Appeals, Haymond, J., held that non-medical finding, in order of State Compensation Commissioner, that employment of...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure and referred the claim...

...much as sixty days during the period of two years **immediately preceding** the filing of his application, and correct the order entered...

79. Weinstein v. West Virginia Bd. of Law Examiners

Supreme Court of Appeals of West Virginia. June 14, 1990 183 W.Va. 158 394 S.E.2d 757

Lawyer sought writ of mandamus to require Board of Law Examiners to admit her to practice pursuant to reciprocity rule. The Supreme Court of Appeals, Miller, J., held that lawyer was not entitled to admission under reciprocity rule. Writ denied.

...had not actively practiced law for the five-year period **immediately preceding** her application. 2 The relator subsequently instituted this proceeding. FN2...

...to contemplate a continuous five-year period of active practice **immediately preceding** the filing of the application. This was the conclusion the...

80. Emery v. Monongahela West Penn Public Service Co.

Supreme Court of Appeals of West Virginia. March 15, 1932 111 W.Va. 699 163 S.E. 620

Error to Circuit Court, Marion County. Action by Louis Emery against the Monongahela West Penn Public Service Company. To review a judgment in favor of the plaintiff, the defendant brings error. Judgment reversed, verdict set aside, and a new trial awarded.

...plaintiff guilty thereof, they must believe at the time and **immediately preceding** the accident plaintiff did, or failed to do, something which...

...failure to exercise ordinary care at the time of or **immediately preceding** injury would constitute contributory negligence Nor is defendant's contention that...

81. State v. Maier

Supreme Court of Appeals of West Virginia. - October 01, 1892 36 W.Va. 757 15 S.E. 991

Error to circuit court, Ohio county. William Maier was convicted of murder, and brings error. Affirmed.

...prisoner, and have known him well for months and years **immediately preceding** the killing, it is not error to permit the state...

...transactions with him, and have known him well for years **immediately preceding** the killing, may be asked whether or not they had...

82. Kimberley v. Morris

Supreme Court of Appeals of West Virginia. March 28, 2014 Not Reported in S.E.2d 2014 WL 1272517

The petitioner herein, Kimberley A. Morris ("Mrs.Morris"), appeals from an order entered July 15, 2013, by the Circuit Court of Gilmer County. By that order, the circuit court found the postnuptial agreement entered into by Mrs. Morris and the respondent herein, Douglas Shane Morris ("Mr.Morris"), to be valid and...

...tax year 2009, which was calendar year 2008 (the year **immediately preceding** the parties' postnuptial agreement), was \$345,330; thus, in his postnuptial...

...than one-half the amount he actually earned in the **immediately preceding** year. Mr. Morris's income tax return for tax year 2010..

83. Hicks v. Mani

Supreme Court of Appeals of West Virginia. October 19, 2012 230 W.Va. 9 736 S.E.2d 9

Background: Former state troopers, who were receiving disability benefits, brought declaratory judgment action against Consolidated Public Retirement Board, claiming that the Board could not impose disability recertification requirements of an amended statute and new rule upon them. The Circuit Court, Kanawha County, James C. Stucky, J.,...

...paid for overtime service, for the twelve-month employment period **immediately preceding** the disability award: Provided, That if the retirant had not...

...paid for overtime service, for the twelve-month employment period **immediately preceding** the disability award: Provided, That if the retirant had not...

84. Billings v. Killen

Supreme Court of Appeals of West Virginia. February 16, 1932 111 W.Va. 551 162 S.E. 892

Error to Circuit Court, McDowell County. Action by Abe Billings against C. G. Killen. Judgment in favor of the plaintiff, and the defendant brings error. Affirmed.

...in effect that he had, during the five months' period **immediately preceding** the alleged breach, gotten out an average of 9,000 feet...

85. Williams v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. September 12, 1933 114 W.Va. 37 170 S.E. 775

Appeal from State Compensation Commission. Proceeding under the Workmen's Compensation Act by J. H. Williams, claimant, opposed by the New River & Pocahontas Consolidated Coal Company, employer. From finding of State Compensation Commissioner denying compensation, claimant appeals. Reversed and remanded.

...is conflict as to whether the accident occurred at or **immediately preceding** the lunch hour), he asked the foreman in charge of...

86. Gunn v. Ohio River R. Co.

Supreme Court of Appeals of West Virginia. December 22, 1892 37 W.Va. 421 16 S.E. 628

Error to circuit court, Mason county. Action by William R. Gunn, administrator of the estate of Luelza Mayes, deceased, against the Ohio River Railroad Company, to recover damages for causing the death of deceased. Verdict and judgment for defendant. Plaintiff brings error. Reversed.

...for its identification to another paper signed by the judge **immediately preceding** it in the record, which paper states that "the evidence...

87. West Virginia Institute of Technology v. West Virginia Human Rights Com'n

Supreme Court of Appeals of West Virginia. June 28, 1989 181 W.Va. 525 383 S.E.2d 490

Institute of technology appealed the decision of the Human Rights Commission awarding professor back pay and incidental damages for employment discrimination in compensation based on his national origin. The Circuit Court, Kanawha County, Workman, J., affirmed, and the institute appealed. The Supreme Court of Appeals, McHugh, J., held that: (1)...

...is to commence no earlier than the date two years **immediately preceding** the time when the complaint was filed with the Commission...

...should accrue from a date no earlier than two years **immediately preceding** the filing of the complaint with the Commission. See also...

88. State v. T.M.

Supreme Court of Appeals of West Virginia. December 02, 2013 Not Reported in S.E.2d 2013 WL 6231788

Petitioner T.M., by counsel Jessica Myers, appeals the order of the Circuit Court of Wood County, entered March 1, 2013, committing him to an industrial home for youth or a correctional institution for children. The State appears by counsel Laura Young. This Court has considered the parties' briefs and the record on appeal. The facts and legal...

...to cooperate with treatment. However, events in the time period **immediately preceding** the dispositional hearing revealed that petitioner likely would have been...

89. Maxwell v. Maxwell

Supreme Court of Appeals of West Virginia. January 26, 1915 75 W.Va. 521 84 S.E. 251

Appeal from Circuit Court, Ohio County. Suit by Emma W. Maxwell against A. O. Maxwell. From a decree for defendant, plaintiff appeals. Affirmed.

...on her motion. In this suit, and in the one **immediately preceding** it, she alleged, as one ground for relief, abandonment by...

90. State v. Wheeler

Supreme Court of Appeals of West Virginia. May 28, 1992 187 W.Va. 379 419 S.E.2d 447

Following jury trial before the Circuit Court, Raleigh County, Thomas Canterbury, J., defendant was convicted of malicious wounding, two counts of attempted murder, and first-degree murder. Defendant appealed. The Supreme Court of Appeals, Brotherton, J., held that: (1) refusal to give defendant certain witness statements...

...1) Kevin Prunty was armed with a large tire iron **immediately preceding** the shooting, (2) that Prunty used the tire iron to...
...running toward Wheeler's car and were quite close to it **immediately preceding** the shooting. On May 29, 1990, defense counsel filed a...

91. Jenrett v. Smith

Supreme Court of Appeals of West Virginia. December 15, 1983 173 W.Va. 325 315 S.E.2d 583

Former employee brought personal injury action against coemployee for damages suffered when propellor of coemployee's airplane severed employee's arm. The Circuit Court, Cabell County, L.D. Egnor, J., awarded damages to the employee in the amount of \$288,750 plus costs and interest, and coemployee appealed. The Supreme Court of...

...day of accident, and who made conflicting statements about events **immediately preceding** severance of employee's arm, and therefore, did not constitute reversible...

...of the accident and who made conflicting statements about events **immediately preceding** the severance of the appellee's arm. Therefore, the trial court...

92. Miller v. Wood

Supreme Court of Appeals of West Virginia. June 18, 2012 229 W.Va. 545 729 S.E.2d 867

TRANSPORTATION - Motor Vehicles. Motorists' pleas of nolo contendere were not "convictions" for license revocation purposes.

...or section one of this article within the ten years **immediately preceding** the date of arrest, the period of revocation shall be...

...or section one of this article within the ten years **immediately preceding** the date of arrest, the period of revocation shall be...

93. Carskadon v. Torreyson

Supreme Court of Appeals of West Virginia. November 13, 1880 17 W.Va. 43 1880 WL 4033

In a suit in equity based upon the following deed, which was duly acknowledged by the grantees and duly recorded: "THIS DEED, made the 8th day of September, 1866, between Angus W. McDonald and Cornelia, his wife, and Arnold S. Trowbridge, of the county of Hampshire, and State of Virginia, of the one part, and James Sheetz, James Carskadon,...

...one year a member or members of the said church **immediately preceding** such nomination, and be at least twenty-one years of...

...nominated and elected having been for one year then next **immediately preceding** such nomination members of said Methodist Episcopal church and over...

94. State v. Cooper

Supreme Court of Appeals of West Virginia. November 03, 1931 111 W.Va. 255 161 S.E. 30

Error to Circuit Court, Logan County. Ruben Cooper was convicted of a criminal offense, and he brings error. Judgment affirmed.

...service station a number of times during the two weeks **immediately preceding** the theft, and had bought oil and gas on various...

95. Murray v. West Virginia Office of Ins. Com'rs

Supreme Court of Appeals of West Virginia. December 13, 2012 Not Reported in S.E.2d 2012 WL 6554563

Petitioner Jeffery Murray, by Edwin Pancake, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Alcan Rolled Products, by H. Toney Stroud, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated February 14, 2011, in which the Board reversed a June 23, 2010,...

...for a period of ten years during the fifteen years **immediately preceding** the date of his or her last exposure to such...

96. Bannister v. Town of Glasgow

Supreme Court of Appeals of West Virginia. March 03, 1936 117 W.Va. 172 185 S.E. 2

Error to Circuit Court, Kanawha County. Mandamus proceeding by R. L. Bannister and others against the Town of Glasgow. To review an adverse judgment, defendant brings error. Affirmed.

...municipal primary shall be held * * * less than twenty-five days **immediately preceding** the corresponding municipal election," has no application to a municipality...

97. Drake v. Airhart

Supreme Court of Appeals of West Virginia. July 14, 1978 162 W.Va. 98 245 S.E.2d 853

Convicted defendant filed petition for writ of habeas corpus alleging that he had been victim of cruel and unusual punishment while a prisoner in county jail. After full evidentiary hearing, the Circuit Court, Wood County, Donald F. Black, J., denied prayer for relief, and defendant appealed. The Supreme Court of Appeals, Caplan, C. J., held that...

...F.2d 345 (1972) [1] The tenor of the two **immediately preceding** cases demonstrates that reasonable decorum during a criminal trial is...

98. State v. Koon

Supreme Court of Appeals of West Virginia. December 09, 1993 190 W.Va. 632 440 S.E.2d 442

Defendant was convicted in the Circuit Court, Randolph County, Thomas H. Keadle, J., of third-degree sexual assault. Defendant appealed. The Supreme Court of Appeals held that: (1) defendant had voluntarily and intelligently waived her right to counsel and her right against self-incrimination when she made inculpatory...

...110 29(12) k. Sex offenses; obscenity. Where sexual contact **immediately preceding** sexual intercourse is preparatory to and ancillary to one act...

...contact constituting a separate offense." Where, however, the sexual contact **immediately preceding** sexual intercourse is preparatory to and ancillary to one act...

99. State v. Davis

Supreme Court of Appeals of West Virginia. June 16, 1905 58 W.Va. 94 51 S.E. 230

Error to Circuit Court, Ritchie County. James Davis was convicted of assault with intent to kill, and brings error. Reversed.

...allowed to show his acts, or that he did nothing **immediately preceding** the alleged wounding. One of the grounds of the motion. .

100. West Virginia Dept. of Health and Human Resources ex rel. Hisman v. Angela D.

Supreme Court of Appeals of West Virginia. July 15, 1998 203 W.Va. 335 507 S.E.2d 698

FAMILY LAW - Child Protection. Foreign decree was not entitled to full faith and credit.

...for weeks or months at a time during the period **immediately preceding** the Appellant's initiation of custody proceedings in Ohio. At the...

...home state [home state defined as the State in which, **immediately preceding** the initiation of proceeds, the child lived with his parents...

101. State v. Stanley

Supreme Court of Appeals of West Virginia. May 17, 1932 112 W.Va. 310 164 S.E. 254

Error to Circuit Court, Fayette County. Geneva Stanley was convicted of second degree murder, and she brings error. Reversed and remanded for new trial.

...is evidence of a mutual combat between defendant and deceased **immediately preceding** the shooting. She is not shown to have been guilty...

102. Smith v. Sugar Creek Coal Co.

Supreme Court of Appeals of West Virginia. June 02, 1931 110 W.Va. 553 158 S.E. 903

Additional Syllabus by Editorial Staff. Assignee of coal mining lease which provided that on expiration thereof improvements should become lessor's property held liable, as between itself and lessor, for taxes on

improvements placed on property for its benefit. Error to Circuit Court, Fayette County. Action in assumpsit by William F. Smith and...

...the clause establish ownership? As will be noted, the clause **immediately preceding** the provision relied on by defendant provides that if the...

103. Richards v. Hope Const. & Refining Co.

Supreme Court of Appeals of West Virginia. November 28, 1939 121 W.Va. 650 5 S.E.2d 810

Error to Circuit Court, Tyler County. Action by Ophia Ernest Richards, administrator of Ophia Ernest Richards, Jr., deceased, against the Hope Construction & Refining Company for the alleged wrongful death of Ophia Ernest Richards, Jr., deceased. To review a judgment in favor of the defendant, the plaintiff brings error. Judgment affirmed.

...leaking gasoline pipe running under a stock pen. so that **immediately preceding** the death of plaintiff's decedent the pipe was being uncovered...

104. Seckman v. Alcan Rolled Products - Ravenswood, LLC

Supreme Court of Appeals of West Virginia. 5013836	September 12, 2013	Not Reported in S.E.2d	2013 WL
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Petitioner Ronald Seckman, by John Robert Weaver, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Alcan Rolled Products -Ravenswood, LLC, by H. Toney Stroud, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated November 8, 2011, in which the Board...

...not been exposed for ten years during the fifteen years **immediately preceding** his date of last exposure. On October 21, 2008, the...

105. Reed v. Hill

Supreme Court of Appeals of West Virginia. February 27, 2015 235 W.Va. 1 770 S.E.2d 501

TRANSPORTATION - Motor Vehicles. Court erred when it excluded motorist's secondary chemical breath test result in driver's license revocation proceeding.

...or foreign matter in his mouth in the twenty minutes **immediately preceding** the administration of the secondary breath test —which would include...

...period of "continuous observation" even though, during the six minutes **immediately preceding** the administration of the secondary breath test, the officer focused...

106. **Bradford v. Workers' Compensation Com'r**

Supreme Court of Appeals of West Virginia.	July 08, 1991	185 W.Va. 434	408 S.E.2d 13
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An employee's widow sought review of a decision by the Workers' Compensation Appeal Board denying widow's benefits on ground that employee's occupational pneumoconiosis was not the major cause of or a major contributing factor in his death. The Supreme Court of Appeals, Miller, C.J., held that widow was entitled to benefits, even if sole...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards, or for any five of the fifteen years **immediately preceding** the date of such last exposure." As the statute in...

107. Kanawha Banking & Trust Co. v. Swisher

Supreme Court of Appeals of West Virginia: April 24, 1928 105 W.Va. 476 144 S.E. 294

Appeal from Circuit Court, Kanawha County. Attachment by the Kanawha Banking & Trust Company against Edith R. Swisher. From a decree sustaining an attachment, defendant appeals. Reversed and remanded.

...the city of Charleston with her family for many years **immediately preceding** the month of March, 1926. when she left Charleston for...

108. Watterson v. Moore

Supreme Court of Appeals of West Virginia. February 04, 1884 23 W.Va. 404 1884 WL 2718

Action of assumpsit brought in the county court of Mason county in November, 1874, by A. J. Watterson against C. M. Moore, as administrator of Morgan Moore, deceased. There were three trials by jury had in the case, each of which resulted in a verdict for the plaintiff. Two of the verdicts were set aside on the motion of the defendant and new...

...number of new trials to cases of trespass. The provision **immediately preceding** the one declaring that no more than two new trials...

109. Morris v. Morris

Supreme Court of Appeals of West Virginia. April 04, 1933 113 W.Va. 800 169 S.E. 475

Appeal from Circuit Court, Marion County. Suit by Nancy Virginia Morris against Pressley Dallas Morris, in which the defendant filed cross-bill. From a decree dismissing the bill and granting prayer of cross-bill, plaintiff appeals. Reversed and remanded.

...That plaintiff for more than three months last past and **immediately preceding** the commencement of this action has resided and now resides...

110. Mosrie v. Automobile Ins. Co. of Hartford, Conn.

Supreme Court of Appeals of West Virginia. February 21, 1928 105 W.Va. 226 141 S.E. 871

Error to Circuit Court, Mercer County. Action by notice of motion for judgment by R. M. Mosrie, trading as the Mercer Auto Sales Company, against the Automobile Insurance Company of Hartford, Conn., on a fire insurance policy. Judgment for plaintiff, and defendant brings error. Reversed and remanded.

...damage as the difference between the value of the cars **immediately preceding** and immediately after the fire. was improperly refused. There was...

111. Stover v. West Virginia Div. of Corrections

Supreme Court of Appeals of West Virginia. May 17, 2013 Not Reported in S.E.2d 2013 WL 2157811

LABOR AND EMPLOYMENT - Public Employment. Statute established that the special election did not transfer to another day, and no state employees, other than those who worked on the date of election, could receive any type of compensatory benefit.

...approved paid leave for his or her full scheduled workday **immediately preceding** the holiday and at least one quarter hour of his...

112. Starcher v. Alcan Rolled Products - Ravenswood, LLC

Supreme Court of Appeals of West Virginia. September 12, 2013 Not Reported in S.E.2d 2013 WL 5013963

Petitioner Alan Starcher, by Edwin H. Pancake, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Alcan Rolled Products--Ravenswood, LLC, by H. Toney Stroud, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated November 8, 2011, in which the Board...

...a continuous period of at least two years during the **immediately preceding** ten years prior to the date of his last exposure...

113. State v. Myers

Supreme Court of Appeals of West Virginia. June 16, 2004 216 W.Va. 120 602 S.E.2d 796

CRIMINAL JUSTICE - Jury Costs. Jury costs connected with conviction reversed on appeal were properly assessed after plea on remand.

...assessment of jury costs in criminal proceedings to those proceedings **immediately preceding** conviction; statute also required assessment of costs "anytime a panel ..

...limits the assessment of jury costs to only those proceedings **immediately preceding** the conviction, we disagree, as this language must be harmonized...

114. State ex rel. Morgan v. O'Brien

Supreme Court of Appeals of West Virginia. October 27, 1948 134 W.Va. 1 60 S.E.2d 722

Original proceeding by the State, on relation, of C. R. Morgan; and others, citizens and taxpayers, for a writ of mandamus to D. Pitt O'Brien, Secretary of the State, of the State of West Virginia to revoke his certification for submission to the electorate of the State at the general election to be held on November 2, 1948, of a proposed amendment...

...the state, where a newspaper was published, for three months **immediately preceding** the election. The election was to be held on November...

...1948, when approximately twenty-seven days of the three months **immediately preceding** the general election in November had elapsed. In these circumstances...

115. Anderson v. McClintic

Supreme Court of Appeals of West Virginia. September 18, 1934 115 W.Va. 329 175 S.E. 857

Error to Circuit Court, Marshall County. Habeas corpus proceeding by Clarence Anderson against C. F. McClintic, Warden of the West Virginia Penitentiary. To review an order refusing to discharge the relator, he brings error. Affirmed.

...to life imprisonment, should be read in connection with the **immediately preceding** section of said statute. It read: "When any person is ...

116. Gibson v. Thorn

Supreme Court of Appeals of West Virginia. December 14, 1940 122 W.Va. 716 12 S.E.2d 535

Error to Circuit Court, Barbour County. Action by John Gibson against Henry Thorn for \$300, wherein the defendant filed a counterclaim. To review a judgment for plaintiff, defendant brings error. Reversed and remanded.

...judgment that the proceeding be called for trial at two **immediately preceding** terms. One of the strongest presumptions known to the law...

117. Farmers & Merchants Bank of Summersville v. McCue

Supreme Court of Appeals of West Virginia. November 24, 1936 118 W.Va. 21 188 S.E. 666

Case certified from Circuit Court, Nicholas County. Action by the Farmers & Merchants Bank of Summersville against Anthony F. McCue and another, wherein a ruling sustaining a demurrer interposed by plaintiff to a plea in abatement was certified to the Supreme Court of Appeals for review. Reversed and remanded, with directions.

