

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

HUNTINGTON DIVISION

NAOMI SPENCER DALY,  
DARRELL CASTLE and  
DORREL W. ARTHUR

Plaintiffs,

v.

No. 3:16-cv-08981

NATALIE TENNANT,  
in her official capacity as  
Secretary of State of the  
State of West Virginia,

Defendant.

**MOTION TO JOIN BRIAN WOOD IN HIS OFFICIAL CAPACITY AS CLERK OF THE  
COUNTY COMMISSION OF PUTNAM COUNTY, WEST VIRGINIA AS AN  
ADDITIONAL PARTY DEFENDANT**

Dorrel W. Arthur moves the Court for the entry of an order joining Brian Wood, in his official capacity as Clerk of the County Commission of Putnam County, West Virginia [Putnam County Clerk], as an additional party to this action.

The Putnam County Clerk is required to be joined, if feasible, as a party to this action pursuant to Rule 19(a)(1)(A), (B)(ii), *Federal Rules of Civil Procedure*.

Brian Wood is the Putnam County Clerk and the chief election officer for Putnam County, West Virginia. Mr. Wood is a citizen and resident of Putnam County, West Virginia and therefore subject to service of process from this Court. His joinder in this action will not deprive the Court of subject matter jurisdiction.

Dorrel W. Arthur qualified as a non-affiliated, independent candidate for the office of Putnam County Commissioner through the office of the Putnam County Clerk. The County Clerk

is the chief election officer of the County and is the person who has been tasked by the Secretary of State to enforce a retroactive filing deadline and remove Mr. Arthur's name from the ballot for the November 8, 2016, general election. Mr. Arthur has been permitted to intervene as a plaintiff in this civil action because, unlike the original plaintiffs, Mr. Arthur's candidacy and position on the ballot is subject to determination by Brian Wood as Putnam County Clerk. In the absence of Mr. Wood, the Court cannot accord complete relief among the existing parties regarding the pending emergency motion for temporary restraining order.

As the chief election officer of Putnam County, Brian Wood has a substantial interest relating to Dorrel W. Arthur's continued candidacy and position on the general election ballot. Disposing of this action in the absence of Brian Wood in his official capacity as Putnam County Clerk may leave Mr. Arthur subject to a substantial risk of incurring inconsistent obligations or results.

Dorrel W. Arthur seeks no relief from the Putnam County Clerk other than continuation of his name on the Putnam County general election ballot for the office of County Commissioner; Mr. Arthur seeks no costs, attorney fees or monetary damages from County Clerk Wood and, therefore, moves the Court that Mr. Wood be joined in this action as a defendant against whom no relief other than injunctive relief is requested.

The plaintiff Dorrel W. Arthur moves the Court for the entry of an order joining Brian Wood as a party defendant to this action only in his official capacity as Putnam County Clerk and only for the purpose of equitable, injunctive relief.

DORREL W. ARTHUR  
BY COUNSEL

s/Harvey D. Peyton  
Harvey D. Peyton, Esquire (#2890)  
Thomas H. Peyton, Esquire (#8841)  
*Peyton Law Firm, PLLC*  
2801 First Avenue  
P. O. Box 216  
Nitro, WV 25143  
Telephone: (304) 755-5556  
Fax: (304) 755-1255  
*Counsel for Dorrel W. Arthur*

**CERTIFICATE OF SERVICE**

I, Harvey D. Peyton, counsel for Dorrel W. Arthur, do hereby certify that I have this 21<sup>st</sup> day of September, 2016, served a copy of the foregoing “**Motion to Join Brian Wood in his Official Capacity as Clerk of the County Commission of Putnam County, West Virginia as an Additional Party Defendant**” upon the following parties of record by using the Court’s CM/ECF system which will send notification of such filing to the following CM/ECF participants:

Counsel for Plaintiffs:

[amajestro@powellmajestro.com](mailto:amajestro@powellmajestro.com)

[helen@powellmajestro.com](mailto:helen@powellmajestro.com)

[jnelson@powellmajestro.com](mailto:jnelson@powellmajestro.com)

[paula@powellmajestro.com](mailto:paula@powellmajestro.com)

[bryan@bryansellsllaw.com](mailto:bryan@bryansellsllaw.com)

No attorney has yet made an appearance for the Defendant, Secretary of State Natalie Tennant. However, I hereby certify that on September 21, 2016, I attempted service of the foregoing “**Motion to Join Brian Wood in his Official Capacity as Clerk of the County Commission of Putnam County, West Virginia as an Additional Party Defendant**” upon the Defendant by emailing a copy to the following attorneys by electronic mail:

Ashley Summitt

Chief Counsel, West Virginia Secretary of State

[eamsummitt@wvsos.com](mailto:eamsummitt@wvsos.com)

Timothy Leach

Assistant Counsel, West Virginia Secretary of State

[tleaseh@wvsos.com](mailto:tleaseh@wvsos.com)

J. Robert Leslie

Senior Deputy Attorney General, West Virginia Attorney General

[James.r.leslie@wvago.gov](mailto:James.r.leslie@wvago.gov)

s/Harvey D. Peyton \_\_\_\_\_  
HARVEY D. PEYTON