

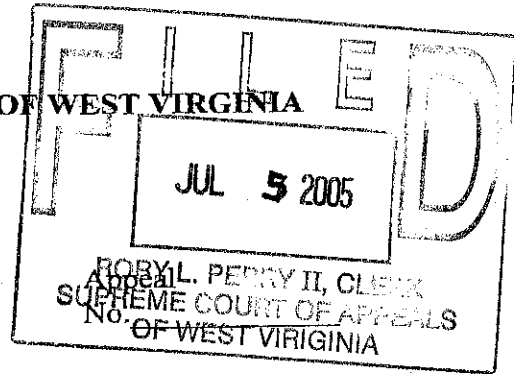
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IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

JONATHAN D. AND CHARLES B.,
Infants/Petitioners,

V.

HONORABLE RUSSELL M. CLAWGES, JR.,
Chief Judge of the Circuit Court of Monongalia County,
West Virginia, and Edward B. and Estella B., parents,
Respondents.



**THE RESPONDENT, ED B.'S, RESPONSE TO PETITION TO
FILE PETITION FOR WRIT OF PROHIBITION**

NOW COMES the Respondent, Ed B., by and through his counsel, Rhonda McIntyre, and responds to the Petition to File a Petition For Writ of Prohibition by requesting that this Very Honorable Court to Deny the Petition to File for the following reasons:


- 1) "Prohibition lies only to restrain inferior courts from proceeding in causes over which they have no jurisdiction, or, in which having jurisdiction, they are exceeding their legitimate powers and may not be used as a substitute for writ of error, appeal or certiorari." Syl. Pt. 1 Crawford v. Taylor, 138 S. Va. 207, 75 S.E.2d 370 (1953). Judge Clawges certainly had jurisdiction to hear this matter. It was an abuse and neglect proceeding that statutorily is within his jurisdiction as a circuit court judge. As the trier of fact, a circuit court judge has wide discretion on procedural matters within his court. Judge Clawges did not exceed that authority. If the circuit court had terminated the Respondent's parental rights in a disposition, this case would have moved into permanency stage, wherein the circuit court would review the matter every two to three months for 18 months or longer. Furthermore, a disposition can

be modified upon Motion by any of the parties until the children are adopted under WVC §49-6-6. Therefore, Judge Clawges was literally timely in his decision to extend final disposition as far as how long this case will actually be under his jurisdiction. And as trier of fact, he should be given wide discretion in deciding if there are extraordinary facts present in the case that require an extension period before final disposition. Judge Clawges apparently feels that those extraordinary circumstances exist, and that it is in Jonathan B. and Charles B.'s best interest that reunification of the family continue to be the primary goal.

- 2) The children's father has admitted that he is an alcoholic. He has attended AA every day for over six months, and attended regularly for three months before he was ever Ordered to attend. He attends counseling every week. His counselor says that he is making great progress and that he is on the right track for success. (Attached). I believe that Judge Clawges, understands all of the facts of this case, and more importantly, understands that keeping a family united should be the first priority of the courts, the support systems, the supposed support systems, and all involved, unless there is an imminent danger to the children. In his wise and wide discretion, he found that extending the disposition was best for the family of Johnathan B. and Charles B. I believe that this Very Honorable Court should allow Judge Clawges that discretion, and therein DENY the Writ of prohibition that has been filed in this matter.

Respectfully Submitted by

Edward B., Respondent,
By counsel, Rhonda McIntyre.



Rhonda McIntyre, Esquire
WV State Bar # 8827