...the defendants who have been served. In view of the **immediately preceding** statute and the language of the statute in question, we...

118. State v. Wolfe

Supreme Court of Appeals of West Virginia. March 14, 1933 113 W.Va. 459 168 S.E. 656

Error to Circuit Court, Ritchie County. Paul Wolfe was convicted of owning and operating a moonshine still, and he brings error. Reversed, verdict set aside, and new trial awarded.

...about 100 feet from the still, which was in operation. **Immediately preceding** the arrest, Taylor, sheriff, Shepler, deputy, and Minnick, state trooper...

119. White v. White

Supreme Court of Appeals of West Virginia. February 12, 1929 106 W.Va. 680 146 S.E. 720

Appeal from Circuit Court, Mercer County. Divorce suit by Sadie V. White against W. A. White. Decree of dismissal, and plaintiff appeals. Reversed and remanded.

...in which she had a half interest. On the night **immediately preceding** the separation, he drove plaintiff from their bedroom, and the...

120. Martin v. Alcan Rolled Products-Ravenswood, LLC

Supreme Court of Appeals of West Virginia. March 20, 2014 Not Reported in S.E.2d 2014 WL 1133425

Petitioner Edward Martin Jr., by Edwin H. Pancake, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Alcan Rolled Products—Ravenswood, LLC, by H. Toney Stroud, its attorney, filed a timely response. This appeal arises from the Board of Review's Final Order dated June 29, 2012, in which the Board...

...for a period of ten years during the fifteen years **immediately preceding** the date of his last exposure. The evidence in the...

121. Williams v. Werner Enterprises, Inc.

Supreme Court of Appeals of West Virginia. March 02, 2015 235 W.Va. 32 770 S.E.2d 532

TORTS - Evidence. Estates of truck drivers did not establish tort of intentional spoliation of evidence claim against drivers' employer.

...the tractor-trailer had broken down twice on the trip **immediately preceding** the trip encompassing the accident at issue. 8 Furthermore, the...

...had broken down on two separate occasions on a trip **immediately preceding** the fatal accident. The majority opinion has described this evidence...

122. State v. Mayle

Supreme Court of Appeals of West Virginia. March 18, 1930 108 W.Va. 681 152 S.E. 633

Error to Circuit Court, Taylor County. Howard Mayle was convicted on the charge of breaking and entering a certain chicken house and stealing therefrom certain chickens, and he brings error. Affirmed.

...the paper. It is to be noted that the clause **immediately preceding** the attestation supplied by the clerk says: "This is my..."

123. Moore Business Forms, Inc. v. Foppiano

Supreme Court of Appeals of West Virginia. February 17, 1989 181 W.Va. 305 382 S.E.2d 499

Former employee appealed from an order of the Circuit Court of Harrison County, Maxwell, J., which enforced covenant not to compete. The Supreme Court of Appeals held that employer failed to establish that employee's services, skills or knowledge were of such specialized or unique nature as to justify enforcement. Reversed and remanded. Brotherton,...

...which he had worked as Moore's representative for the year **immediately preceding** the termination of employment. 1 The defendant signed the agreement...

124. Garges v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. February 13, 1962 147 W.Va. 11 123 S.E.2d 886

Workmen's compensation case. The employer appealed from the order of the Workmen's Compensation Appeal Board granting claimant an award for silicosis in the first stage and reversing the order of the Workmen's Compensation Commissioner denying such award. The Supreme Court of Appeals, Calhoun, President, held that the evidence was insufficient to...

...of not less than two years during the ten years immediately preceding the date of his last exposure. The finding covers the...

125. Jones v. Sidiropolis

Supreme Court of Appeals of West Virginia. May 18, 1990 183 W.Va. 37 393 S.E.2d 675

Motorist whose driver's license was revoked sought judicial review of the revocation order. The Circuit Court, Ohio County, George L. Spillers, J., modified the order by reducing the revocation period from ten years to six months, and the Commissioner of the Department of Motor Vehicles appealed. The Supreme Court of Appeals held...

...for conduct which occurred within a period of five years immediately preceding the first day of September, one thousand nine hundred eighty...

126. Hale v. Hale

Supreme Court of Appeals of West Virginia. October 04, 1927 104 W.Va. 254 139 S.E. 754

Appeal from Circuit Court, Mercer County. Action by Pearle Hall Hale against Rufus A. Hale for divorce. From a decree for plaintiff, defendant appeals. Affirmed.

...have resided in the state for at least one year immediately preceding the bringing of the suit." It is very true that...

127. Trump v. Bluefield Waterworks & Imp. Co.

Supreme Court of Appeals of West Virginia. September 08, 1925 99 W.Va. 425 129 S.E. 309

Error to Circuit Court, Mercer County. Action by Sidney J. Trump against the Bluefield Waterworks & Improvement Company. Judgment for plaintiff, and defendant brings error. Affirmed.

...rainfall for a period of from 18 to 24 hours immediately preceding the breaking of the dams; which occurred about 11:30...

128. State v. Bruce

Supreme Court of Appeals of West Virginia. March 22, 1904 55 W.Va. 384 47 S.E. 146

Error to Circuit Court, Mercer County; J. M. Sanders, Judge. J. A. B. Bruce was indicted for selling oleomargarine, and from conviction appealed to the circuit court for writ of error, and from a denial of the same he brings error. Reversed.

...the same date, and is reported in the same volume, immediately preceding the Collins Case. These cases conclusively settle the question involved...

129. In re Adoption of D.T.

Supreme Court of Appeals of West Virginia. October 01, 2013 Not Reported in S.E.2d 2013 WL 5476400

FAMILY LAW - Adoption. Father failed to rebut the presumption of abandonment, and as such, mother's husband would be permitted to adopt child.

...to act continues uninterrupted for a period of six months immediately preceding the filing of the adoption petition. Moreover, West Virginia Code...

130. Love v. Virginian Power Co.

Supreme Court of Appeals of West Virginia. May 04, 1920 86 W.Va. 393 103 S.E. 352

Action by George Love, administrator, etc., against the Virginian Power Company. Demurrers to original and amended declaration sustained and rulings certified. Rulings reversed, demurrer to second amended declaration overruled, and case recertified.

...not otherwise: For a period of at least two years **immediately preceding** the accident, defendant knew, or was possessed of such source...

131. State ex rel. Oser v. Haskins

Supreme Court of Appeals of West Virginia. October 26, 1988 179 W.Va. 789 1988 WL 126430

Applicant for previously vacant teaching position brought action against superintendent and school board, requesting a writ of mandamus to compel board to employ him in teaching position. The Circuit Court, Marshall County, Warmuth, J., denied petition. Applicant appealed. The Supreme Court of Appeals held that school board...

...in his evaluations from Kanawha County for the seven years **immediately preceding** his application. By order entered on July 20, 1987, the...

132. Thurston v. Keathley

Supreme Court of Appeals of West Virginia. October 14, 1958 143 W.Va. 795 105 S.E.2d 181

Action to recover for damage to plaintiff's automobile, which was struck by defendant's following vehicle while negotiating right turn off highway. The Circuit Court of Logan County, C. C. Chambers, J., rendered judgment for plaintiff, and defendant brought error. The Supreme Court of Appeals, Ducker, J., held that evidence was sufficient to take...

...for the first reason which he asserted as to the **immediately preceding** instruction, namely, that the reasons in support thereof were not...

133. Hamlet v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. January 17, 1933 113 W.Va. 247 167 S.E. 586

Appeal from Order of State Compensation Commissioner. Proceedings under the Workmen's Compensation Act by Matilda Hamlet to recover compensation as the dependent mother of Myrtle Hamlet, who sustained fatal injuries while employed by the Stonega Coal Company. From an order of the State Compensation Commissioner rejecting the claim, the claimant...

...made monthly by the deceased for the 12-month period **immediately preceding** his death. This statement does not preclude the consideration of...

134. Douglas v. State Workmen's Compensation Commissioner

Supreme Court of Appeals of West Virginia. October 01, 1968 152 W.Va. 340 163 S.E.2d 469

Workmen's compensation claim for silicosis benefits. The Appeal Board reversed an order of the commissioner rejecting the claim and directed the commissioner to determine whether further evidence should be obtained, and if so, to permit introduction thereof and then refer the claim to the silicosis medical board, and commissioner and employer...

...and in one of its mines for some twelve years, **immediately preceding** the date when he ceased work. He never did any..

135. Young v. Wheby

Supreme Court of Appeals of West Virginia. April 25, 1944 126 W.Va. 741 30 S.E.2d 6

Error to Circuit Court, Wyoming County. Action by Mrs. Carl Young against Fred Wheby to recover for injuries sustained by her while a passenger in a car owned and driven by defendant. Judgment for plaintiff, and defendant brings error. Reversed, verdict set aside, and a new trial awarded.

...making love", and that as they drove up the hill, **immediately preceding** the wreck, he had his arm about the plaintiff and...

136. State ex rel. Browne v. Hechler

Supreme Court of Appeals of West Virginia. August 22, 1996 197 W.Va. 612 476 S.E.2d 559

Third-party presidential and vice-presidential candidates petitioned for writ of mandamus, claiming that secretary of state misinterpreted statutory requirements for their placement on general election ballot. The Supreme Court of Appeals, Cleckley, J., held that: (1) deadline for filing certificate and fees with secretary of state was...

...and fees is based upon the language of the statute **immediately preceding** the proviso. Specifically, the respondent contends that the declarations and...

137. Webb v. Harrison

Supreme Court of Appeals of West Virginia. October 17, 1944 127 W.Va. 124 31 S.E.2d 686

Error to Circuit Court, Kanawha County. Action by Thelma E. Webb, administratrix of Roscoe S. Webb, deceased, against Dennis A. Harrison to recover for the death of deceased resulting from injuries sustained when struck by defendant's automobile. A judgment for defendant was entered on a directed verdict, and plaintiff brings error. Reversed.

...he had not slept since going to work at midnight **immediately preceding** that his shift ended at seven o'clock on the morning...

138. State v. Whitlow

Supreme Court of Appeals of West Virginia. November 28, 2011 Not Reported In S.E.2d 2011 WL 8193580

Petitioner James Whitlow appeals from his felony convictions following a jury trial on twenty-one counts of sex-related offenses involving his step-daughter. Petitioner was sentenced by the trial court to 135 to 440 years in prison. Petitioner seeks a reversal of his convictions and a new trial on all counts. The State of West Virginia has filed a...

...on that occasion. The trial transcript reflects, however, that J.T.'s **immediately preceding** testimony was that petitioner had placed his penis in her...

139. Bear v. Pitzer

Supreme Court of Appeals of West Virginia. March 30, 1948 131 W.Va. 374 47 S.E.2d 219

Appeal from Circuit Court, Berkeley County. Proceeding by Harrison Bear, executor of the will of Joseph Bear, deceased, against Amanda Bear Pitzer and others for construction of deceased's will. From an adverse decree, defendants appeal. Reversed and remanded.

...general provision entirely out of keeping with the specific provisions **immediately preceding**, which, in plainly expressed language dispose of the testator's entire...

140. State v. Warrick

Supreme Court of Appeals of West Virginia. July 02, 1924 96 W.Va. 722 123 S.E. 799

Error to Circuit Court, Marshall County. Booth Warrick was convicted of the unlawful possession of a moonshine still, and he brings error. Reversed, and new trial awarded.

...charge." We think this provision applicable only to the provision **immediately preceding** it which reads as follows: "In lieu of the giving...

141. M.M. II v. B.M.

Supreme Court of Appeals of West Virginia. June 15, 2015 Not Reported in S.E.2d 2015 WL 3751992

Petitioner Stepfather Mark M. II, by counsel Gary L. Michels II, appeals the Circuit Court of Wayne County's January 17, 2014, amended order dismissing his petition for guardianship of five-year-old A.M. Respondent Father Brandon M., by counsel Alison R. Gerlach, filed a response in support of the circuit court's order. On appeal, petitioner claims...

...child's "home state" at any time within the six months **immediately preceding** commencement of the action. Syl. Pt. 3, In Re: K.R...

142. State v. Stevenson

Supreme Court of Appeals of West Virginia. December 16, 1933 114 W.Va. 458 172 S.E. 533

Error to Circuit Court, Logan County. Clarence Stevenson was convicted of murder in the first degree, and he brings error. Affirmed.

...had been staying at the Robinson home for five months **immediately preceding** the tragedy. He had also lived there for a period...

143. Coaldale Min. & Mfg. Co. v. Clark

Supreme Court of Appeals of West Virginia. March 15, 1897 43 W.Va. 84 27 S.E. 294

Appeal from circuit court, Wayne county. Bill by the Coaldale Mining & Manufacturing Company against E. W. Clark and others. Decree for plaintiff, and defendants appeal. Reversed.

...be for the coal mined during the three calendar months **immediately preceding** the 1st of the month in which said payment is...

144. Ligon v. Godfrey L. Cabot, Inc.

Supreme Court of Appeals of West Virginia. May 27, 1941 123 W.Va. 400 15 S.E.2d 595

Error to Circuit Court, Roane County. Action in assumpsit by P. G. Ligon and others, doing business under the firm name and style of Ligon & Ligon, against Godfrey L. Cabot, Incorporated, to recover a sum of money allegedly due to the plaintiffs by reason of defendant's failure to perform fully the terms of a contract. To review a judgment in favor...

...the company points out an admonition contained in the specifications, **immediately preceding** paragraph five, cautioning the contractor to satisfy itself "as to...

145. State v. Smith

Supreme Court of Appeals of West Virginia. June 16, 1936 117 W.Va. 598 186 S.E. 621

Error to Circuit Court, Raleigh County. Jackson Smith was convicted on indictment charging embezzlement and larceny, and he brings error. Reversed, and new trial awarded.

...years as clerk of the circuit court of the county **immediately preceding** his tenure as clerk of the county court. D. D...

146. State v. Griffith

Supreme Court of Appeals of West Virginia. May 03, 1921 88 W.Va. 582 107 S.E. 302

Certified Question from Circuit Court, Mason County. W. H. Griffith was charged with murder. A plea to the jurisdiction was overruled, and question certified. Affirmed.

...the constitutional requirement as to the trials of crimes. Chapters **immediately preceding** 165 manifest the object had in view by the Legislature...

147. State v. Mounts

Supreme Court of Appeals of West Virginia. November 29, 1938 120 W.Va. 661 200 S.E. 53

Error to Circuit Court, Cabell County. Grover Mounts was convicted of buying stolen property, and he brings error. Judgment reversed, verdict set aside, and new trial awarded.

...the trouble that Terry had been in a few months **immediately preceding** the alleged purchase of the Brubeck cigarettes. The reference to...

148. Triplett v. Equitable Life Assur. Soc. of U. S.

Supreme Court of Appeals of West Virginia. June 02, 1936 117 W.Va. 537 186 S.E. 124

Error to Circuit Court, Boone County. Action by General F. Triplett against the Equitable Life Assurance Society of the United States. To review a judgment for plaintiff, defendant brings error. Reversed and remanded.

...claim disabled and has then been so for ninety days **immediately preceding**, he shall for the purposes of payment of the annuity...

149. York v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. September 25, 1945 128 W.Va. 16 35 S.E.2d 353

Appeal from Workmen's Compensation Appeal Board. Proceedings under the Workmen's Compensation Act by Virgil York to obtain compensation for injuries. From an order of the Workmen's Compensation Appeal Board, affirming an order of the Compensation Commissioner, refusing to open claimant's application and consider award of further compensation,...

...surmise is borne out, we think, by his sworn statement **immediately preceding** that he had no idea when the check came to...

150. Orwasky v. Chuma

Supreme Court of Appeals of West Virginia. March 17, 1964 148 W.Va. 349 135 S.E.2d 248

Mandamus proceeding to require clerk of municipality to strike the name of a nominee for member of council from the ballots to be used in a general election to be held in a municipality. The Circuit Court, Hancock County, James G. McClure, J., granted the writ of mandamus, and to review such judgment a party brought error. The Supreme Court of...

...of five years residence in the city means five years **immediately preceding** the date of the election; and (3) that the residence...

151. Foster v. Workmen's Compensation Appeal Board

Supreme Court of Appeals of West Virginia. January 26, 1937 118 W.Va. 190 189 S.E. 703

Appeal from Workmen's Compensation Appeal Board. Proceeding under the Workmen's Compensation Act by Lilla Foster, claimant, to recover compensation for the death of her husband, Leonard Foster, from an injury sustained while employed by the Mabscott Coal & Coke Company, employer. From a ruling of the Workmen's Compensation Appeal Board affirming...

...that deceased contributed \$400 to her support in the year **immediately preceding** his death. True, when they separated in 1932, the deceased...

152. Morris v. Parris

Supreme Court of Appeals of West Virginia. February 10, 1931 110 W.Va. 102 157 S.E. 40

Error to Circuit Court, Kanawha County. Action by Walter Morris against John W. Parris. Judgment for defendant, and plaintiff brings error. Affirmed.

...the evidence that the plaintiff, at the time of and **immediately preceding** the accident, was operating his automobile at a speed in...

153. Patton v. Eicher

Supreme Court of Appeals of West Virginia. February 03, 1920 85 W.Va. 465 102 S.E. 124

Appeal from Circuit Court, Ohio County. Proceedings by T. H. Patton against C. Ward Eicher and others to quiet title. The bill was dismissed for want of jurisdiction, and plaintiff appeals. Reversed and remanded.

...the trustee for February 23, 1917; that on the day **immediately preceding** the sale the plaintiff, feeling confident of the immediate consummation...

154. State v. Melanakis

Supreme Court of Appeals of West Virginia. November 19, 1946 129 W.Va. 317 40 S.E.2d 314

Error from Circuit Court, Monongalia County. Andy Melanakis was convicted of possessing alcoholic liquor for sale, and he brings error. Judgment affirmed.

...on the panel of twenty jurors drawn in the case **immediately preceding** the case against Melanakis involving the identical state of facts...

155. Harper v. Harper

Supreme Court of Appeals of West Virginia. September 07, 1901 49 W.Va. 661 39 S.E. 661

Error to circuit court, Raleigh county; J. M. Sanders, Judge. Action by Lee Harper, by his next friend, against H. H. Harper. Judgment for plaintiff, and defendant brings error. Reversed.

...last question sustained, and exception.)" The answer to the question **immediately preceding** indicated that there was at least some feeling on the...

156. State ex rel. Browning v. Haden

Supreme Court of Appeals of West Virginia. June 23, 1970 154 W.Va. 298 175 S.E.2d 197

Original proceeding in mandamus by attorney general to compel reimbursement from state tax commissioner for personal services of legal counsel and secretarial help furnished to state tax department. The Supreme Court of Appeals, Caplan, J., held that it was incumbent upon attorney general to show that the parties had agreed on amount of such...

...him in accordance with the legislative direction quoted in the **immediately preceding** paragraph. No agreement between the parties was alleged and none...

157. Heaton v. Compensation Com'r

Supreme Court of Appeals of West Virginia. January 15, 1929 106 W.Va. 563 146 S.E. 368

Proceeding under Workmen's Compensation Law by Matt Heaton. From a ruling of the Compensation Appeal Board affirming the action of the compensation commissioner in refusing to grant a third award, claimant appeals. Affirmed.

...physician, states that he was for eight or nine years, **immediately preceding** the accident, the family physician of Heaton, and that claimant...

158. Spangler v. Fisher

Supreme Court of Appeals of West Virginia. March 19, 1968 152 W.Va. 141 159 S.E.2d 903

Action for wrongful death. The Circuit Court of Pocahontas County, H. Nickell Kramer, J., entered a judgment in favor of the defendant and the administratrix appealed. The Supreme Court of Appeals, Calhoun, J., held that notwithstanding use of employee's truck at agreed hourly rate for special job, relation of employer-employee continued while...

...contention of the plaintiff that at the time of and **immediately preceding** the occurrence which resulted in Spangler's death, defendant Fisher was...

159. Coletrane v. Ott

Supreme Court of Appeals of West Virginia. April 13, 1920 86 W.Va. 179 103 S.E. 102

Petition by Nannie McCain Coletrane against Lee Ott, Workmen's Compensation Commissioner, to review record on which the petitioner was denied participation in the workmen's compensation fund. Order of Compensation Commissioner reversed, and decision directed to be certified to him for further action.

...her or contributed to her support; that during the year **immediately preceding** his death he had contributed as much as \$120.00...

