

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 26th of May, 2005, the following order was made and entered:

State of West Virginia ex rel.
Mary Ann Podelco, Petitioner

vs.) No. 31793

Earl Ray Tomblin, President of the Senate;
Robert S. Kiss, Speaker of the House of
Delegates; and Office of the Governor of the
State of West Virginia; Glenn Gainer, the Auditor
of the State of West Virginia; John Perdue,
Treasurer of the State of West Virginia; Gregory
Gray, Clerk of the West Virginia House of Delegates;
and Darrell Holmes, Clerk of the West Virginia
Senate, Respondents

On a former day, to-wit, April 29, 2005, came the respondents, Earl Ray Tomblin, President of the Senate, Robert S. Kiss, Speaker of the House of Delegates, Darrell Holmes, Clerk of the West Virginia Senate, and Gregory Gray, Clerk of the West Virginia House of Delegates, by their attorneys M.E. Mike Mowery, Ray E. Ratliff and Mark McOwen, and presented to the Court their motion for reconsideration of the rule to show cause, and motion to dismiss. Thereafter, on May 23, 2005, came the petitioner, by Daniel F. Hedges, her attorney, and submitted her response in opposition.

Upon consideration whereof, the Court is of the opinion that this matter should be set for a hearing, and doth hereby fix this matter for argument on Wednesday, June 15, 2005, to be held immediately following argument in cases previously set to be heard that day.

It is further ordered that any party may file a supplemental brief on or before June 7, 2005.

Justice Davis would refuse the motion consistent with her dissent in State ex rel., League of Women Voters of West Virginia v. Tomblin, 209 W.V. 565, 550 S.E.2d 355 (2001), on the basis that the Budget Digest is unconstitutional as applied.

Justice Benjamin would refuse the motion.

A True Copy

Attest:


Clerk, Supreme Court of Appeals