

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on September 12, 2016, the following order was made and entered:

Erik Patrick Wells,  
Respondent Below, Petitioner

vs.) No. 16-0779

Charles T. Miller, Prosecuting Attorney,  
Petitioner Below, Respondent

ORDER

On August 23, 2016, the petitioner, Erik Patrick Wells, by counsel Thomas P. Maroney, Maroney, Williams, Weaver & Pancake, PLLC, perfected an appeal from a judgment of the Circuit Court of Kanawha County (No. 16-P-364) entered on August 18, 2016, with the filing of the petitioner's brief and appendix. Thereafter, on August 25, 2016, the respondent, Charles T. Miller, Prosecuting Attorney, by Laura Young and Robert William Schulenberg III, Assistant Prosecuting Attorneys, filed a respondent's brief. Finally, on August 26, 2016, the petitioner, by counsel, filed a reply brief.

Acting without undue delay because of the nature of the matter at issue and the necessity to resolve the matter quickly, the Court scheduled the case for prompt review upon the Rule 20 argument docket, and this matter was fully heard on September 7, 2016.

Given the request for accelerated consideration and resolution of the issue as it relates to the preparation of the ballot in the 2016 general election, this Court issues its decision through this order with a detailed opinion to follow in due course.

The Court has thoroughly reviewed the appendix record and the arguments set forth in the briefs of the parties. After careful consideration of all filings and oral argument by the parties, the Court is of the opinion that the August 18, 2016 order entered in the Circuit Court of Kanawha County shall be, and it hereby is, affirmed. Accordingly, it is hereby ordered that the candidacy of Erik Patrick Wells for the office of County Clerk of Kanawha County is hereby disallowed. The Kanawha County Clerk is ordered to take whatever measures are necessary to ensure that Erik Patrick Wells does not appear on the 2016 General Election Ballot for the Office of County Clerk of Kanawha County.

Justice Davis dissents and reserves the right to file a dissenting opinion in due course.

The Clerk of this Court is hereby directed to issue the mandate forthwith.

Service of an attested copy of this order upon all parties herein shall constitute sufficient notice of its contents.

A True Copy

Attest: //s// Rory L. Perry II  
Clerk of Court