160. Connelly v. Virginian Ry. Co.

Supreme Court of Appeals of West Virginia. April 07, 1942 124 W.Va. 254 20 S.E.2d 885

Error to Circuit Court, Fayette County. Action by Susie Connelly, administratrix of the estate of Walter Connelly, deceased, against the Virginian Railway Company and others, for the death of plaintiff's decedent resulting from being struck by defendant's train. To review a judgment for plaintiff, defendants bring error. Judgment reversed and cause...

...one brakeman, who, at the time of the accident and **immediately preceding** it, was eating a sandwich in the caboose. The decedent...

161. Faull v. Abbot

Supreme Court of Appeals of West Virginia. December 22, 1952 137 W.Va. 777 73 S.E.2d 727

Action of trespass on the case against highway contractors by motorist who was struck by automobile which had entered, from private driveway, a temporary one-way lane established for construction purposes, and was traveling against flow of traffic. The Circuit Court of Kanawha County entered judgment on verdict in favor of plaintiff, and defendants...

...of the road. At this time, there were two trucks **immediately preceding** them in the line of traffic. Shortly after leaving the...

162. Ellison v. Doe

Supreme Court of Appeals of West Virginia. June 18, 2004 215 W.Va. 517 600 S.E.2d 229

TRANSPORTATION - Motor Vehicles. Evidence did not support passengers' claim for uninsured motorist coverage.

...no evidence that disproved Ms. Foutty's version of the events **immediately preceding** the accident. The circuit court heard arguments on the motion...

163. Shumate v. West Virginia Dept. of Motor Vehicles

Supreme Court of Appeals of West Virginia. April 19, 1990 182 W.Va. 810 392 S.E.2d 701

Department of Motor Vehicles appealed from final order of the Circuit Court, Raleigh County, John Calvin Ashworth, J., determining that operator's license should only be revoked for period of six months, not ten years. The Supreme Court of Appeals, McHugh, J., held that application of statute, providing that Commissioner of Department of...

...for conduct which occurred within a period of five years **immediately preceding** the first day of September, one thousand nine hundred eighty...

164. Rust Engineering Co. v. Randolph Smokeless Coal Co.

Supreme Court of Appeals of West Virginia. January 31, 1928 105 W.Va. 111 141 S.E. 518

Appeal from Circuit Court, Randolph County. Suit by the Rust Engineering Company, in the nature of a creditors' suit, against the Randolph Smokeless Coal Company and others. From a decree below construing a contract settling the litigation, the Citizens' National Bank of Philippi and others appeal. Reversed.

...to the contract by either Heedy or the bank until **immediately preceding** the filing of the report of the special commissioner. March...

165. Porter v. South Penn Oil Co.

Supreme Court of Appeals of West Virginia. February 16, 1943 125 W.Va. 361 24 S.E.2d 330

Error to Circuit Court, Lincoln County. Action for damages resulting from an assault by Cliffie Porter against South Penn Oil Company and another. To review a judgment for the named defendant, the plaintiff brings error. Affirmed.

...was some two or three weeks prior to the assault. **Immediately preceding** the assault Montgomery had been engaged in pumping an oil...

166. Matter of Codispoti

Supreme Court of Appeals of West Virginia. December 09, 1993 190 W.Va. 369 438 S.E.2d 549

Disciplinary proceeding was brought. The Judicial Hearing Board imposed one-month suspension and payment of costs. On independent review of record, the Supreme Court of Appeals, held that: (1) involvement in circuit judge's misleading campaign advertisement warrants public censure and payment of costs, and (2) Judicial Investigation Commission...

May 3, 1992 and May 10, 1992, the two Sundays **immediately preceding** the primary election, the Logan Banner, the local newspaper, ran...

167. Ellison v. Lockard

Supreme Court of Appeals of West Virginia. May 01, 1945 127 W.Va. 611 34 S.E.2d 326

Appeal from Circuit Court, Calhoun County. Suit by W. M. Ellison, administrator, and others, against Edna Lockard to cancel an agreement executed by W. A. Ellison, deceased, conveying property to defendant. From a decree canceling the agreement, defendant appeals. Decree reversed and bill dismissed.

...of capacity saw him during the period of two weeks **immediately preceding** the second stroke on August 4, the period in which...

168. McGuire v. Farley

Supreme Court of Appeals of West Virginia. June 02, 1988 179 W.Va. 480 370 S.E.2d 136

Putative father filed petition alleging his paternity of child born out of wedlock and seeking visitation with child. The Circuit Court, Fayette County, Summerfield, J., ruled that plaintiff did not have standing to maintain action, and plaintiff appealed. The Supreme Court of Appeals, Neely, J., held that: (1) to extent that...

...her husband for a period of one year or more **immediately preceding** the birth of the child; (B) Such married woman did...

169. State v. Bragg

Supreme Court of Appeals of West Virginia. October 15, 1968 152 W.Va. 372 163 S.E.2d 685

Defendant was convicted in the Circuit Court of Webster County, Charles A. Duffield, J., of nonsupport, and he appealed. The Supreme Court of Appeals, Calhoun, J., held that father could be prosecuted for nonsupport of his children by common-law marriage, in view of statute providing that issue of marriages deemed null in law should nevertheless be...

...from the persons asserting it the burden of such proof. **Immediately preceding** the statute here in question is a similar statute, Code...

170. Micaz v. Compensation Com'r

Supreme Court of Appeals of West Virginia. January 28, 1941 123 W.Va. 14 13 S.E.2d 161

Appeal from Workmen's Compensation Appeal Board. Proceeding under the Workmen's Compensation Act by Jelena Micaz (Mikac) to recover, on behalf of herself and her infant son, compensation for the death of her husband, Antonio Micaz, who was a naturalized American citizen when he was killed during the course of and as a result of his employment with...

...and (b) the residence requirement is reduced to three years **immediately preceding** the filing of the petition. However, claimants' counsel says that...

171. State v. Foddrell

Supreme Court of Appeals of West Virginia. September 23, 1980 165 W.Va. 540 269 S.E.2d 854

Defendant was convicted in the Circuit Court, McDowell County, Rudolph J. Murensky, J., of armed robbery, and defendant appealed. The Supreme Court of Appeals, Caplan, J., held that: (1) court did not abuse its discretion in failing to make further inquiries of prosecuting attorney beyond initial inquiry as to existence of grand jury records; (2)...

...and described a car that was parked behind the store **immediately preceding** the robbery. This car was described as being a late...

172. Hodges v. Public Service Com'n

Supreme Court of Appeals of West Virginia. August 12, 1931 110 W.Va. 649 159 S.E. 834

Appeal from Circuit Court, Kanawha County. Proceeding by the West Virginia Power & Transmission Company before the Public Service Commission, to obtain a license to construct a series of dams, opposed by Charles E. Hodges, and others. The Public Service Commission granted the license, and the protestants appealed to the circuit court. From a...

...are separable. There are other considerations. The Water Power Act **immediately preceding** the one under discussion was enacted in 1915. That enactment...

173. Fragmin v. Gatson

Supreme Court of Appeals of West Virginia. July 13, 1989 181 W.Va. 452 383 S.E.2d 84

Former store clerk challenged denial of unemployment compensation. The Circuit Court, Kanawha County, Canady, J., upheld disqualification. Clerk appealed. The Supreme Court of Appeals held that evidence established that clerk voluntarily quit her job while she was pregnant. Affirmed.

...renders a claimant incapable of working, except in the period **immediately preceding** confinement, and it has been recognized that quitting work because...

174. Slater v. United Fuel Gas Co.

Supreme Court of Appeals of West Virginia. October 19, 1943 126 W.Va. 127 27 S.E.2d 436

Error to Circuit Court, Kanawha County. Action of trespass on the case by Everett Slater, an infant, etc., against the United Fuel Gas Company to recover damages for personal injuries. A verdict was returned in favor of

plaintiff, and judgment entered thereon after overruling motion to set aside the verdict and grant a new trial, and defendant...

...plaintiff was injured. It appears that in the two days **immediately preceding** the fire between forty and fifty barrels of gasoline had...

175. Burgess v. Ballard

Supreme Court of Appeals of West Virginia. November 23, 2015 Not Reported in S.E.2d 2015 WL 7628844

Petitioner Scott B. Burgess, by counsel Christopher T. Pritt, appeals the Circuit Court of Fayette County's July 02, 2014, order denying his petition for writ of habeas corpus. Respondent David Ballard, Warden, by counsel David A. Stackpole, filed a response. Petitioner filed a reply. On appeal, petitioner alleges that the circuit court erred in...

...Trial Transcript, Volume II, pp. 11-35. During the colloquy **immediately preceding** Petitioner's testimony, Petitioner advised the Court that he was satisfied...

...also met with the Petitioner for approximately thirty (30) minutes **immediately preceding** Petitioner's trial. The voucher reflects that Trial Counsel spent a...

176. Cambridge Gas Co. v. Lamb

Supreme Court of Appeals of West Virginia. March 03, 1936 117 W.Va. 174 184 S.E. 566

Appeal from Circuit Court, Kanawha County. Suit by the Cambridge Gas Company and others against F. O. Lamb, receiver of the Charleston Trust Company. From a decree for plaintiffs, defendant appeals. Reversed, and bill dismissed.

...sums on deposit in said account for the six months **immediately preceding** said dates, respectively." The contract further provided that the sums...

177. Braude & McDonnell v. Isadore Cohen Co.

Supreme Court of Appeals of West Virginia. February 22, 1921 87 W.Va. 763 106 S.E. 52

Error to Circuit Court, Mercer County. Action by Braude & McDonnell, Incorporated, against the Isadore Cohen Company. Judgment for defendant after plaintiff's demurrer to the evidence was overruled, and plaintiff brings error. Judgment reversed, demurrer to evidence sustained, and judgment for plaintiff entered.

...written contract of sale except the signature of the purchaser **immediately preceding** the specification of the property are the words, "Sold to..."

178. Poccardi v. Ott

Supreme Court of Appeals of West Virginia. September 10, 1918 82 W.Va. 497 96 S.E. 790

On Appeal from Order of State Compensation Commissioner. Barbera Schipani through Gaetano Poccardi, Royal Consul, presented to Lee Ott, State Compensation Commissioner, a claim for the death of her husband. Compensation refused, and Poccardi appeals. Order disallowing claim reversed, and proceeding remanded with directions.

...average sum of 500 lire per month during the year **immediately preceding** the date of his death. The words "per month," relied...

179. State ex rel. Aikens v. Davis

Supreme Court of Appeals of West Virginia. November 25, 1947 131 W.Va. 40 45 S.E.2d 486

Original proceeding in mandamus by the State, on the relation of Ethel Love T. Aikens, against C. S. Davis, Director of Unemployment Compensation, to require payment of claim for unemployment benefits. Writ awarded.

...permanent factory force of which consisted of about eighty persons. **Immediately preceding** and during the apple harvest and for a short time...

180. Belmont Resources, LLC v. Tunnelton Co-op. Coal Co., Inc.

Supreme Court of Appeals of West Virginia. November 28, 2011 Not Reported in S.E.2d 2011 WL 8201837

Petitioners, defendants below, appeal a circuit court order granting summary judgment to respondents, plaintiffs below, in their declaratory judgment action to quiet title to a mineral estate underlying two tracts of land in the Marcellus Shale fairway in Preston County. Respondents claim they own 100% of the mineral rights. Petitioners claim they...

...three. With respect to the language "hereinafter described," the words **immediately preceding** that language say, "underlying the three certain pieces or tracts."

181. Wood v. Shrewsbury

Supreme Court of Appeals of West Virginia. June 09, 1936 117 W.Va. 569 186 S.E. 294

Error to Circuit Court, Raleigh County. Action by G. O. Wood, executor of the estate of C. G. Wood, deceased, against L. E. Shrewsbury. To review an adverse judgment, plaintiff brings error. Affirmed.

...to measure the defendant's conduct at the time of and **immediately preceding** the accident, all matters pertaining to the trial must be...

182. Hawkins v. Glens Falls Ins. Co.

Supreme Court of Appeals of West Virginia. December 04, 1934 115 W.Va. 618 177 S.E. 442

Error to Circuit Court, McDowell County. Action by notice of motion by S. A. Hawkins and another, trading and doing business as the Hawkins Sundry Company, against the Glens Falls Insurance Company. Judgment for plaintiffs, and defendant brings error. Affirmed. See, also, 173 S. E. 645.

...2. A conversation had by Tipton Hawkins with Carl Burgess **immediately preceding** the fire, and the circumstances leading up to that conversation...

183. Hupp v. West Virginia Consolidated Public Retirement Bd.

Supreme Court of Appeals of West Virginia. June 13, 2014 Not Reported in S.E.2d 2014 WL 2682677

Petitioner Clay R. Hupp, by counsel Richard A. Monahan, appeals the order of the Circuit Court of Tyler County, entered July 3, 2013, affirming the administrative decision of Respondent West Virginia Consolidated Retirement Board to terminate petitioner's partial-duty retirement benefits. Respondent appears by counsel, J. Jeaneen Legato. This Court...

...paid for overtime service, for the twelve-month employment period **immediately preceding** the disability award: Provided. That if the retirant had not...

184. Hurley v. Hurley

Supreme Court of Appeals of West Virginia. June 12, 1945 127 W.Va. 744 34 S.E.2d 465

Appeal from Circuit Court, Wayne County. Suit for divorce by John Hurley against Madlyn Hurley wherein defendant filed a cross-bill. From a decree awarding plaintiff an absolute divorce, defendant appeals. Affirmed.

...property in her own right. For a month or two **immediately preceding** his marriage to defendant, plaintiff had been very ill and...

185. Vachikinas v. Vachikinas

Supreme Court of Appeals of West Virginia. May 09, 1922 91 W.Va. 181 112 S.E. 316

Case Certified from Circuit Court, Marshall County. Bill by Mary Vachikinas against Frank Vachikinas for divorce, in which the defendant was served by publication and the divorce commissioner of Marshall County interposed a demurrer, and from an order sustaining the demurrer, plaintiff appeals. Order reversed, demurrer overruled, and cause...

...have resided in the state for at least one year **immediately preceding** the bringing of the suit." In support of the ruling...

186. State v. Files

Supreme Court of Appeals of West Virginia. December 15, 1942 125 W.Va. 243 24 S.E.2d 233

Error to Circuit Court, Berkeley County. Norman Files was convicted of malicious wounding of another, and he brings error. Affirmed.

...would testify to the actual assault or to the circumstances **immediately preceding** it were placed on the stand, and upon the record...

187. Chambers v. Spruce Lighting Co.

Supreme Court of Appeals of West Virginia. February 26, 1918 81 W.Va. 714 95 S.E. 192

Error to Circuit Court, Boone County. Action by Emma J. Chambers and others against the Spruce Lighting Company. Judgment for plaintiffs, and defendant brings error. Judgment reversed, and case remanded for new trial.

...show what were the net profits for a definite period **immediately preceding** the severance of the electric light wires as a basis...

188. State v. Goudy

Supreme Court of Appeals of West Virginia. October 09, 1923 94 W.Va. 542 119 S.E. 685

Error to Circuit Court, Marshall County. Proceeding by the State against Harry Goudy for nonsupport of his wife. Judgment requiring defendant to pay complainant a stipulated sum and costs, and a further monthly sum until further order of court, and he brings error. Reversed and remanded.

...the plaintiff then was, and had been for one year **immediately preceding** the beginning of the suit, a resident of the state...

189. Hetzel v. Pacific Mut. Life Ins. Co. of Cal.

Supreme Court of Appeals of West Virginia. October 15, 1929 108 W.Va. 22 150 S.E. 385

Error to Circuit Court, Mercer County. Action by John J. Hetzel against the Pacific Mutual Life Insurance Company of California. Judgment for plaintiff, and defendant brings error. Affirmed.

...that he has been actually employed during the two years **immediately preceding** the commencement of the disability for which the company is ..

190. State v. Price

Supreme Court of Appeals of West Virginia. February 14, 1933 113 W.Va. 326 167 S.E. 862

Error to Circuit Court, Kanawha County. William Price was convicted of murder in the first degree, and he brings error. Judgment reversed, verdict set aside, and cause remanded for a new trial.

...and one or two others on the night of and **immediately preceding** the fire particularly with reference to their conveying to the...

191. 4-H Road Community Ass'n v. West Virginia University Foundation, Inc.

Supreme Court of Appeals of West Virginia. December 20, 1989 182 W.Va. 434 388 S.E.2d 308

Appeal was taken from order of the Circuit Court, Monongalia County, Starcher, J., entered in action seeking disclosure of information under Freedom of Information Act. The Supreme Court of Appeals held that nonprofit corporation formed by private citizens pursuant to general corporate law for purpose of assisting university through fund...

...balance sheet and income and expense statement for the organization's **immediately preceding** fiscal year, or a copy of a financial statement covering...

192. State v. Bruce

Supreme Court of Appeals of West Virginia. July 03, 1885 26 W.Va. 153 1885 WL 2524

The defendant, L. W. Bruce was, at the May term, 1882, of the circuit court of Summers county indicted in two cases, which were at the September term, 1882, by consent tried together by the court, who found the defendant guilty and fixed his fines and gave judgment for \$25.00 and costs in each case. The defendant moved the court to set aside its...

...place, described differently from that in the first, is stated **immediately preceding** the words "'then and there.'" Thus, upon any fair construction...

193. Thornsby v. Thornsby

Supreme Court of Appeals of West Virginia. June 18, 1963 147 W.Va. 771 131 S.E.2d 713

Action against driver for death of plaintiff's daughter who was killed when the automobile, in which the daughter was riding as a guest, left the road. The Circuit Court, McDowell County, Sidney L. Christie, J., directed a verdict for the defendant and the plaintiff appealed. The Supreme Court of Appeals, Calhoun, J., held that the question of...

...she slept during the period of approximately twenty-four hours **immediately preceding** the time of the occurrence of the accident. She testified...

194. Van Pelt v. Rent-A-Center, Inc.

Supreme Court of Appeals of West Virginia. July 14, 1992 187 W.Va. 483 419 S.E.2d 896

Plaintiff appealed decision of the Circuit Court, Marion County, Rodney B. Merrifield, J., denying motion to reinstate action that had been dismissed based on attorney's failure to appear for trial. The Supreme Court of Appeals held that plaintiff should not be penalized for failing to file motion for relief from judgment. Reversed and remanded.

...Circuit Court of Marion County does not conduct jury selection **immediately preceding** each trial, but rather conducts jury selection for all cases...

195. Herold v. Townsend

Supreme Court of Appeals of West Virginia. February 07, 1933 113 W.Va. 319 169 S.E. 74

Original proceedings in mandamus by A. C. Herold and others against T. C. Townsend, Tax Commissioner. Writ of mandamus denied.

...the state where a newspaper was published, for three months **immediately preceding** the election at which amendment was to be voted upon...

196. Goodman v. County Court of Fayette County

Supreme Court of Appeals of West Virginia. September 21, 1920 86 W.Va. 669 104 S.E. 264

Case Certified from Circuit Court, Fayette County. Suit by H. L. Goodman and others, as citizens and taxpayers of Quinnimont district, Fayette county, on behalf of themselves and other voters, for an injunction against the County Court of Fayette County. Demurrer to bill overruled, and the ruling certified. Ruling approved, and cause remanded.

...order hereinafter named, being," as they appear in the petition **immediately preceding** the designation of such roads. These words the county court...

197. State v. Mills

Supreme Court of Appeals of West Virginia. March 23, 1939 121 W.Va. 205 2 S.E.2d 278

Error to Circuit Court, Cabell County. Ovvie Mills was convicted in justice court for non-support of an illegitimate child. An appeal was taken to the domestic relations court, and the case was transferred to the circuit court. To review a judgment of the circuit court finding the defendant guilty, he brings error. Reversed and rendered....

...shall be issued for the person accused of its paternity. **Immediately preceding** the quoted language from the opinion in the Hoult case...

198. State v. Noble

Supreme Court of Appeals of West Virginia. May 13, 1924 96 W.Va. 432 123 S.E. 237

Error to Circuit Court, Marshall County. Joe Noble was convicted of the unlawful possession of moonshine liquor, and he brings error. Reversed, verdict set aside, and new trial awarded.

...testified of their observation of defendant's actions on the morning **immediately preceding** the visit of the officers, because irrelevant and not tending...

