

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on March 23, 2016, the following order was made and entered:

Brent D. Benjamin, candidate for the
Supreme Court of Appeals of West Virginia,
Petitioner

vs.) No. 16-0228

Elizabeth D. Walker, candidate for the
Supreme Court of Appeals of West Virginia;
West Virginia Secretary of State Natalie Tennant;
West Virginia State Election Commission members
Gary A. Collias and Vincent P. Cardi,
Respondents

Order

On March 8, 2016, an appeal from the March 4, 2016, order of the Circuit Court of Kanawha County was docketed in this appeal. In the interest of resolving this appeal in an expedited manner, a scheduling order was entered that same date, and directed the parties to file a joint appendix record, and to file briefs on or before Friday, March 17, 2016. Further, this appeal was set for oral argument on March 23, 2016.

Thereafter, on March 17, 2016, briefs were filed by the petitioner, Brent D. Benjamin, by counsel, Benjamin Bailey, Jonathan Marshall, and Maryl Sattler, Bailey & Glasser, LLP, as well as by respondents, Elizabeth D. Walker, by counsel, Thomas C. Ryan, K&L Gates LLP, and Natalie Tennant, Gary A. Collias and Vincent P. Cardi, Members of the WV State Election Commission, by counsel, Richard L. Gottlieb, Webster J. Arceneaux, III, and Spencer D. Elliott, Lewis Glasser Casey and Rollins, PLLC.

As scheduled, this appeal was fully heard upon the briefs and oral argument of the parties. The Court has thoroughly reviewed the written arguments in this appeal, and has carefully considered the oral argument of the parties. The Court is of the opinion, based upon the applicable legal authority, that the order of the circuit court should be reversed.

Recognizing the significance of election issues to the State of West Virginia and its citizens and given the parties' request for accelerated consideration and resolution of this appeal as it relates to the upcoming election, the Court issues its decision through this order with an opinion to follow in due course.

On appeal of an administrative order from a circuit court, this Court is bound by the statutory standards contained in W. Va. Code §29A-5-4(a) and reviews questions of law presented *de novo*; findings of fact by the administrative officer are accorded deference unless the reviewing court believes the findings to be clearly wrong. Syl. Pt. 1, Muscatell v. Cline, 196 W.Va. 588, 474 S.E.2d 518 (1996). The order of the Circuit Court of Kanawha County is hereby reversed, and the decision of the State Election Commission certifying Brent D. Benjamin, as eligible to receive public campaign financing funds is hereby reinstated.

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

Chief Justice Ketchum, Justice Davis, Justice Benjamin, Justice Workman, and Justice Loughry are disqualified. Senior Status Judge Keadle, Judge Hatcher, Judge Mazzone, Judge Evans, and Senior Status Judge Holliday, sitting by temporary assignment.

Service of a 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