199. Keaton v. WCC and Rockingham Marketing Co-op I

Supreme Court of Appeals of West Virginia. May 24, 1991 186 W.Va. 140 405 S.E.2d 640

Thirty-four-year old laborer, who suffered sequential on-the-job back injuries resulting in two surgeries, was awarded permanent total disability benefits based upon claimant's wages at time of last injury. Workers' Compensation Appeal Board affirmed. Claimant appealed. The Supreme Court of Appeals, Neely, J., held that any award from second injury...

...received during the two months, six months or twelve months **immediately preceding** the date of the injury, whichever is most favorable to...

200. Wine v. City Lines of West Virginia

Supreme Court of Appeals of West Virginia. November 14, 1950 134 W.Va. 889 62 S.E.2d 260

Action by Francis J. Wine against the City Lines of West Virginia for injuries allegedly sustained through negligence of an employee of defendant. After a jury verdict for the plaintiff, the Circuit Court, Harrison County, sustained motion to set aside the verdict, and plaintiff brought error. The Supreme Court of Appeals, Fox, J., held that...

...of these passengers had taken seats in the bus, and **immediately preceding** plaintiff was a lady who stopped at the front of...

201. Henley v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. May 14, 1946 129 W.Va. 15 38 S.E.2d 380

Appeal from Workmen's Compensation Appeal Board. Proceeding by A. D. Henley, compensation claimant, to recover benefits for silicosis, opposed by the Carter Coal Company, employer. The State Compensation

Commissioner refused claimant compensation. From an order of the Workmen's Compensation Appeal Board, affirming the commissioner's order, the...

...dust taken from the mine during the one-year period **immediately preceding** the filing of this claim. Claimant and his witnesses, however...

202. Itmann Coal Co. v. Miller

Supreme Court of Appeals of West Virginia. December 09, 1980 166 W.Va. 84 272 S.E.2d 668

Department of Mines appealed from decision of the Circuit Court, Kanawha County, W. H. Belcher, J., that statute regulating mining does not require preshift examinations by fire bosses of mine beltway entries and beltways. The Supreme Court of Appeals, Harshbarger, J., held that mine beltways and beltway entries are shafts, slopes or drifts used...

...for inspection. In all shafts and slopes within three hours **immediately preceding** the beginning of a work shift and before any workmen...

203. Central Trust Co. v. Virginia Trust Co.

Supreme Court of Appeals of West Virginia. March 29, 1938 120 W.Va. 23 197 S.E. 12

Appeal from Circuit Court, Kanawha County. Suit to bring about settlement of an estate through ascertainment of indebtedness of the testator by the Central Trust Company, executor of the last will and testament of W. D. Guyer, deceased, against the Virginia Trust Company and others, wherein the Little Fire Creek Coal & Coke Company presented a...

...30th day of each and every month for the month **immediately preceding**, whether the royalty on the coal actually mined during such...

204. State v. Bailey

Supreme Court of Appeals of West Virginia. December 09, 1975 159 W.Va. 167 220 S.E.2d 432

Defendant was convicted before the Circuit Court, Jackson County, George M. Scott, J., of grand larceny of an automobile, and he brought writ of error and supersedeas. The Supreme Court of Appeals, Flowers, J., held that trial court did not err in denying defendant's motion to quash indictment; that trial court did not err in refusing to give...

...of the State and county for at least one year **immediately preceding** the preparation of the list, and Shall not be officeholders...

205. Harness v. Baltimore & O.R. Co.

Supreme Court of Appeals of West Virginia. April 27, 1920 86 W.Va. 284 103 S.E. 866

Error to Circuit Court, Mineral County. Action by Mary R. Harness, administratrix, against the Baltimore & Ohio Railroad Company and Walker D. Hines, Director General of Railroads. Defendant railroad dismissed on its plea and motion and judgment for defendant Hines on a directed verdict, and plaintiff brings error. Reversed and remanded for new...

...210 of the act. Having in view this provision, plaintiff **immediately preceding** the submission of the case for hearing by this court...

206. In re Meade's Estate

Supreme Court of Appeals of West Virginia. October 08, 1918 82 W.Va. 650 97 S.E. 127

Error from Circuit Court, Mercer County. In the matter of the estate of S. A. Meade. From the appointment of H. W. Crockett as administrator, Lula Meade brings error. Affirmed.

...to be his widow during the two or three months **immediately preceding** his death, but the reputed widow still failed to appear...

207. Belcher v. Norfolk & W. Ry. Co.

Supreme Court of Appeals of West Virginia. May 24, 1955 140 W.Va. 848 87 S.E.2d 616

Action to recover for death of automobile passenger occurring when train struck automobile which was stalled on grade crossing. The Circuit Court of McDowell County, Thornton G. Berry, Jr., J., entered judgment on directed verdict for defendants, and plaintiff brought error. The Supreme Court of Appeals, Lovins, President, held, inter alia, that...

...to take steps necessary to do so.' [12] The quotation **immediately preceding** is an elaboration of the same principle stated in McLeod...

208. McCreery v. Ohio River R. Co.

Supreme Court of Appeals of West Virginia. March 23, 1901 49 W.Va. 301 38 S.E. 534

Error to circuit court, Cabell county; E. S. Doolittle, Judge. Action by Nannie J. McCreery against the Ohio River Railroad Company. Judgment for plaintiff. Defendant brings error. Reversed.

...prevent accidents therefrom, and that he was not otherwise engaged **immediately preceding** the accident, and this accident resulting in his death could...

209. In re Petition of Carter

Supreme Court of Appeals of West Virginia. November 09, 2006 220 W.Va. 33 640 S.E.2d 96

FAMILY LAW - Names. Changing child's surname was not in best interest of child.

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition. After reviewing the facts...

210. Johnson v. State Workmen's Compensation Com'r

Supreme Court of Appeals of West Virginia. February 15, 1972 155 W.Va. 624 186 S.E.2d 771

Employer appealed from an order to the Workmen's Compensation Appeal Board affirming award of dependency benefits to widow as a consequence of death of former employee. The Supreme Court of Appeals, Calhoun, President, held that finding by Board that silicosis was a major contributing cause to death of former employee, who, according to testimony...

...of not less than two years during the ten years **immediately preceding** the date of his last exposure to such hazards. (Italics...

211. State v. Whitt

Supreme Court of Appeals of West Virginia. October 01, 1946 129 W.Va. 187 40 S.E.2d 319

Error to Circuit Court, Logan County. Everette Whitt was convicted of murder in the first degree, and he brings error. Judgment affirmed.

...and cannot be discussed. However, concerning the sequence of happenings **immediately preceding** the shooting there is material conflict, partly expressed by the...

212. State v. Satterfield

Supreme Court of Appeals of West Virginia. December 14, 1989 182 W.Va. 365 387 S.E.2d 832

State appealed from order of the Circuit Court of Pleasants County, Sam White, J., dismissing felony indictment for third-offense DUI. The Supreme Court of Appeals, Neely, J., held that: (1) assistant prosecutor's participation in magistrate court's hearing on defendant's motion to dismiss charge of second-offense DUI neither...

...an offense which occurred within a period of five years **immediately preceding** the first day of September, one thousand nine hundred eighty...

213. Henthorn v. Long

Supreme Court of Appeals of West Virginia. October 24, 1961 146 W.Va. 636 122 S.E.2d 186

Action for the death of a motorist resulting when his automobile was struck in the rear by defendant's truck which he was assertedly operating with defective brakes. The Circuit Court of Wetzel County, Lloyd Arnold, J., rendered a judgment on a verdict for the defendant, and error was brought. The Supreme Court of Appeals, Calhoun, J., held that...

...the speed of the truck when he last saw it **immediately preceding** the impact. Riley Beegle, a constable of Magnolia District of...

214. State ex rel. Rickey v. Sims

Supreme Court of Appeals of West Virginia. January 30, 1940 122 W.Va. 29 7 S.E.2d 54

Mandamus proceeding by the State, on the relation of J. W. Rickey, Prosecuting Attorney of Marshall County, against Edgar B. Sims, Auditor, and Richard E. Talbott, Treasurer, to have the Auditor draw his warrant on the Treasurer and to have the Treasurer honor that warrant to meet salary allegedly due to the relator. Writ refused.

...Official Code of 1931 was enacted, the part of the **immediately preceding** section referring to salary was omitted, and not reenacted as...

215. Medical Care, Inc. v. Chiropody Ass'n of W. Va.

Supreme Court of Appeals of West Virginia. May 29, 1956 141 W.Va. 741 93 S.E.2d 38

Declaratory judgment proceeding. The Circuit Court of Cabell County, John W. Hereford, J., overruled plaintiff's demurrer to defendants' answer and certified its rulings to the Supreme Court of Appeals. That Court, per Haymond, J., held that a duly licensed practitioner of chiropody is not a duly licensed 'physician' within meaning of...

...have resided in this state for at least three years **immediately preceding** application for license, and who shall be recommended by the...

216. Funkhouser v. Landfried

Supreme Court of Appeals of West Virginia. September 24, 1942 124 W.Va. 654 22 S.E.2d 353

Original proceeding by Raymond J. Funkhouser against A. D. Landfried and others, as Commissioners of the County Court of Jackson County and ex officio members of the Board of Canvassers of such county, and others for a peremptory writ of mandamus requiring the Board of Canvassers to bring in the election officers of a certain precinct for...

...his name, may at any time except the two weeks **immediately preceding** any election personally make application under oath to the clerk...

217. Osborne v. U.S.

Supreme Court of Appeals of West Virginia. July 03, 2002 211 W.Va. 667 567 S.E.2d 677

HEALTH - Malpractice. Third party may bring malpractice action against health care provider.

...The district court found that, during the seventeen year period **immediately preceding** the accident, Dr. Srichai had prescribed numerous medications for Mr...

218. Trevey v. Lindsey

Supreme Court of Appeals of West Virginia. March 10, 1942 124 W.Va. 130 19 S.E.2d 613

Appeal from Circuit Court, Marshall County. Suit by Mary I. Trevey and others as trustees of the Ebenezer Methodist Episcopal Church of Clay District, Marshall County, against Mary Virginia Mason, and John Mason, Jr., her husband, and Blair J. Lindsey and others for the purpose of removing as a cloud on the title of plaintiffs a certain deed...

...and his request was complied with. The second attempt was **immediately preceding** the institution of this suit in December, 1938, and got...

219. Currence v. Ralphsnyder

Supreme Court of Appeals of West Virginia. November 19, 1929 108 W.Va. 194 151 S.E. 700

Appeal from Circuit Court, Monongalia County. Suit by Louise Jarvis Currence, executrix, against Isaac C. Ralphsnyder and others. From an adverse decree, defendants appeal. Affirmed.

...to Isaac. Defendants also overlook the paragraph in the decree **immediately preceding** the adjudication upon which they rely, wherein the court found...

220. Arnett v. Fairmont Trust Co.

Supreme Court of Appeals of West Virginia. February 06, 1912 70 W.Va. 296 73 S.E. 930

Appeal from Circuit Court, Marion County. Bill by Glenn J. Arnett and others against the Fairmont Trust Company and others. Decree for plaintiffs, and defendants appeal. Affirmed in part, and reversed in part. Robinson and Williams, JJ., dissenting.

...We observe in the residuary clause, the words "return to" **immediately preceding** the words quoted, plainly implying that the money bequeathed had...

221. State v. McKinney

Supreme Court of Appeals of West Virginia. April 12, 1921 88 W.Va. 400 106 S.E. 894

Error to Circuit Court, Summers County. London McKinney was convicted of malicious shooting, and he brings error. Reversed and remanded.

...suddenly found himself at the time of the shooting. The **immediately preceding** violence of J. G. McKinney toward his wife, and his...

222. Casdorph v. Hines

Supreme Court of Appeals of West Virginia. November 08, 1921 89 W.Va. 448 109 S.E. 774

Error to Circuit Court, Kanawha County. Action by John O. Casdorph and others, as executors of Caleb Casdorph, deceased, against Walker D. Hines, Director General of Railroads, for damages for the death of the deceased. Judgment for defendant, and plaintiffs bring error. Reversed and remanded for retrial.

...warning from whistle or bell, except the several short blasts **immediately preceding** the collision. [1] As these witnesses were in position to...

223. State v. Hardin

Supreme Court of Appeals of West Virginia. May 09, 1922 91 W.Va. 149 112 S.E. 401

Error to Circuit Court, McDowell County. Elijah Hardin was convicted of murder in the first degree and sentenced to the penitentiary for life, and he brings error. Reversed, verdict set aside, and case remanded for new trial.

...lots at Empire, in McDowell county, for about two years **immediately preceding** the shooting. The yard around each of the houses was...

224. Highland v. Davis

Supreme Court of Appeals of West Virginia. October 24, 1939 121 W.Va. 524 6 S.E.2d 922

Appeal from Circuit Court; Harrison County. Suit by Cecil B. Highland, executor and trustee of the last will of Virgil L. Highland, deceased, against J. Hornor Davis, The Exponent Company, and others, to cancel sale by defendant Davis to the Exponent Company of a block of shares of common stock, which stock had been pledged by decedent in his...

...the question of value of the stock pledged as collateral **immediately preceding** and on the day of sale. The trial chancellor held...

225. State v. Farley

Supreme Court of Appeals of West Virginia. December 15, 1942 125 W.Va. 266 23 S.E.2d 616

Error to Circuit Court, McDowell County. T. J. Farley was convicted of murder in the first degree, and he brings error. Affirmed.

...being loaded, the cap of the cartridge in the chamber **immediately preceding** the one that had been fired having a deep indentation...

226. State v. Angel

Supreme Court of Appeals of West Virginia. July 12, 1984 173 W.Va. 620 319 S.E.2d 388

Defendant was convicted in the Circuit Court, Ritchie County, Fred L. Fox, II, J., of first-degree murder, and he appealed. The Supreme Court of Appeals held that: (1) where continuance was granted at defendant's request, defendant was not denied speedy trial by delay; (2) denial of continuance thereafter did not deny...

...Legislature not to appear in court within ten (10) days **immediately preceding** a session of the legislature 3 The next session was...

227. Listing v. Rodes

Supreme Court of Appeals of West Virginia. March 18, 1924 96 W.Va. 38 122 S.E. 282

Appeal from Circuit Court, Kanawha County. Action by Charles Listing against Frank S. Rodes and others. From a decree for plaintiff, defendants appeal. Reversed and remanded.

...exhibits are the three deeds in the chain of title **immediately preceding** the deed from McClintic and wife to F. S. Rodes...

228. Adrian Buckhannon Bank v. Sandridge & Sandridge

Supreme Court of Appeals of West Virginia. May 28, 1940 122 W.Va. 343 9 S.E.2d 232

Appeal from Circuit Court, Upshur County. Suit by the Adrian Buckhannon Bank against Sandridge & Sandridge, Inc., and the Glens Falls Indemnity Company, a surety on the road construction bond of Sandridge & Sandridge, Inc., to recover money advanced by the plaintiff to Sandridge & Sandridge, Inc., to enable Sandridge & Sandridge, Inc., to complete...

...I find that for about two and a half months **immediately preceding** June, 1936, the work on the project had been completely...

229. Brazie v. Fayette County Com'rs

Supreme Court of Appeals of West Virginia. November 29, 1884 25 W.Va. 213 1884 WL 2706

1. The statute--sec. 3, ch. 73, Acts 1882--authorizing a judge of the circuit court, in vacation, to issue a writ of prohibition, is constitutional. Such judge, being thus authorized to issue such writ in vacation, may issue a rule

for such writ returnable before him and hear the same in vacation, and a writ of error lies from his judgment thus...

...be corrected." Acts 1882, ch. 155, p. 500. The section **immediately preceding** this one is as follows: "25. In all contested cases...

230. Lilly v. Taylor

Supreme Court of Appeals of West Virginia. June 27, 1967 151 W.Va. 730 155 S.E.2d 579

Action for damages for personal injuries and damage to automobile resulting from automobile collision. The Circuit Court, Raleigh County, Norman Knapp, J., rendered judgment for defendant and plaintiff appealed. The Supreme Court of Appeals, Calhoun, P., held that evidence that defendant while proceeding on narrow, winding road, swerved his vehicle...

...in operating his automobile at an excessive rate of speed **immediately preceding** the accident and even if his negligence in this respect...

231. Clise v. Prunty

Supreme Court of Appeals of West Virginia. April 19, 1932 112 W.Va. 181 163 S.E. 864

Error to Circuit Court, Marion County. Action by Nola Clise against John Prunty. Judgment for the plaintiff, and the defendant brings error. Judgment reversed, verdict set aside, and the case remanded for a new trial.

...reference to the accident and to the manner of driving **immediately preceding** the accident. He said: "We was noticing the snow on...

232. State ex rel. Turner v. McClure

Supreme Court of Appeals of West Virginia. March 17, 1970 153 W.Va. 855 173 S.E.2d 167

Original proceeding for writ of prohibition to prevent circuit court judge and prosecuting attorney from prosecuting petitioner for neglect of her two-year-old child which contributed to child's death. The Supreme Court of Appeals, Berry, J., held that although person may be indicted for offense of contributing to, encouraging or tending to cause...

...20th day of June, 1969, and within one (1) year **immediately preceding** the finding of this indictment, did unlawfully, in the County...

233. Belcher v. Big Four Coal & Coke Co.

Supreme Court of Appeals of West Virginia. February 21, 1911 68 W.Va. 716 70 S.E. 712

Appeal from Circuit Court, McDowell County. Bill by Andrew Belcher against the Big Four Coal & Coke Company and others. Decree for plaintiff and defendants appeal. Modified and affirmed.

...equal," which were intended to qualify the words, "railroad car," **immediately preceding** them, the contract is ambiguous in respect to the unit...

234. Kessel v. Leavitt

Supreme Court of Appeals of West Virginia. July 22, 1998 204 W.Va. 95 511 S.E.2d 720

TORTS - Fraud. Father could maintain action for fraud in concealment of information regarding location and adoption of child.

...indicated that they had last seen Anne on the Friday **immediately preceding** their deposition testimony when they "let[] her off" at a...

...UCCJA, "[h]ome state" means the state in which the child **immediately preceding** the time involved lived with his parents, a parent or...

235. Verlander v. Harvey

Supreme Court of Appeals of West Virginia. April 02, 1892 36 W.Va. 374 15 S.E. 54

Appeal from circuit court, Cabell county. Suit by Annie M. C. Verlander against Imogene H. Harvey to enforce plaintiff's right of dower in certain real estate. Decree for plaintiff. Defendant appeals. Reversed.

...is advisable to quote said section, and the two sections **immediately preceding** it, as follows: "(10) A widow having a right of...

236. Nibert v. Carroll Trucking Co.

Supreme Court of Appeals of West Virginia. March 23, 1954 139 W.Va. 583 82 S.E.2d 445

Action of trespass on the case for injuries allegedly resulting from negligence of defendants. The Circuit Court of Cabell County, John W. Hereford, J., rendered judgment denying plaintiff's motion to set aside a voluntary nonsuit taken by committee for plaintiff during his confinement under penitentiary sentence and reinstate case, and plaintiff...

...was called on October 1, 1951, because on the Saturday **immediately preceding** that date he was transported against his will to the...

237. Collins v. White Oak Fuel Co.

Supreme Court of Appeals of West Virginia. May 02, 1911 69 W.Va. 292 71 S.E. 277

Error to Circuit Court, Fayette County. Action by Justus Collins against the White Oak Fuel Company and another. A verdict for plaintiff was set aside, and he brings error. Reversed and rendered.

...greatly less than the amount taken out in the quarter **immediately preceding** the explosion. We think these facts and circumstances made the...

238. Flesher v. Board of Review, W. Va. Dept. of Veterans' Affairs

Supreme Court of Appeals of West Virginia. October 13, 1953 138 W.Va. 765 77 S.E.2d 890

Petition for review of final order of Board of Review of Department of Veterans' Affairs denying dependent parent's application for veteran's bonus to which his son would have been entitled if living. The Supreme Court of Appeals, Haymond, President, held, that under Veterans' Bonus Amendment to constitution, and Act enacted pursuant to such...

...veteran since 1943, a period of more than seven years **immediately preceding** the date on which the application was filed; that he...

239. Suttle v. Hope Natural Gas Co.

Supreme Court of Appeals of West Virginia. October 22, 1918 82 W.Va. 729 97 S.E. 429

Error to Circuit Court, Harrison County. Action by J. Addison Suttle, administrator, etc., against the Hope Natural Gas Company. Judgment for plaintiff, and defendant brings error. Reversed, and remanded for new trial.

...fell. Thus the gas from the well, it appears, had, **immediately preceding** the attempt to clean the well, been transported and delivered...

240. Williams v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. October 03, 1944 127 W.Va. 78 31 S.E.2d 546

Appeal from Workmen's Compensation Appeal Board. Proceeding under the Workmen's Compensation Act by Lillian Williams, widow, claimant on behalf of herself and a child under the age of 16 years for the death of claimant's husband, opposed by Charles H. Tompkins Company and Mauran-Russell-Crowell & Mullgardt, employers. From an order of the Workmen's...

...which order we granted this appeal on March 13, 1944. **Immediately preceding** his death, claimant's decedent, along with a man by the...

241. State ex rel. Cox v. Boles

Supreme Court of Appeals of West Virginia. June 13, 1961 146 W.Va. 392 120 S.E.2d 707

Original habeas corpus proceeding. The Supreme Court of Appeals, Haymond, President, held that additional sentence was void for failure to comply with mandatory requirements of habitual criminal statute, and that accused must be released after completely serving valid portion of his sentence. Writ discharged and petitioner remanded to custody.

...transcript of the proceedings in court on February 18, 1959, **immediately preceding** the imposition of sentence by the judgment entered by the...

242. Hall v. Baylous

Supreme Court of Appeals of West Virginia. March 04, 1930 109 W.Va. 1 153 S.E. 293

Error to Circuit Court, Cabell County. Action by Robert P. Hall and others against Gertrude Baylous (Hall). To review an adverse judgment, defendant brings error. Affirmed. MAXWELL and LITZ, JJ., dissenting on rehearing.

...Conditions had changed a great deal within the half century **immediately preceding**, as we have already shown. Divorces had become very prevalent...

243. Nicholas v. Nicholas

Supreme Court of Appeals of West Virginia. October 29, 1968 152 W.Va. 424 163 S.E.2d 880

Divorce action by wife. The Circuit Court, Logan County, C. C. Chambers, J., denied husband's motion to dismiss and certified questions. The Supreme Court of Appeals, Haymond, J., held that question arising upon sufficiency of husband's motion to dismiss wife's divorce action, as to whether Nevada divorce decree obtained by husband was entitled to...

...separate and apart without cohabitation for more than three years **immediately preceding** the commencement of the action; and that upon all the...

244. Weaver v. Trembly

Supreme Court of Appeals of West Virginia. May 16, 1944 126 W.Va. 802 30 S.E.2d 242

Appeal from Circuit Court, Preston County. Suit by Russell Weaver against Anna Williams Trembly and another to restrain defendants from interfering with plaintiff in the operation of a coal mine owned by the named defendant and held under lease by the plaintiff. From a decree for plaintiff, the defendants appeal. Reversed and decree entered...

...for all coal sold from said property during the month **immediately preceding**. There was also a provision in the lease by which...

245. Brown Mfg. Co. v. William Deering & Co.

Supreme Court of Appeals of West Virginia. June 20, 1891 35 W.Va. 255 13 S.E. 383

Error to circuit court, Wood County; A. Q. Boreman, Judge.

...that for several years previous to the year 1887, and **immediately preceding** that year, the said Morehead had a license as broker...

246. In re Adoption of William Albert B.

Supreme Court of Appeals of West Virginia. December 08, 2004 216 W.Va. 425 607 S.E.2d 531

FAMILY LAW - Adoption. Evidence in maternal grandparents' adoption proceeding was insufficient to establish that father abandoned his children.

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition.
(d)Notwithstanding any provision...

247. Woolwine v. Raleigh General Hosp.

Supreme Court of Appeals of West Virginia. July 11, 1995 194 W.Va. 322 460 S.E.2d 457

Patient brought medical malpractice action against physicians and hospital, and defendants moved for summary judgment. The Circuit Court, Raleigh County, Robert A. Burnside, Jr., J., dismissed action based on actions of counsel for patient in failing to meaningfully participate in discovery and in disregarding court's order, and patient...

...tried to call the Appellant's attorney on three different days **immediately preceding** the hearing, but that the attorney would not take his...

248. Frye v. Future Inns of America-Huntington, Inc.

Supreme Court of Appeals of West Virginia. May 30, 2002 211 W.Va. 350 566 S.E.2d 237

LABOR AND EMPLOYMENT - Discrimination. Limit of incidental damages is per case rather than per respondent.

...one act of sexual harassment took place in the year **immediately preceding** the filing of her complaint, and she was attempting to...

249. State v. Headley

Supreme Court of Appeals of West Virginia. November 28, 2001 210 W.Va. 524 558 S.E.2d 324

CRIMINAL JUSTICE - Self-Defense. State's failure to prove that defendant did not act in self-defense required judgment of acquittal.

...incidents of domestic violence involving the couple in the months **immediately preceding** the incident in which Mr. Evans was injured and later...

250. Appalachian Power Co. v. Public Service Commission

Supreme Court of Appeals of West Virginia. April 03, 1979 162 W.Va. 839 253 S.E.2d 377

Electric utility sought declaratory judgment that proceedings of Public Service Commission were subject to Open Governmental Proceedings Act. The Circuit Court, Kanawha County, Thomas E. McHugh, Chief Judge, entered judgment for utility, and Commission moved on appeal to reverse and modify judgment. The Supreme Court of Appeals, McGraw, J., held...

...to the last antecedent or to the words and phrases **immediately preceding** it, the last antecedent within the meaning of this rule...

251. Gray v. Boyd

Supreme Court of Appeals of West Virginia. April 10, 2014 233 W.Va. 243 757 S.E.2d 773

GOVERNMENT - Tort Claims. Issues as to whether firefighter employed due care in operating fire truck precluded summary judgment.

...five miles-per-hour to travel over the railroad tracks **immediately preceding** the intersection. He further stated that he observed a bucket...

252. Pickens v. Coal River Boom & Timber Co.

Supreme Court of Appeals of West Virginia. April 05, 1902 51 W.Va. 445 90 Am.St.Rep. 819

Error to circuit court, Kanawha county; F. A. Guthrie, Judge. Action for damages from the maintenance of a boom by Roman Pickens against the Coal River Boom & Timber Company. From a judgment for plaintiff, defendant brings error. Reversed. Brannon, J., dissenting.

...complained of, as it is presumably limited to the time **immediately preceding** the bringing of the suit, although it would have been...

253. States v. Riss & Co.

Supreme Court of Appeals of West Virginia. December 01, 1953 139 W.Va. 1 80 S.E.2d 9

Action of trespass on the case was brought to recover for injuries and destruction of truck and cargo by fire as result of collision when plaintiff parked truck on berm of highway because his braking system was failing and truck owned by corporate defendant and driven by individual defendant ran into rear of plaintiff's truck when driver of...

...heretofore related, there were only two witnesses to the occurrences **immediately preceding** the collision, the plaintiff and the defendant Heenan, and there...

254. Clay County Bank v. Wilson

Supreme Court of Appeals of West Virginia. November 25, 1930 109 W.Va. 684 158 S.E. 517

Additional Syllabus by Editorial Staff. Widow claiming husband's estate was indebted to her, without mention of sum alleged due from her father's estate of which husband was executor, could not claim preference therefor. Widow alleged indebtedness of deceased husband to her in individual capacity, without alleging that decedent had failed to...

...amount paid by W. G. Wilson, during the five years **immediately preceding** his death, as premiums upon insurance and which said sum...

255. State ex rel. McGraw v. National Fuels Corp.

Supreme Court of Appeals of West Virginia. June 24, 2004 215 W.Va. 532 600 S.E.2d 244

LITIGATION - Injunction. Company president had adequate notice of preliminary injunction hearing in action over gasoline voucher scam.

...car buyers on a nationwide scale. In the two months **immediately preceding** the filing of the West Virginia action, the Texas Attorney...

256. Moore v. Consolidation Coal Co.

Supreme Court of Appeals of West Virginia. July 01, 2002 211 W.Va. 651 567 S.E.2d 661

LABOR AND EMPLOYMENT - Discrimination. Evidence employer did not use alternative layoff procedure was admissible to prove discriminatory purpose.

...the company's Arkwright mine in Monongalia County during the period **immediately preceding** its closure in October 1995. Beginning in March 1994, Consol...

257. Craig v. City of Huntington

Supreme Court of Appeals of West Virginia. July 07, 1988 179 W.Va. 668 371 S.E.2d 596

Former police officer sought writ of mandamus against city to compel recalculation and payment of greater monthly disability pension benefits. The Circuit Court, Cabell County, Robinson, J., denied portion of writ, and officer appealed. The Supreme Court of Appeals, Miller, J., held that: (1) police officer's fringe benefit...

...as annual compensation received during a certain number of years **immediately preceding** the member's retirement." (Emphasis in original). See also Combs v...

258. State ex rel. Matthews v. Anderson

Supreme Court of Appeals of West Virginia. October 25, 1944 127 W.Va. 147 31 S.E.2d 779

Original proceeding in mandamus by the State, on relation of J. H. Matthews, as Chairman of the Democratic Executive Committee of Putnam County, in his own right and on behalf of all voters and citizens of such county, against J. W. Anderson, Clerk of the Circuit Court of Putnam County, to compel respondent to comply with the law pertaining to...

...his registration record at any time except the two weeks **immediately preceding** the election. Section 29, Article 2, Chapter 43, Acts of...

259. State ex rel. Conforti v. Wilson

Supreme Court of Appeals of West Virginia. July 06, 1998 203 W.Va. 21 506 S.E.2d 58

Father petitioned to modify Ohio divorce decree granting custody to mother. The Circuit Court, Hancock County, Ronald E. Wilson, J., issued an order concluding that it had jurisdiction. Mother petitioned for writ of prohibition. The Supreme Court of Appeals held that: (1) under Parental Kidnapping Prevention Act (PKPA), Ohio...

...defines "home state" as "the state in which the child **immediately preceding** the time involved lived with his parents, a parent or...

260. Reager v. Anderson

Supreme Court of Appeals of West Virginia. July 22, 1988 179 W.Va. 691 371 S.E.2d 619

Patient's father brought action against emergency room physician and orthopedic surgeon to recover for medical malpractice leading to amputation of fractured leg. Physician settled before judgment. The Circuit Court, Ohio County, Wilson, J., denied surgeon's motion for judgment notwithstanding verdict or new trial. Surgeon...

...The record supports the verdict, and the authorities in the **immediately preceding** paragraph indicate that the verdict here is not "outrageous." Finally...

261. In re Thacker's Estate

Supreme Court of Appeals of West Virginia. November 19, 1968 152 W.Va. 455 164 S.E.2d 301

Proceeding on claim against decedent's estate. On claimant's appeal from the County Court, the Circuit Court of Pendleton County, H. Guy Muntzing, J., rendered judgment for claimant, and the executor brought error. The Supreme Court of Appeals, Haymond, J., held that law presumed existence of contract between decedent and claimant for personal...

...which they furnished him during the period of five years **immediately preceding** his death.' [6] When personal services are performed by one...

262. Guthrie v. Beury

Supreme Court of Appeals of West Virginia. May 07, 1918 82 W.Va. 443 96 S.E. 514

Appeal from Circuit Court, Fayette County. Suit for partition by Augustus S. Guthrie against Thomas C. Beury and the New River & Pocahontas Consolidated Coal Company and others, with petition and cross-bill by Lewis Gwinn and others. Decree for plaintiff, and Thomas C. Beury and others appeal. Affirmed and remanded.

...of publication, as to which they were not informed until **immediately preceding** the preparation and tender of their petition, and praying for...

263. Monk v. Gillenwater

Supreme Court of Appeals of West Virginia. May 31, 1955 141 W.Va. 27 87 S.E.2d 537

Suit to enjoin maintenance of gate across road going from plaintiffs' homes through defendants' land to main highway, and interference with use of road as means of ingress and egress. The Circuit Court, Mercer County, F. Morton Wagner, J., entered decree perpetuating a temporary injunction and defendants were granted an appeal. The Supreme Court of...

...established by them of this road during the 26 years **immediately preceding** the bringing of this suit. This Court finds that the...

264. Jones v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. April 30, 1946 128 W.Va. 737 38 S.E.2d 376

Appeal from Workmen's Compensation Appeal Board. Proceeding under the Silicosis Act by Gracie Jones, widow, etc., claimant, opposed by the New River Company, employer, to recover for the death of Arthur Jones, employee, who died from silicosis. The State Compensation Commissioner awarded compensation. From a ruling of the Workmen's Compensation...

...section shall be sixty days, six months, or twelve months **immediately preceding** the date of the injury, whichever is most favorable to...

265. Broidy v. Metropolitan Life Ins. Co.

Supreme Court of Appeals of West Virginia. June 11, 1940 122 W.Va. 382 9 S.E.2d 875

Error to Circuit Court, Marion County. Action by Jacob Broidy against the Metropolitan Life Insurance Company to recover on total and permanent disability clauses of two life policies. To review a judgment in favor of the plaintiff, the defendant brings error. Judgment affirmed.

...insured "during the continuance" of total disability. Because of the **immediately preceding** considerations we are the more impressed that the jury's finding...

266. Dillon v. Board of Educ. of Wyoming County

Supreme Court of Appeals of West Virginia. November 20, 1986 177 W.Va. 145 351 S.E.2d 58

Teacher filed petition for writ of mandamus to compel county board of education to employ her a particular position for which she had applied. The Circuit Court, Wyoming County, Hrko, J., denied the petition, and teacher appealed. The Supreme Court of Appeals, Miller, C.J., held that: (1) filling of vacant teaching...

...related subject on a regular basis for the five years **immediately preceding** the posting of the vacancy at Mullens Middle School. 2...

267. State v. Craig

Supreme Court of Appeals of West Virginia. November 16, 1948 131 W.Va. 714 51 S.E.2d 283

Error to Circuit Court, Preston County. Charles W. Craig was convicted of involuntary manslaughter and he brings error. Judgment reversed, verdict set aside and new trial awarded.

...of mental attitude of the accused by showing his conduct **immediately preceding** or following the commission of an offense to be proper...

268. State, ex rel. Crist v. Cline

Supreme Court of Appeals of West Virginia. June 12, 2006 219 W.Va. 202 632 S.E.2d 358

LABOR AND EMPLOYMENT - Workers' Compensation. Dependents' death benefits may not be terminated prior to the death or remarriage of the widow or widower.

...or she lived. (Emphasis added). We find nothing in the **immediately preceding** quoted language to indicate that the Legislature intended dependent death...

269. McGlone v. Superior Trucking Co., Inc.

Supreme Court of Appeals of West Virginia. November 18, 1987 178 W.Va. 659 363 S.E.2d 736

Motorist injured in automobile accident caused by truck carrying oversized load brought action against truck driver and truck's owners. The Circuit Court, Kanawha County, Workman, J., entered judgment in favor of defendant, and plaintiffs appealed. The Supreme Court of Appeals, McHugh, J., held that: (1) owners and truck driver could not be held...

...counsel. The trial court's rulings on instructions mentioned in the **immediately preceding** two paragraphs were also assigned as grounds for a new...

270. State ex rel. Vernatter v. Warden, West Virginia Penitentiary

Supreme Court of Appeals of West Virginia. December 16, 1999 207 W.Va. 11 528 S.E.2d 207

CRIMINAL JUSTICE - Counsel. Counsel conducted adequate investigation into defendant's mental history prior to his guilty plea.

...turned up mental health records spanning the four-year period **immediately preceding** the shooting, indicated that Vernatter suffered from no malady other...

271. State ex rel. West Virginia Dept. of Health and Human Resources, Child Support Div. on Behalf of Laura F.M. v. Cline

Supreme Court of Appeals of West Virginia. July 08, 1996 197 W.Va. 79 1996 WL 469668

Department of Health and Human Resources, Child Support Enforcement Division (CSED) filed petition for writ of prohibition seeking to prohibit paternity test ordered by the Circuit Court, Braxton County, Danny O. Cline, J. The Supreme Court of Appeals, Workman, J., held that circuit court erred in requiring blood test when putative father...

...of the party's income tax returns for the two years **immediately preceding** the hearing date and Forms W-2 for those years...

272. State ex rel. Bd. of Governors of W. Va. University v. Sims

Supreme Court of Appeals of West Virginia. October 04, 1949 133 W.Va. 239 55 S.E.2d 505

Proceeding in mandamus by the Board of Governors of West Virginia University to compel Edgar B. Sims, Auditor of the State of West Virginia, to honor a requisition drawn by the State Treasurer on funds appropriated by the Legislature to pay retired teachers of the University certain sums of money. The Supreme Court of Appeals, Fox, J., denied the...

...reach the age of sixty-five during the fiscal year **immediately preceding**, shall automatically be transferred to limited service status with an...

273. Harper v. Cook

Supreme Court of Appeals of West Virginia. June 01, 1954 139 W.Va. 917 82 S.E.2d 427

Action for injuries to a twelve year old boy as the result of running through burning coals in a fire pit to which waste was carried from defendant's nearby sawmill. The Circuit Court of Boone County, K. K. Hall, J., entered judgment on a jury's verdict for plaintiff, and defendant brought error. The Supreme Court of Appeals, Given, President,...

...in the early evenings of the four or five days **immediately preceding** the injury, and that defendant was charged with notice of...

274. Vance v. Holland

Supreme Court of Appeals of West Virginia. March 19, 1987 177 W.Va. 607 355 S.E.2d 396

In original proceeding in habeas corpus, the Supreme Court of Appeals held that refusal to grant inmate convicted of first-degree murder parole interview was abuse of discretion, where inmate was entitled to annual parole hearings before Board of Probation and Parole after having served ten years of his sentence, and denial of parole was based in...

...in prison for a period of at least three months **immediately preceding** the date of his release on parole. (4) Shall have...

275. Keene v. City of Huntington

Supreme Court of Appeals of West Virginia. March 06, 1917 L.R.A. 1917F,475 79 W.Va. 713

Error to Circuit Court, Cabell County. Suit by Lizzie Keene against the City of Huntington. Judgment for plaintiff, and defendant brings error. Affirmed.

...of damages is the difference between the actual cash value **immediately preceding** the injury and the actual cash value after the injury...

276. Hurst v. Hurst

Supreme Court of Appeals of West Virginia. February 27, 1874 7 W.Va. 289 1874 WL 3184

S. H. (and wife), the rightful owner, in fee simple, of a tract of land, and the father of M. V. B. H., conveyed to M. V. B. H. by deed dated the 9th day of December, 1863, said tract of land, situated in Harrison county, this State. In the early part of the deed the consideration of the deed is stated to be one dollar. The land is described in the...

...writing." Richardson v. York &c., 14 Maine 216 The sentence **immediately preceding** the one under consideration reads, "It is fairly understood that...

277. State ex rel. Nationwide Mut. Ins. Co. v. Marks

Supreme Court of Appeals of West Virginia. March 27, 2009 223 W.Va. 452 676 S.E.2d 156

LITIGATION - Writs. Order compelling in part discovery of prior confidential settlements did not exceed court's judicial authority.

...No. 10 To the extent not PRODUCED pursuant to the **immediately preceding** two Requests above, 3 please PRODUCE each and every document...

278. State ex rel. Boone County Coal Corp. v. Davis

Supreme Court of Appeals of West Virginia. December 13, 1949 133 W.Va. 540 56 S.E.2d 907

Original proceeding in mandamus by the State, on the relation of the Boone County Coal Corporation, against C. S. Davis, Director of Employment Security, to fix relator's rate of contribution to the unemployment compensation fund for the calendar year 1949 at .7% of its total payroll and to accept settlement for the year of 1949 of such basis. The...

...under Subsection (1), there having elapsed thirty-six consecutive months **immediately preceding** the computation date, throughout which an employer's account was chargeable...

279. Van Winkle v. Continental Fire Ins. Co.

Supreme Court of Appeals of West Virginia. March 15, 1904 55 W.Va. 286 47 S.E. 82

Appeal from Circuit Court, Wood County; L. N. Tavenner, Judge. Bill by W. W. Van Winkle against the Continental Fire Insurance Company. Decree for plaintiff, and defendant appeals. Reversed.

...the same, or the actual cash value thereof, at and **immediately preceding** the time of the fire; and in case of depreciation...

280. Fraga v. State Compensation Com'r

Supreme Court of Appeals of West Virginia. November 24, 1942 125 W.Va. 107 23 S.E.2d 641

Appeal from Workmen's Compensation Appeal Board. Proceeding under the Workmen's Compensation Act by Thomas Fraga, opposed by the State Compensation Commissioner and others. From an award of the Workmen's Compensation Appeal Board denying compensation, claimant appeals. Reversed and remanded with directions. KENNA, J., dissenting.

...and in one of its mines for some twelve years, **immediately preceding** the date when he ceased work. He never did any ..

281. State v. Roush

Supreme Court of Appeals of West Virginia. November 20, 1923 95 W.Va. 132 120 S.E. 304

Error to Circuit Court, Harrison County. Paul Roush was convicted of murder in the second degree, and he brings error. Reversed and remanded.

...easing himself down" as the witnesses said. The blows were **immediately preceding** the hemorrhage of the brain, and this circumstance tends to...

282. Finnegan v. Finnegan

Supreme Court of Appeals of West Virginia. March 21, 1950 134 W.Va. 94 58 S.E.2d 594

Action by Dorthy Finnegan against Charles Finnegan for divorce on ground of cruel or inhuman treatment, under Code, 48-2-4. From a decree of the Circuit Court of Marshall County, in favor of plaintiff, the defendant appealed. The Supreme Court of Appeals, Haymond, J., held that testimony of wife that she had been struck and beaten by...

...July 21, 1948. Within a period of approximately three years **immediately preceding** their final separation in July, 1948, because of minor disagreements...

283. State v. Curotz

Supreme Court of Appeals of West Virginia. June 26, 1956 142 W.Va. 45 93 S.E.2d 519

Prosecution for unlawful sale of intoxicating liquor. Defendant was convicted in the Criminal Court, Harrison County, Arlos J. Harbert, J., and the Circuit Court, Harrison County, Karl B. Kyle, J., denied a writ of error. Defendant brought error. The Supreme Court of Appeals, Lovins, J., held, inter alia, that the prosecuting attorney did not err...

...of the State and county for at least one year **immediately preceding** the preparation of the list, and shall not be office...

284. Adams v. Ireland

Supreme Court of Appeals of West Virginia. December 15, 1999 207 W.Va. 1 528 S.E.2d 197

LABOR AND EMPLOYMENT - Benefit Plans. Retired state employee stated claim for unconstitutional impairment of contract.

...contained within his or her ten years of credited service **immediately preceding** the date his or her employment with a participating public...

285. State v. Dent

Supreme Court of Appeals of West Virginia. November 01, 1884 25 W.Va. 1 1884 WL 368

Sections 9 and 15 of chapter 93 of the Acts of 1882, passed March 15, 1882, entitled "An Act amending and re-enacting chapter 150 of the Code of West Virginia concerning the public health" is constitutional and valid. GREEN, JUDGE, furnishes the following statement of the case: At the November term, 1882, the grand jury of Preston...

...the practice to have extended over the particular ten years **immediately preceding** the enactment of the law, and to this extent I...

286. State v. Driver

Supreme Court of Appeals of West Virginia. April 26, 1921 88 W.Va. 479 107 S.E. 189

Error to Circuit Court, Cabell County. W. W. Driver was convicted of an attempt to commit rape. A new trial was refused, and he brings error. Affirmed.

...of the state and county for at least one year **immediately preceding** the preparation of the lists, and shall not be officeholders...

287. Mullens v. Lilly

Supreme Court of Appeals of West Virginia. March 15, 1941 123 W.Va. 182 13 S.E.2d 634

Appeal from Circuit Court, Wyoming County. Suit in equity by W. F. Mullens and others, heirs at law of A. J. Mullens, deceased, and Hattie Mullens, his widow, against Nora Lilly and others to cancel and annul certain deeds on ground that they were procured from the deceased without consideration, by fraud and undue influence, while deceased was...

...endorsed notes for D. S. Nichols, Sr., for several years **immediately preceding** his death, the last of which was within sixty days...

288. Michael K.T. v. Tina L.T.

Supreme Court of Appeals of West Virginia. December 21, 1989 182 W.Va. 399 387 S.E.2d 866

In a divorce proceeding, the Circuit Court, Wood County, Black, J., ordered that child be declared legitimate child of husband and further directed husband to pay monthly child support and maintenance payments. Husband appealed. The Supreme Court of Appeals, Workman, J., held that: (1) under certain circumstances blood tests...

...her husband for a period of one year or more **immediately preceding** the birth of the child; (B) Such married woman did...

289. Duncan v. County Court of Cabell County

Supreme Court of Appeals of West Virginia. March 24, 1953 138 W.Va. 106 75 S.E.2d 97

Original mandamus proceeding was brought against the County Court of Cabell County and others to require court to reconvene the board of canvassers and to issue certificates showing that relator had received certain number of votes at general election. The Supreme Court of Appeals, Lovins, J., held that ex parte affidavits of voters who voted in a...

...of said statute. The commissioners referred to in the quotation **immediately preceding**, were the county commissioners and the statute referred to therein...

290. Pritt v. Republican Nat. Committee

Supreme Court of Appeals of West Virginia. December 12, 2001 210 W.Va. 446 557 S.E.2d 853

TORTS - Defamation. Fact issues precluded dismissal, by summary judgment, of candidate's defamation action.

...Governor of the State of West Virginia. During the month **immediately preceding** the general election, the National Republican Senatorial Committee [hereinafter referred...

291. In re Carey L.B.

Supreme Court of Appeals of West Virginia. June 22, 2009 227 W.Va. 267 708 S.E.2d 461

FAMILY LAW - Child Custody. Evidence established statutory presumption of father's abandonment of children.

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition. [Emphasis added.] In Syllabus..

292. In re Murphy's Estate

Supreme Court of Appeals of West Virginia. March 01, 1955 140 W.Va. 539 85 S.E.2d 836

Probate proceeding. The County Court confirmed report of Commissioner of Accounts and claimant brought error to Circuit Court. The Circuit Court, Monongalia County, Donn J. Eddy, J., entered judgment for claimant for a greater amount, and claimant again brought error. The Supreme Court of Appeals, Given, J., held that evidence established that...

...during his lifetime, for the period of three hundred months **immediately preceding** the date of his death, at the rate of one...

293. Brackman's Inc., v. City of Huntington

Supreme Court of Appeals of West Virginia. September 28, 1943 126 W.Va. 21 27 S.E.2d 71

Proceeding in mandamus by Brackman's, Incorporated, against the City of Huntington and the mayor, clerk, and members of the council thereof, to require issuance to relator of a license to sell nonintoxicating beer. Writ awarded.

...the applicant has, during the period of one year, next **immediately preceding** the date of said application, had a non-intoxicating beer...

294. Caruso v. Pearce

Supreme Court of Appeals of West Virginia. May 04, 2009 223 W.Va. 544 678 S.E.2d 50

TORTS - Dismissal. Dismissal of motorist's complaint for failure to prosecute was abuse of discretion.

...the case had not been prosecuted during the one year **immediately preceding** the filing of the Notice of Dismissal." FN3. This Court...

295. State ex rel. Schroath v. Condry

Supreme Court of Appeals of West Virginia. May 18, 1954 139 W.Va. 827 83 S.E.2d 470

Original mandamus proceeding by automobile lessees against Commissioner of Motor Vehicles to compel Commissioner of Motor Vehicles to issue class 'A' automobile registration license plate for automobile leased to bank. The Supreme Court of Appeals, Lovins, J., held that owner of motor vehicle, which was of passenger type, and which was...

...twenty-four-a, § 2577(30), referred to in the **immediately preceding** statute, so far as pertinent, reads as follows: 'In addition...

296. Meredith v. Shakespeare

Supreme Court of Appeals of West Virginia. April 08, 1924 96 W.Va. 229 122 S.E. 520

Appeal from Circuit Court, Monongalia County. Suit by Jamison Meredith, infant, etc., against Ann Victoria Shakespeare. From a decree for defendant, plaintiff appeals. Reversed, and decree entered.

...which plaintiff and defendant participated with several other intimate friends, **immediately preceding** the ceremony: that plaintiff had at no time any wish...

297. Cyrus v. Tharp

Supreme Court of Appeals of West Virginia. June 19, 1962 147 W.Va. 110 126 S.E.2d 31

Suit to set aside a deed on ground that the grantor lacked requisite mental capacity at time deed was executed. From a judgment of the Circuit Court, Cabell County, John W. Hereford, J., the plaintiff appealed. The Supreme Court of Appeals, Calhoun, President, held, inter alia, that the findings that the grantor was mentally incompetent at time of...

...Mrs. Adkins' mental capacity on Friday, Saturday, Sunday and Monday **immediately preceding** her death, Mrs. Casto testified: 'She seemed perfectly sane to...

298. Goldsborough v. Bucyrus Intern., Inc.

Supreme Court of Appeals of West Virginia. June 09, 2015 Not Reported in S.E.2d 2015 WL 3605404

Background: Coal miner, who was using a remote control transmitter to operate its associated continuous miner to mine coal and was injured when continuous miner machine struck him and pinned him between the machine and the mine wall, brought products liability action against manufacturer of the continuous miner and against manufacturer of the...

...device had been repaired in each of the two months **immediately preceding** his injury and that, following his accident, the transmitter had...

299. Myers v. Myers

Supreme Court of Appeals of West Virginia. May 01, 1945 127 W.Va. 551 33 S.E.2d 897

Appeal from Circuit Court, Marshall County. Suit by Minnie Myers against Earl F. Myers for divorce. From a decree for plaintiff, defendant appeals. Decree reversed and bill of complaint dismissed.

...together, and participated in their frequent parties until the events **immediately preceding** the separation, which plaintiff claims prompted her to leave the...

300. Arbogast v. Arbogast

Supreme Court of Appeals of West Virginia. November 14, 1984 174 W.Va. 498 327 S.E.2d 675

Father brought action seeking to enforce modified provisions of Kansas custody decree entered pursuant to divorce which had granted him custody of child after mother had left the state and repeatedly failed to comply with visitation provisions of initial decree. The Circuit Court, Pocahontas County, Charles M. Lobban, J., entered final...

...defines "home state" as: "[T]he state in which the child **immediately preceding** the time involved lived with his or her parents, a...

301. Fortney v. Al-Hajj

Supreme Court of Appeals of West Virginia. December 18, 1992 188 W.Va. 588 425 S.E.2d 264

Emergency room patient brought medical malpractice action against treating physicians and emergency room physician. The Circuit Court, Kanawha County, Tod Kaufman, J., entered judgment against emergency room physician. Physician appealed. The Supreme Court of Appeals held that: (1) trial court did not impermissibly...

...negligence. The lower court specifically informed counsel for Dr. Breland, **immediately preceding** closing arguments, that he would be permitted during closing to...

302. Felsenheld v. Bloch Bros. Tobacco Co.

Supreme Court of Appeals of West Virginia. June 26, 1937 119 W.Va. 167 192 S.E. 545

Certified question from Circuit Court, Ohio County. Suit by Emanuel Felsenheld, trustee, and another against the Bloch Bros. Tobacco Company and others, wherein the Circuit Court certified to the Supreme Court of Appeals its rulings on demurrers to the amended bills. Rulings affirmed in part, reversed in part, and cause remanded.

...voted. The situation respecting 1932 is somewhat different from the **immediately preceding** years because at the 1932 stockholders' meeting, Emanuel Felsenheld, in...

303. State v. Milam

Supreme Court of Appeals of West Virginia. July 13, 1976 159 W.Va. 691 226 S.E.2d 433

Defendant was convicted in the Circuit Court, Wyoming County, A. R. Kingdon, J., of first-degree murder, and he appealed. The Supreme Court of Appeals, Berry, C.J., held that trial court's refusal to grant requested hearing on defendant's competency to stand trial was an abuse of discretion in light of psychiatric testimony raising substantial...

...hex on the dog. As a result, on the day **immediately preceding** the killing, Gillespie obtained a gun and laid in wait...

304. Oil Run Petroleum Co. v. Gale

Supreme Court of Appeals of West Virginia. July 17, 1873 6 W.Va. 525 1873 WL 2832

The Plaintiff presented its bill of interpleader praying an injunction, and the appointment of a special receiver, to the Judge of the Circuit Court of the county of Ritchie, who refused to grant the injunction, and appoint a receiver. In a short time afterwards, the Plaintiff presented the bill to Edwin Maxwell, one of Judges of the Supreme Court...

...of assignor and assignee as an illustration of the text **immediately preceding**. From the statement of Cady's claim to the rent oil...

305. State v. Proctor

Supreme Court of Appeals of West Virginia. April 01, 2011 227 W.Va. 352 709 S.E.2d 549

CRIMINAL JUSTICE - Double Jeopardy. Defendant's separate convictions for sexual abuse and sexual abuse by guardian did not violate double jeopardy.

...include in his brief the sentence from the sheriff's report **immediately preceding** that statement which provided: "It was very hard to comprehend..."

306. State v. Gray

Supreme Court of Appeals of West Virginia. July 06, 2005 217 W.Va. 591 2005 WL 1569184

CRIMINAL JUSTICE - Confessions. Murder defendant's statement to sheriff deputies was voluntary and was not in violation of prompt presentment rule.

...such evidence except as to acts committed in the days **immediately preceding** the murder, which acts were evidence of res gestae and...

307. Martin v. Thayer

Supreme Court of Appeals of West Virginia. November 19, 1892 37 W.Va. 38 16 S.E. 489

Appeal from circuit court, Wood county. Bill by William Martin and others against Campbell Thayer and others, executors of the estate of David Findlay, deceased, to set aside and cancel a paper writing purporting to be the last will of David Findlay. There was a verdict that the paper writing was not the last will. A motion to enter a decree...

...though he was out of his mind for several days **immediately preceding** his death. Held, where the jury found against the will...

308. State ex rel. Pinson v. Varney

Supreme Court of Appeals of West Virginia. October 23, 1956 142 W.Va. 105 96 S.E.2d 72

Original proceeding for writ of mandamus against members of board of ballot commissioners to compel them to honor certificate of announcement of candidacy of persons to fill vacancies on county board of education, for general election in November. The Supreme Court, Given, J., held that a vacancy existing in membership of county board of education...

...S.E. 900 Applying the principles laid down in the cases **immediately preceding**, I think that section 5-b of Chapter 86.
idem...

■ **309. Reese v. Lowry**

Supreme Court of Appeals of West Virginia. March 22, 1955 140 W.Va. 772 86 S.E.2d 381

Action of trespass on the case by house owners against heating contractors for fire damage allegedly resulting from improper installation of coal furnace in house. The Circuit Court, Fayette County, C. L. Garvin, Jr., J., set aside verdict for house owners and granted new trial, and house owners brought error. The Supreme Court of Appeals, Riley,...

...the furnace only intermittently during the course of clement weather **immediately preceding** the day of the fire, the fact that on the...

310. Sellitti v. Sellitti

Supreme Court of Appeals of West Virginia. December 19, 1994 192 W.Va. 546 453 S.E.2d 380

Action was brought for divorce. The Circuit Court, Hancock County, George L. Spillers, J., entered dissolution decree from which wife appealed. The Supreme Court of Appeals held that: (1) divorce court improperly considered pendente lite alimony, which husband had previously been ordered to pay, as factor which could be...

...that the expenses were markedly higher than in the years **immediately preceding** 1988. An accountant for the appellant, in analyzing the expense...

311. Gauley & E. Ry. Co. v. Conley

Supreme Court of Appeals of West Virginia. September 16, 1919 84 W.Va. 489 100 S.E. 290

Error from Circuit Court, Fayette County. Condemnation proceeding by the Gauley & Eastern Railway Company against C. A. Conley and others. Verdict and judgment for defendants, and plaintiff brings error. Reversed, verdict set aside, and cause remanded for a new trial.

...the barn on one of the lots, for the year **immediately preceding** the month of August, 1917, the date of the institution..

312. Myers v. West Virginia Consol. Public Retirement Bd.

Supreme Court of Appeals of West Virginia. November 22, 2010 226 W.Va. 738 704 S.E.2d 738

LABOR AND EMPLOYMENT - Public Employment. Retired state employees had not detrimentally relied on statutory amendment regarding calculation of final average salary.

...service contained within the member's ten years of credited service **immediately preceding** the date his or her employment with a participating public...

313. State v. Porter

Supreme Court of Appeals of West Virginia. March 10, 1925 98 W.Va. 390 127 S.E. 386

Error to Circuit Court, Cabell County. Harry W. Porter was convicted of first degree murder, and he brings error. Affirmed.

...of dislike and past wrongs? Did the prisoner's conduct, at, **immediately preceding**, and following the fatal moment show evidence of a man...

314. State ex rel. Smith v. Skaff

Supreme Court of Appeals of West Virginia. July 23, 1992 187 W.Va. 651 420 S.E.2d 922

...in prison for a period of at least three months **Immediately preceding** the date of his or her release on parole." Id...

Supreme Court of Appeals of West Virginia. March 25, 1994 191 W.Va. 87 443 S.E.2d 244

...instruction did no more than contradict the instruction in the **immediately preceding** sentence. A reasonable juror could easily have resolved the contradiction...

Supreme Court of Appeals of West Virginia.	March 30, 1901	49 W.Va. 412	38 S.E. 648
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...accident, and had successfully run the machine for two cuts **immediately preceding** the accident, and if they further believe from the evidence...

Supreme Court of Appeals of West Virginia.	April 01, 1969	153 W.Va. 45	167 S.E.2d 284
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...be made throughout the year except during the thirty days **immediately preceding** any election; and that if any voter shall move from...

Supreme Court of Appeals of West Virginia.	May 20, 1952	137 W.Va. 152	70 S.E.2d 648
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...dosage that was given to Pauline during the six months **immediately preceding** her death without causing any ill effects on the patients...

Supreme Court of Appeals of West Virginia. April 22, 1988 179 W.Va. 435 369 S.E.2d 870

Defendant was convicted in the Circuit Court, Kanawha County, MacQueen, J., of aggravated robbery, and he appealed. The Supreme Court of Appeals, McHugh, C.J., held that: (1) general reliability of bite-mark evidence as means of positive identification is sufficiently established in field of forensic dentistry that a court may take judicial notice...

...infra note 11. Dispositive are the authorities cited in the **immediately preceding** section of this opinion (section IV) on instructions properly refused...

320. State v. Dean

Supreme Court of Appeals of West Virginia. April 04, 1950 134 W.Va. 257 58 S.E.2d 860

Matilene Dean was convicted in the Circuit Court of Logan County of first-degree murder, without recommendation, and she brought error. The Supreme Court of Appeals, Riley, J., held that whether killing was premeditated was for jury, that jury had right under evidence to disregard any theory of self-defense, that admission in evidence of shotgun...

...in most important details defendant's testimony as to the events **immediately preceding** the killing. Undoubtedly, the defendant killed Mack Nixon with Richardson's...

321. State v. Harlow

Supreme Court of Appeals of West Virginia. June 03, 1952 137 W.Va. 251 71 S.E.2d 330

Defendant was convicted of second degree murder. The Intermediate Court of Kanawha County entered judgment of conviction, and defendant petitioned for writ of error and supersedeas. The Circuit Court of Kanawha County refused writ of error and supersedeas. After granting writ of error and supersedeas, the Supreme Court of Appeals, Given, J., held...

...since his testimony, with reference to the shooting and events **immediately preceding**, merely corroborates that of defendant, it would serve no useful...

322. Brown v. Brown

Supreme Court of Appeals of West Virginia. May 07, 1957 142 W.Va. 695 97 S.E.2d 811

Divorce action by wife wherein husband also sought a divorce. The Circuit Court, Raleigh County, Norman Knapp, J., entered a decree in favor of wife and husband appealed. The Supreme Court of Appeals, Ducker, J., held that evidence was insufficient to sustain a decree granting wife a divorce on grounds of husband's cruelty or habitual drunkenness,...

...taxes, of \$23,217.10 to \$37,347.72, during the years **immediately preceding** the institution of this suit. It is almost inconceivable that...

323. West Virginia Pulp & Paper Co. v. J. Natwick & Co.

Supreme Court of Appeals of West Virginia. December 09, 1941 123 W.Va. 753 21 S.E.2d 368

Error to Circuit Court, Randolph County. Action of ejectment by the West Virginia Pulp & Paper Company against J.Natwick & Company and others. Judgment for plaintiff, and defendants bring error. Affirmed. FOX and LOVINS, JJ., dissenting.

...the next succeeding course and distance, and transposed the monuments **immediately preceding** and following the course and distance "S 59 W 268..."

324. State ex rel. Bd. of Educ. for Grant County v. Manchin

Supreme Court of Appeals of West Virginia. February 24, 1988 179 W.Va. 235 366 S.E.2d 743

County boards of education petitioned for writ of mandamus, maintaining that statute implemented to assist State in achieving salary equity among teachers and service personnel of all counties statewide was unconstitutional. The Supreme Court of Appeals, McHugh, C.J., held that statute violated state equal protection principles, to extent...

...on the first day of January of the fiscal year **immediately preceding** that in which the salary equity appropriation is distributed: Provided...

325. State v. Wooldridge

Supreme Court of Appeals of West Virginia. December 21, 1946 129 W.Va. 448 40 S.E.2d 899

Error to Circuit Court, Hancock County. George Wooldridge and others were convicted of unlawful assembly and they bring error. Judgment reversed and verdict set aside and new trial awarded.

...proper interpretation of order when read in connection with colloquy **immediately preceding** its entry between court and counsel, and trial judge's nunc...

326. Baltimore & O.R. Co. v. Allen

Supreme Court of Appeals of West Virginia. November 28, 1905 58 W.Va. 388 52 S.E. 465

Error from Circuit Court, Ohio County. Application by the Baltimore & Ohio Railroad Company for writ of prohibition against James Allen, justice, and others. From an order denying the writ, plaintiff brings error. Affirmed.

...circumstance would have called for a different decision. The sentence **immediately preceding** the one last above quoted reads as follows: "Neither the...

327. Woodruff v. Gilliam

Supreme Court of Appeals of West Virginia. February 19, 1935 116 W.Va. 101 179 S.E. 873

Error to Circuit Court, Kanawha County. Action by C. E. Woodruff against Joseph A. Gilliam. To review an order setting aside a verdict in plaintiff's favor, plaintiff brings error. Reversed and rendered.

...request for a physical examination and X-ray photographs, made **immediately preceding** the trial, upon the ground that such examination and photographs...

328. State v. Julie G.

Supreme Court of Appeals of West Virginia. December 17, 1997 201 W.Va. 764 500 S.E.2d 877

State petitioned for neglect adjudication. The Circuit Court, Hancock County, Ronald E. Wilson, J., determined that child was not neglected. Child appealed. The Supreme Court of Appeals, Davis, J., held that circuit court should have considered relevant evidence developed during mother's improvement period. Reversed and...

...the standard for neglect indicated by the court in the **immediately preceding** quote does not comport with the standard set forth in...

329. McCarty v. Harless

Supreme Court of Appeals of West Virginia. July 28, 1989 181 W.Va. 719 384 S.E.2d 164

Deputy sheriffs filed petition for writ of mandamus seeking order requiring sheriff and county commission to pay overtime. The Circuit Court of Boone County, Cook, J., certified questions to assist in resolution of dispute. The Supreme Court of Appeals, Brotherton, C.J., held that: (1) deputies were statutorily entitled to overtime if they could...

...the payment of back overtime wages for two consecutive years **immediately preceding** an employee's action for unpaid wages. "To the extent that...

330. State ex rel. Clark v. Adams

Supreme Court of Appeals of West Virginia. November 17, 1959 144 W.Va. 771 111 S.E.2d 336

Habeas corpus proceeding. The Supreme Court of Appeals, Haymond, J., held that a valid sentence of imprisonment may be entered upon plea of nolo contendere to an indictment for felony in any criminal case in which death penalty may not be inflicted; and that judgment of imprisonment cannot be considered or controlled in habeas corpus proceeding on...

...penalty incurred or conviction is very severe.' The same authority, **immediately preceding** the above quotation, states a different rule as to felonies...

331. State v. Smith

Supreme Court of Appeals of West Virginia. October 27, 2010 226 W.Va. 487 702 S.E.2d 619

CRIMINAL JUSTICE - Searches and Seizures. Surveillance video of attack taken by defendant's camera but recorded on neighbor victim's computer was admissible.

...other, more empirical, evidence. At trial, the defendant testified that **immediately preceding** the attack he went to place a shotgun in the...

332. State v. Gory

Supreme Court of Appeals of West Virginia. June 26, 1966 142 W.Va. 5 93 S.E.2d 494

Prosecution for illegal sale of whiskey. Defendant was sentenced by the Criminal Court, Harrison County, Arlos J. Harbert, J., and the Circuit Court of Harrison County, Karl B. Kyle, J., affirmed. The Supreme Court of Appeals granted a writ of error and supersedeas. The Supreme Court, Browning, President, held that the statute requiring preparation...

...of the State and county for at least one year **immediately preceding** the preparation of the list * * *. [6] [7] The question thus...

333. Somon v. Murphy Fabrication & Erection Co.

Supreme Court of Appeals of West Virginia. March 01, 1977 160 W.Va. 84 232 S.E.2d 524

In a boundary line dispute case, the Brooke County Circuit Court, James G. McClure, J., entered judgment in favor of plaintiff, and defendant appealed. The Supreme Court of Appeals, Miller, J., held that while plaintiff by mistake occupied land up to a line beyond his actual boundary, believing it to be the true line, such belief did not defeat his...

...only one measurement on the ground. This was the line **immediately preceding** the first common call of S. 47 48 W. 275...

334. State v. Nuckols

Supreme Court of Appeals of West Virginia. December 17, 1968 152 W.Va. 736 166 S.E.2d 3

The defendant was convicted of falsifying state accounts. The Circuit Court of Kanawha County, Frank Taylor, J., rendered judgment, and the defendant brought error. The Supreme Court of Appeals, Berry, President, held that there was no improper selection of grand jury and petit jury, that indictment was sufficient, that refusal to grant continuance...

...of the State and county for at least one year **immediately preceding** the preparation of the list, and shall not be office...

335. State ex rel. Perdue v. Nationwide Life Ins. Co.

Supreme Court of Appeals of West Virginia. June 16, 2015 236 W.Va. 1 777 S.E.2d 11

INSURANCE - Life. Life insurers' obligation to pay life insurance proceeds did not require perfected claim by a beneficiary.

...established for at least fourteen years, that is, from the **immediately preceding** 1981 version of the model statute. The 1995 version of...

336. McAtee v. McAtee

Supreme Court of Appeals of West Virginia. December 06, 1984 174 W.Va. 129 323 S.E.2d 611

Wife appealed from an order of the Circuit Court, Randolph County, Jack R. Nuzum, J., denying her motion seeking to set aside child custody provisions of divorce decree. The Supreme Court of Appeals, Neely, J., held

that the Circuit Court acquired jurisdiction to award child custody under the Uniform Child Custody Jurisdiction Act and could make...

...follows: "Home state" means the state in which the child **immediately preceding** the time involved lived with his parents, a parent or...

337. State ex rel. City of Charles Town v. County Com'n of Jefferson County.

Supreme Court of Appeals of West Virginia. October 26, 2007 221 W.Va. 317 655 S.E.2d 63

GOVERNMENT - Annexation. County commission was required to enter presented annexation orders without determining whether annexation complied with statutes.

...commission shall thereupon enter an order as described in the **immediately preceding** section [§8-6-3] of this article. After the...

338. McMechen v. McMechen

Supreme Court of Appeals of West Virginia. April 30, 1881 17 W.Va. 683 1881 WL 3797

1. A widow has no right to contest her husband's will, for she is not bound by it but may renounce it. 2. But her children, who were the heirs of the testator, have the right by their mother as their next friend to take an appeal from the probate of the will. 3. The fact, that the widow was improperly joined in the appeal, does not affect the...

...heard the statements of the witnesses, as to the circumstances **immediately preceding** her being taken sick, the appearance of the body immediately...

339. Ball v. Wills

Supreme Court of Appeals of West Virginia. December 15, 1993 190 W.Va. 517 438 S.E.2d 860

Wife petitioned from order of the Circuit Court, Mercer County, C. Berkley Lilly, J., denying petition to increase husband's child support and medical support obligations. The Supreme Court of Appeals, Workman, C.J., held that: (1) trial court erred in failing to consider father's income from his law practice over lengthy enough...

...of the party's income tax returns for the two years **immediately preceding** the hearing date and Forms W-2 for those years...

340. State v. Morris

Supreme Court of Appeals of West Virginia. December 04, 1956 142 W.Va. 303 95 S.E.2d 401

Prosecution of 63 year old tubercular defendant for murder of 26 year old fellow dance hall patron, who twice committed unprovoked assaults upon defendant who fatally stabbed assailant during second affray. The Circuit Court of Calhoun County, L. H. Miller, J., entered judgment upon conviction of first degree murder, and defendant brought error....

...patient for a period of thirteen and a half months **immediately preceding** his discharge from that institution. He spent that night at...

341. Sommerville v. Pennsylvania R. Co.

Supreme Court of Appeals of West Virginia. June 27, 1967 151 W.Va. 709 155 S.E.2d 865

Action by steel company employee for damages for injury sustained when defendant's railroad car collided with building in which employee was working. The Circuit Court of Hancock County, Ralph E. Pryor, J., entered judgment on verdict for the employee and denied the railroad's motion to set aside the verdict, and the railroad appealed. The Supreme...

...difficulty in passing over the switch on the return trip **immediately preceding** the accident. And even more significant is the undisputed fact...

342. Walker v. West Virginia Ethics Com'n

Supreme Court of Appeals of West Virginia. July 15, 1997 201 W.Va. 108 492 S.E.2d 167

District supervisor for Division of Rehabilitation Services (DRS) appealed decision of Ethics Commission affirming hearing examiner's recommendations finding that supervisor violated Governmental Ethics Act. The Circuit Court, Raleigh County, Robert A. Burnside, Jr., J., affirmed finding that supervisor falsified travel expense form, but...

...alleged in Count 5, which occurred within the twelve months **immediately preceding** the complaint's filing date, was well within the statute of...

343. Lockard v. Wiseman

Supreme Court of Appeals of West Virginia. February 26, 1954 139 W.Va. 306 80 S.E.2d 427

Suit by which plaintiffs sought to enjoin defendants from interfering with plaintiffs in the discharge of their duties respectively as manager and clerk of municipality. The Circuit Court, Harrison County, Max DeBerry, J., dissolved preliminary injunction previously granted, and plaintiff appealed. The Supreme Court of Appeals, Haymond, J., held...

...duly appointed city clerk on May 1, 1951, under the **immediately preceding** city administration; that the defendant Wiseman had rightfully entered into...

344. Richardson v. McConaughey

Supreme Court of Appeals of West Virginia. April 01, 1904 55 W.Va. 546 47 S.E. 287

Appeal from Circuit Court, Marshall County; Jos. R. Paull, Judge. Bill by M. L. Richardson and her husband against Ann McConaughey and others. Decree for defendants, and plaintiffs appeal. Affirmed.

...other, said allegations being wholly at variance with the allegations **immediately preceding**, to the effect that Ann had already leased the property...

345. Acme Food Co. v. Older

Supreme Court of Appeals of West Virginia. March 31, 1908 64 W.Va. 255 61 S.E. 235

Error from Circuit Court, Putnam County. Action by the Acme Food Company against J. B. Older. Judgment for plaintiff, and defendant brings error. Reversed and remanded.

...cited for that proposition. The cases mentioned in the reference **immediately preceding** the statement are *Dustan v. McAndrew*, 44 N. Y. 72...

346. State v. Burdette

Supreme Court of Appeals of West Virginia. December 12, 1950 135 W.Va. 312 63 S.E.2d 69

Harry Atlee Burdette was convicted in the Intermediate Court of Kanawha County of murder of the first degree. The Circuit Court of Kanawha County denied the defendant's prayer for a writ of error and supersedeas to the final judgment of the Intermediate Court, and defendant brought error. The Supreme Court of Appeals, Given, J., held that the jury...

...of the State and county for at least one year **immediately preceding** the preparation of the list' of grand jurors prepared by...

347. State ex rel. Paul B. v. Hill

Supreme Court of Appeals of West Virginia. October 24, 1997 201 W.Va. 248 496 S.E.2d 198

Adoptive parents sought writ of prohibition to prohibit judge from enforcing order placing custody of children with respite care providers pending further investigation. The Supreme Court of Appeals, Davis, J., held that: (1) respite care providers were proper parties to file an abuse and neglect petition and, therefore, had standing...

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition.
W.Va.Code §48-4...

348. State v. Carduff

Supreme Court of Appeals of West Virginia. June 26, 1956 142 W.Va. 18 93 S.E.2d 502

Prosecution for illegal sale of whiskey. Upon trial in Criminal Court, Harrison County, Arlos J. Harbert, J., defendant was found guilty. The Circuit Court, Harrison County, Karl B. Kyle, J., refused a writ of error and the Supreme Court awarded a writ of error upon defendant's application. The Supreme Court of Appeals, Haymond, J., held, inter...

...of the State and county for at least one year **immediately preceding** the preparation of the list, and shall not be office...

349. Sandra M. v. Jeremy M.

Supreme Court of Appeals of West Virginia. July 17, 1996 197 W.Va. 542 476 S.E.2d 213

Wife who along with her husband and child had recently moved to Florida from California subsequently moved to West Virginia along with child. Father, who remained in Florida, filed divorce and custody action in Florida, and wife filed custody action in West Virginia. After communication between courts, Florida court assumed...

...the PKPA and the UCCJA as the State in which, **immediately preceding** the time involved, the child lived with his parents, a...

350. State ex rel. K.M. v. West Virginia Dept. of Health and Human Resources

Supreme Court of Appeals of West Virginia. December 09, 2002 212 W.Va. 783 575 S.E.2d 393

GOVERNMENT - Public Assistance. Procedures for fair hearing after termination of welfare violated due process.

...funded under this part during the fiscal year or the **immediately preceding** fiscal year (but not both), as the State may elect...

351. Rosen v. Rosen

Supreme Court of Appeals of West Virginia. June 26, 2008 222 W.Va. 402 664 S.E.2d 743

FAMILY LAW - Child Custody. Family court was not required to give full faith and credit to child custody order of foreign court that lacked subject matter jurisdiction.

...such State FN8. "Home State" means the State in which, **immediately preceding** the time involved, the child lived with his parents, a...

352. State v. Huffman

Supreme Court of Appeals of West Virginia. May 31, 1955 141 W.Va. 55 87 S.E.2d 541

Defendant was convicted of attempted rape. The Circuit Court, Kanawha County, Frank L. Taylor, J., rendered judgment, and defendant brought error. The Supreme Court of Appeals, Haymond, J., held that evidence of prosecutrix' lack of consent was insufficient to sustain conviction. Judgments reversed; verdict set aside; new trial awarded.

...he was going to take you down there?' The question **immediately preceding** the unanswered question was 'Then he said he would take...

■ **353. West Virginia Public Employees Retirement System v. Dodd**

Supreme Court of Appeals of West Virginia. July 20, 1990 183 W.Va. 544 396 S.E.2d 725

State Public Employees Retirement System sought determination of retired sheriff's ineligibility for pension due to less than honorable service. The Circuit Court, Kanawha County, Herman G. Canady, Jr., J., held that former sheriff had forfeited his public pension, and he appealed. The Supreme Court of Appeals, McHugh, J., held...

...2d 183 (1989) [11] For the reasons stated in the **immediately preceding** paragraph, the appellant was not deprived of property without due...

■ **354. Bridges v. Shallcross**

Supreme Court of Appeals of West Virginia. July 19, 1873 6 W.Va. 562 1873 WL 2834

The only questions presented for the consideration and determination of the court by the demurrer of the complainant to the return of the defendant made to the mandamus nisi awarded in this cause are as follows viz: First: Is the act passed by the legislature on the 14th day of January 1873, entitled, "An act amending and re-enacting section...

...with the adoption of the constitution, or under a constitution **immediately preceding**, and by those who had an opportunity to understand the...

■ **355. Lester v. Rose**

Supreme Court of Appeals of West Virginia. February 26, 1963 147 W.Va. 575 130 S.E.2d 80

Action for wrongful death of truck passenger against defendant drivers and owners of two other vehicles. The Circuit Court of Mercer County, F. Morton Wagner, J., entered a judgment for the plaintiff and one of the defendant drivers appealed. The Supreme Court of Appeals, Berry, President, held that findings that appealing defendant automobile...

...about three or four car lengths behind the Landreth truck **immediately preceding** the accident, that he stopped his vehicle before running into...

356. Matter of Starcher

Supreme Court of Appeals of West Virginia. January 23, 1998 202 W.Va. 55 501 S.E.2d 772

Judicial disciplinary proceeding was instituted. The Supreme Court of Appeals, Holliday, Senior Status Judge, held that judicial candidate's personal solicitation of public support in violation of Code of Judicial Conduct warranted admonishment. Admonishment ordered.

...The letter was prepared during the course of a weekend **immediately preceding** the last nine weeks of the Primary Election campaign in...

■ **357. Aldrich v. Aldrich**

Supreme Court of Appeals of West Virginia. July 06, 1962 147 W.Va. 269 127 S.E.2d 385

Action by divorced wife to enforce collection, against divorced husband's estate, of alimony provisions of Florida divorce decree. The Circuit Court, Putnam County, James Lee Thompson, J., dismissed the complaint, and plaintiff appealed. The Supreme Court of Appeals, Haymond, J., held that Florida divorce court, while it had jurisdiction of subject...

...and by the statement that the rule stated in the **immediately preceding** quotation 'appears to be applicable to the situation in the...

358. State ex rel. Hechler v. Christian Action Network

Supreme Court of Appeals of West Virginia. July 16, 1997 201 W.Va. 71 491 S.E.2d 618

State sought to enjoin family-values advocacy organization from continuing solicitation activities without complying with Solicitation of Charitable Funds Act. After issuing preliminary injunction and holding hearing, the Circuit Court, Kanawha County, Lyne Ranson, J., issued permanent injunction. Organization appealed. The...

...statement or report of income and expenses for the organization's **immediately preceding** fiscal year [,]" W. Va. code, 29-19-5(a)(6)...

359. Sheila L. on Behalf of Ronald M.M. v. Ronald P.M.

Supreme Court of Appeals of West Virginia. October 27, 1995 195 W.Va. 210 465 S.E.2d 210

Mother filed petition seeking custody of her son. The Circuit Court, Wetzel County, John T. Madden, J., dismissed petition after determining it was required to give full faith and credit to final order entered by Ohio court pursuant to father's emergency petition, and mother appealed. The Supreme Court of Appeals, Cleckley, J., held...

...b)(4) , in relevant part, as "the State in which, **immediately preceding** the time involved, the child lived with his parents, a...

360. Pickens v. Coal River Boom & Timber Co.

Supreme Court of Appeals of West Virginia. May 04, 1909 66 W.Va. 10 65 S.E. 865

Appeal from Circuit Court, Kanawha County. Action by Roman Pickens against the Coal River Boom & Timber Company and others. Judgment for plaintiff, and the Coal River Boom & Driving Company appeals. Affirmed. Williams, J., dissenting.

...from 21st December, 1899, to 21st December, 1904, 5 years **immediately preceding** the institution of the suit. The contention on the side...

361. Hebb v. County Court of Tucker County

Supreme Court of Appeals of West Virginia. November 24, 1900 48 W.Va. 279 49 W.Va. 733

Error to circuit court, Tucker county; John Homer Holt, Judge. Application of Charles M. Hebb for a writ of mandamus against the county court of Tucker county and William M. Cayton. From an order granted therein, Cayton brings error. Affirmed by divided court.

...the ballot. Cayton had been such clerk during the term **immediately preceding** said election. A recount was refused, and Hebb obtained from...

362. Lawyer Disciplinary Bd. v. Haught

Supreme Court of Appeals of West Virginia. February 12, 2014 233 W.Va. 185 757 S.E.2d 609

LEGAL SERVICES - Discipline. Attorney's misconduct including failing to maintain client funds in IOLTA account warranted one-year suspension.

...the Subcommittee found that the bank statement for the period **immediately preceding** that check (August 1, 2009 to August 31, 2009) revealed...

363. Winding Gulf Colliery Co. v. Campbell

Supreme Court of Appeals of West Virginia. May 06, 1913 72 W.Va. 449 78 S.E. 384

Error to Circuit Court, Raleigh County. Action by the Winding Gulf Colliery Company against J. A. Campbell and others. Judgment for plaintiff, and defendants bring error. Affirmed.

...of commissioner and placed the preposition "by" between the name **immediately preceding** and his signature, he would thereby have formally delineated on...

364. Ward v. Smith

Supreme Court of Appeals of West Virginia. March 28, 1955 140 W.Va. 791 86 S.E.2d 539

Action by subcontractor to recover from road contractor for amounts of crushed stone allegedly delivered under contract. The Circuit Court, Cabell County, John W. Hereford, J., rendered judgment on verdict for plaintiff, and defendants brought error. The Supreme Court of Appeals, Haymond, J., held that where subcontract for supplying of crushed...

...party of the first part in accordance with the paragraph **immediately preceding** hereof, which payment shall be made not later than the...

365. State v. Dennis

Supreme Court of Appeals of West Virginia. December 01, 2004 216 W.Va. 331 607 S.E.2d 437

CRIMINAL JUSTICE - Kidnapping. Testimony of witness was admissible under excited utterance exception to hearsay rule.

...issue occurred, as well as the events in the months **immediately preceding** the dates in July. are largely in dispute
Explaining how...

366. Reed v. Hall

Supreme Court of Appeals of West Virginia. May 22, 2015 235 W.Va. 322 773 S.E.2d 666

TRANSPORTATION - Motor Vehicles. Licensee was denied statutory and due process rights to have his blood tested independently, and thus, his license revocation for DUI would be rescinded.

...consent statute) for conduct which occurred within the ten years **immediately preceding** the date of arrest. W.Va.Code §17C-5A-2(p...

367. State v. Young

Supreme Court of Appeals of West Virginia. June 28, 1991 165 W.Va. 327 406 S.E.2d 758

Dentist was convicted in the Circuit Court, McDowell County, Booker T. Stephens, J., of felonious constructive delivery of controlled substance and felonious obtaining of controlled substance. Dentist appealed. The Supreme Court of Appeals, McHugh, J., held that: (1) elements of felonious constructive delivery of controlled...

...401(a) [1983] , quoted in the third paragraph of the **immediately preceding** subsection of this opinion, is 21 U.S.C. §841(a...

368. In re Emily

Supreme Court of Appeals of West Virginia. June 16, 2000 208 W.Va. 325 540 S.E.2d 542

FAMILY LAW - Child Protection. In termination case, parents were not entitled to delayed one-year improvement periods.

...to act continues uninterrupted for a period of six months **immediately preceding** the filing of the adoption petition.
(Emphasis added). [21] [22...

369. State ex rel. Mays v. Brown

Supreme Court of Appeals of West Virginia. December 19, 1912 71 W.Va. 519 77 S.E. 243

Habeas corpus by the State on relation of L. A. Mays, and on relation of F. S. Nance, to secure relator's release from custody of M. L. Brown, Warden of the State Penitentiary. Writs denied. Robinson, J., dissenting.

...constitutional guaranties under the plea of necessity. During the decade **immediately preceding** the making and adoption of that instrument, this doctrine of...

370. State v. Whittaker

Supreme Court of Appeals of West Virginia. April 05, 2007 221 W.Va. 117 650 S.E.2d 216

CRIMINAL JUSTICE - Self-Defense. Evidence was sufficient to disprove defendant's claim that she acted in self-defense when she shot and killed victim.

...providing shelter to Ms. Whittaker and J.W. during the days **immediately preceding** the shooting and her personal observations that Ms. Whittaker was...

371. State v. Stevenson

Supreme Court of Appeals of West Virginia. July 03, 1962 147 W.Va. 211 127 S.E.2d 638

Defendant was convicted in the Common Pleas Court of Cabell County, of murder of the first degree. The Circuit Court of Cabell County, John W. Hereford, Judge, upon writ of error, affirmed the judgment, and a writ of error and supersedeas were granted. The Supreme Court of Appeals, Browning, J., held that police officers were within their rights in...

...members spent some time during each of the two nights **immediately preceding** the rendition of the verdict in a game of cards...

372. Tasker v. Mohn

Supreme Court of Appeals of West Virginia. June 04, 1980 165 W.Va. 55 267 S.E.2d 183

Prisoner filed petition for a writ of habeas corpus. The Supreme Court of Appeals, Harshbarger, J., held that: (1) release on parole was a substantial liberty interest and the procedures by which it is granted or denied must satisfy due process standards; (2) each prospective parolee must be given timely and adequate notice of the date and hour of...

...in prison for a period of at least three months **immediately preceding** the date of his release on parole; (4) Shall have...

373. State v. Williams

Supreme Court of Appeals of West Virginia. June 27, 1983 172 W.Va. 295 305 S.E.2d 251

Defendant was convicted before the Circuit Court, McDowell County, of murder of the first degree without a recommendation of mercy, of arson in the first degree, and of robbery, and he appealed. The Supreme Court of Appeals, McGraw, C.J., held that: (1) evidence was sufficient to sustain convictions; (2) trial court did not abuse its discretion in...

...in immediate vicinity of home where crimes occurred during hours **immediately preceding** crimes and that during such time defendant had attempted to...

374. Rhodes v. Workers' Compensation Div.

Supreme Court of Appeals of West Virginia. December 11, 2000 209 W.Va. 8 543 S.E.2d 289

LABOR AND EMPLOYMENT - Workers' Compensation. Claimant bore burden as to new evidence supporting claim for occupational pneumoconiosis benefits.

...for a period of ten years during the fifteen years **immediately preceding** the date of his or her last exposure to such...

375. Hall v. Bank of Virginia

Supreme Court of Appeals of West Virginia. July 09, 1879 15 W.Va. 323 1879 WL 2986

1. A case decided at one term of the Supreme Court of Appeals, at which no motion or petition is made or filed to rehear it, cannot be reheard by that Court upon its merits for the correction of errors of judgment in the final decree or judgment of the Appellate Court at the former term. 2. Chapter 52 of the Acts of the Legislature of West...

...this clause simply means, when read in connection with that **immediately preceding**, that where the Court on its own motion may desire...

376. Mylius v. Smith

Supreme Court of Appeals of West Virginia. April 11, 1903 53 W.Va. 173 44 S.E. 542

Appeal from Circuit Court, Upshur County; W. C. Bennett, Judge. Bill by Charles E. Mylius against J. L. Smith. Decree for defendant, and plaintiff appeals. Modified.

...the court takes time to consider of his decree herein." **Immediately preceding** the order just quoted there appears copied in the record...

377. Preston County Coke Co. v. Preston County Light & Power Co.

Supreme Court of Appeals of West Virginia. March 28, 1961 146 W.Va. 231 119 S.E.2d 420

Action of assumpsit to recover the balance on an open account wherein the defendant asserted a setoff. To review an adverse judgment of the Circuit Court of Preston County, Melvin C. Snyder, J., the plaintiff brings error. The Supreme Court of Appeals, Haymond, President, held that documents were insufficient to remove the account from the...

...During the five year period, April 1953 to April 1958, **immediately preceding** the institution of this action, sixty four checks were issued...

378. Barber v. Fire & Marine Ins. Co. of Wheeling

Supreme Court of Appeals of West Virginia. May 01, 1880 16 W.Va. 658 1880 WL 4024

1. Where the defendant relies upon the contract limitation, as to the time within which suit shall be brought, in an insurance policy, in defeasance of the action, the practice is to plead it, and not to take advantage of it by demurrer. 2. Where the question of the contract limitation contained in an insurance policy is not presented to the court...

...damage shall accrue," &c. The former part of the condition **immediately preceding** is: "in case of any loss or damage to the...

379. Schmertz v. Hammond

Supreme Court of Appeals of West Virginia. March 24, 1900 47 W.Va. 527 35 S.E. 945

Appeal from circuit court, Cabell county; E. S. Doolittle, Judge. Suit by W. E. Schmertz and others against James Hammond and others. Decree for plaintiffs, and defendants Samuel C. Koonce and others appeal. Reversed.

...and several of the judgments were rendered in the month **immediately preceding** the date on which appellant purchased the residue of the...

380. State v. Robinson

Supreme Court of Appeals of West Virginia. August 25, 1882 20 W.Va. 713 1882 WL 3541

1. If permanent insanity is produced by habitual drunkenness, then like insanity produced by any other cause it excuses an act, which otherwise would be criminal. (p. 740.) 2. When insanity is relied on as a defense to a charge of crime, it must be proved to the satisfaction of the jury, in order to entitle the accused to an acquittal on that...

...prisoner by his excesses in liquor for the several days **immediately preceding** the killing; and that the inference from said instruction is...

381. Ex parte Jones

Supreme Court of Appeals of West Virginia. March 21, 1913 71 W.Va. 567 77 S.E. 1029

(Additional Syllabus by Editorial Staff.) Though a military commission is a military court, its jurisdiction is not confined to military persons, but extends also to citizens. The declaration of a state of war in a portion of the state by the Governor was a recognition or establishment of belligerency, and made the inhabitants of the military...

...of the same officer, filed by the respondents, says that **immediately preceding** or during the time martial law has been in effect...

382. State ex rel. Ocwen Loan Servicing, LLC v. Webster

Supreme Court of Appeals of West Virginia. November 13, 2013 232 W.Va. 341 752 S.E.2d 372

COMMERCIAL LAW - Arbitration. Dodd-Frank Act provision that banned mandatory arbitration clauses did not operate retroactively to ify agreement.

...to prevent circumvention of a new statute in the interval **immediately preceding** its passage, or simply to give comprehensive effect to a...

383. State v. Guthrie

Supreme Court of Appeals of West Virginia. July 19, 1995 194 W.Va. 657 461 S.E.2d 163

Defendant was convicted in the Circuit Court, Kanawha County, Paul Zakaib, Jr., J., of first-degree murder, and he appealed. The Supreme Court of Appeals, Cleckley, J., held that: (1) once proper instruction is given advising jury of state's burden of proof under Jackson, no additional instruction on circumstantial evidence is...

...of trial. The defendant testified he suffered a panic attack **immediately preceding** the stabbing. He described the attack as "intense", he felt...

384. Gregory v. West Virginia Div. of Corrections

Supreme Court of Appeals of West Virginia. February 11, 2013 Not Reported in S.E.2d 2013 WL 500378

CRIMINAL JUSTICE - Parole. Parole revocation statute did not vest legislative power by delegating power Parole Board in violation of constitution.

...in prison for a period of at least three months **immediately preceding** any release on parole and "the inmate shall have his...

385. Burlew v. Quarrier

Supreme Court of Appeals of West Virginia. April 10, 1880 16 W.Va. 108 1880 WL 4000

1. It seems that a trustee in a deed of trust may apply to a court of equity under circumstances to remove impediments to a fair execution of his trust, and remove a cloud hanging over the title to the property conveyed to him in trust to secure the payment of a debt or debts. 2. Such trustee may under circumstances, in order to remove a cloud upon...

...justification and in support of the conclusion announced by me **immediately preceding** the same. Before arriving at said conclusion I examined with...

386. DePond v. Gainer

Supreme Court of Appeals of West Virginia. March 12, 1986 177 W.Va. 173 351 S.E.2d 358

Judge's widow brought mandamus action to compel State Auditor to authorize and direct payment of spousal annuity. The Supreme Court of Appeals, McGraw, J., held that: (1) widow of judge who served more than 24 years of creditable service was entitled to payment of spousal annuity; (2) Auditor had duty to prepare certified copy...

...credited service contained within his ten years of credited service **immediately preceding** the date of his employment with a participating public employer...

388. McClaskey v. O'Brien

Supreme Court of Appeals of West Virginia.	December 20, 1879	16 W.Va. 791	1879 WL 2996
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...statement of the amount due said C. Hoke, Jr., and **immediately preceding** said "alternate statement." I do, however, understand the court by...

... upon said land." The deed also recites in a paragraph **immediately preceding** that just quoted as follows. "The said John D. Day...

5 guilty of a misdemeanor, and, upon conviction thereof,
6 shall be fined not less than fifty nor more than one hun-
7 dred dollars.

Sec. 22. Wagering or Betting on Elections; Penalties.—
2 It shall be unlawful to bet or wager money or other thing
3 of value on any election held in this state. Any person
4 violating the provisions of this section shall be guilty of
5 a misdemeanor, and, upon conviction thereof, he shall
6 forfeit the value of the money or thing so bet or wagered
7 and shall be fined not more than fifty dollars.

**Sec. 23. Punishment Where Penalty Not Prescribed;
Failure to Perform Duty Not Specifically Made an Of-
ense.—**Any person who shall commit any act made an
4 offense by any provision of this chapter, for which no
5 penalty or punishment is prescribed by any other pro-
6 vision contained therein, or any person who shall fail to
7 perform any duty prescribed therein which has not been
8 specifically made an offense, shall be guilty of a misde-
9 meanor, and, upon conviction thereof, shall be fined not
10 more than one thousand dollars, or, in the discretion of
11 the court, be confined in jail for not more than one year.

Sec. 24. Limitations on Prosecutions.—No person shall
2 be prosecuted for any crime or offense under any pro-
3 vision of this chapter, unless upon an indictment found
4 and presentment made within one year after the date of
5 the commission of the crime or offense.

Article 10. Filling Vacancies.

Section

1. Elections to fill vacancies in offices.
2. Vacancy in office of governor.
3. State officials, United States senator and judge vacancies.
4. Congressmen vacancies.
5. Vacancies in state Legislature.
6. Circuit court clerk vacancies.
7. County commissioner, clerk of county court, justice and constable vacancies.
8. Prosecuting attorney, sheriff, assessor and surveyor vacancies.

Section 1. Elections to Fill Vacancies in Offices.—Elec-
2 tions to fill vacancies shall be for the unexpired term,
3 and shall be held at the same places, and superintended,
4 conducted and returned, and the result ascertained, cer-
5 tified and declared, in the same manner, and by the same
6 officers, as in general elections. The persons elected,

6 published once each week for two successive weeks in
7 two newspapers of opposite politics in each county in the
8 district where such vacancy may occur. In such procla-
9 mation he shall appoint some day, not less than thirty
10 nor more than seventy-five days from the date thereof,
11 for holding the election to fill such vacancy. Nomina-
12 tions to fill such vacancy shall be made in the manner
13 prescribed for nominating a candidate to fill a vacancy
14 in the office of governor, to be voted for at a special elec-
15 tion. The congressional district executive committee of
16 a party shall perform the duties devolving upon the state
17 executive committee in filling a state office.

Sec. 5. Vacancies in State Legislature.—Any vacancy
2 in the office of state senator or member of the house of
3 delegates shall be filled by appointment by the governor,
4 in each instance from a list of three legally qualified per-
5 sons submitted by the county party executive committee
6 in the case of a member of the house of delegates, and by
7 the party executive committee of the state senatorial dis-
8 trict in the case of a state senator, of the party with which
9 the person holding the office immediately preceding the
10 vacancy was affiliated, and of the county or state sena-
11 torial district, respectively, in which he resided at the
12 time of his election or appointment. The appointment to
13 fill a vacancy in the house of delegates shall be for the
14 unexpired term. If the unexpired term in the office of
15 state senator be for less than two years and two months,
16 the appointment shall be for the unexpired term. If the
17 unexpired term be for a period longer than two years
18 and two months, the appointment shall be until the
19 next general election and until the election and quali-
20 fication of a successor to the person appointed, at which
21 general election the vacancy shall be filled by election
22 for the unexpired term. Notice of an election to fill
23 a vacancy in the office of state senator shall be given
24 by the governor by proclamation and shall be pub-
25 lished once a week for two successive weeks prior to
26 the date of the election, in two newspapers having the
27 largest and second largest circulation, and of opposite
28 party politics, published in each county in the senatorial

29 district. Nominations for candidates to fill such vacancy
30 shall be made in the manner prescribed for nominating a
31 candidate to fill a vacancy in the office of governor to be
32 voted for at a general election. The state senatorial dis-
33 trict executive committee of the political party shall dis-
34 charge the duties incident to state senator nominations
35 devolving upon the party state executive committee in
36 nominating a candidate for a state office.

Sec. 6. Circuit Court Clerk Vacancies.—When a va-
2 cancy occurs in the office of clerk of the circuit court,
3 the circuit court, or the judge thereof in vacation,
4 shall fill the same by appointment until the next gen-
5 eral election, and the person so appointed shall hold of-
6 fice until his successor is elected and qualified. At such
7 general election a clerk shall be elected for the unexpired
8 term. The circuit court, or the judge thereof in vacation,
9 shall cause a notice of such election to be published once
10 each week for two successive weeks in two newspapers
11 of opposite politics, printed in the county, if there be any
12 such papers printed therein, or in such other manner as
13 will give ample notice of such election. If the vacancy
14 occurs before the primary election held to nominate can-
15 didates to be voted for at the general election, at which
16 any such vacancy is to be filled, candidates to fill such
17 vacancy shall be nominated at such primary election in
18 accordance with the time requirements and the provisions
19 and procedures prescribed in article five of this chapter.
20 Otherwise, they shall be nominated by the county execu-
21 tive committee in the manner provided in section nine-
22 teen, article five, of this chapter, as in the case of filling
23 vacancies in nominations, and the names of the persons,
24 so nominated and certified to the clerk of the circuit court
25 of such county, shall be placed upon the ballot to be voted
26 at such next general election.

Sec. 7. County Commissioner, Clerk of County Court,
2 **Justice and Constable Vacancies.**—Any vacancy in the of-
3 fice of county court commissioner, clerk of county court,
4 justice or constable shall be filled by the county court of
5 the county, unless the number of vacancies in a county
6 court deprive that body of a quorum, in which case the

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Hall Switches Parties, GOP Will Control Both Chambers of West Virginia Legislature

By [DAVE MISTICH \(/PEOPLE/DAVE-MISTICH\)](#) & [ASHTON MARRA \(/PEOPLE/ASHTON-MARRA\)](#) • NOV 5, 2014

[Twitter \(http://twitter.com/Intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2Fkfrvzhm&text=Hall%20Switches%20Parties%2C%20](http://twitter.com/Intent/tweet?url=http%3A%2F%2Fwww.tinyurl.com%2Fkfrvzhm&text=Hall%20Switches%20Parties%2C%20)

Senator Daniel Hall has left the Democratic Party, flipping the West Virginia Legislature entirely into the hands of the GOP, according to a source in the state's Republican Party office.

The party affiliation change comes after a deadlock in the state Senate (<http://wvpublic.org/post/west-virginias-state-senate-tied-now-what>) where Republicans and Democrats each had 17 members as a result of Tuesday's election.

Hall said of the switch Wednesday night via Facebook:
(<https://www.facebook.com/danieljhall.wv>)

"Political climates change, and I made a decision today to keep Raleigh, Wyoming and Mcdowell counties at the table in the West Virginia Senate. I have always picked our people over party...and did today as well. This decision will upset some, but had to be made for our district to be relevant."



(http://wvpublic.org/sites/wvnp/files/styles/x_large

CREDIT WEST VIRGINIA LEGISLATURE

Hall served in the West Virginia House of Delegates from 2008 to 2012. In 2006, he unsuccessfully ran for the House of Delegates as a Republican.

Hall's counterpart in the Senate's 9th District, Democratic incumbent Mike Green, was defeated in Tuesday's election by Republican Jeff Mullins.

It also looks as though Hall's switch may not be only one from Democrat to Republican in the state Senate, according to The Charleston Daily Mail's Jared Hunt:



Jared Hunt
@jaredwv

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Was also told Hall might not be the last Democrat to turn to GOP.

7:05 PM - 5 Nov 2014

7 3

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1 year ago

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA
NO. 16-0013

STATE OF WEST VIRGINIA ex rel.
BELINDA BIAFORE, in her capacity as
Chair of the West Virginia State Democratic
Executive Committee, and STEPHEN DAVIS,
LINDA KLOPP, DAVID THOMPSON, LINDA
PHILLIPS, STEPHEN EVANS, and PATRICIA
BLEVINS, each individually, and in their capacity
as the members of the West Virginia Democratic
Executive Committee for the Ninth Senatorial District,

Petitioners,

v.

EARL RAY TOMBLIN, in his capacity as Governor
of the State of West Virginia, and BEVERLY R. LUND,
JUSTIN M. ARVON, SUE "WAOMI" CLINE, TONY
PAYNTER, JOHN DOE, and JANE DOE, in their
capacity as the members of the West Virginia Republican
Executive Committee for the Ninth Senatorial District,

Respondents.

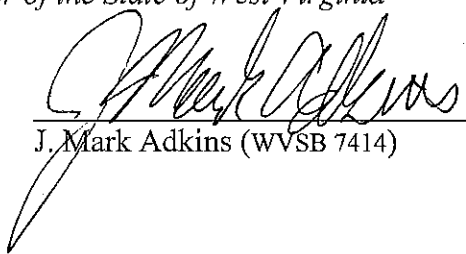
Certificate of Service

I, J. Mark Adkins, do hereby certify that I have caused copies of the hereto
attached *Respondent's Appendix* to be served upon the following:

Anthony J. Majestro, Esquire
Powell & Majestro, PLLC
405 Capitol Street, Suite P1200
Charleston, West Virginia 25301
Counsel for Petitioners

Peter G. Markham, Esquire
Office of Governor Earl Ray Tomblin
1900 Kanawha Boulevard, East, State Capitol
Charleston, West Virginia 25305
*Counsel for Earl Ray Tomblin, in his Capacity as
Governor of the State of West Virginia*

by hand-delivery on this 12th day of January 2016.


J. Mark Adkins (WVSB 7414)