

IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA
RALEIGH COUNTY COMMISSION,

Petitioner,

v.

Civil Action No.:

BENJAMIN N. HATFIELD,

Respondent.

PETITION OF RESOLUTION PURSUANT TO WV CODE § 6-6-7

Pursuant to West Virginia Code § 6-6-7 the Raleigh County Commission hereby enacts this Resolution to remove Raleigh County Prosecuting Attorney Benjamin Hatfield, a person holding a county office for a term fixed by law, from his duly elected office. The Raleigh County Commission is removing Mr. Hatfield from his office due to official misconduct and neglect of duty. The procedure for removing a duly elected county official from office is set forth in § 6-6-7(a) which states:

- (a) Any person holding any county, school district or municipal office, including the office of a member of a board of education and the office of magistrate, the term or tenure of which office is fixed by law, whether the office be elective or appointive, except judges of the circuit courts, may be removed from such office in the manner provided in this section for official misconduct, neglect of duty, incompetence or for any of the causes or on any of the grounds provided by any other statute.
- (b) Charges may be proffered:
 - (1) In the case of any county officer, member of a board of education or magistrate:
 - (A) By a duly enacted resolution of the county commission which sets forth therein the name and office of the challenged officer, the alleged wrongful acts, the dates the alleged acts occurred and the grounds for removal as provided in this article;

(continued...)

- (c) When removal is proffered by a duly enacted resolution of a county commission or municipal governing body, a certified copy of the resolution shall be served by the clerk of the commission or municipal governing body upon the circuit court in whose jurisdiction the officer serves within five business days of adoption of the resolution. The proffering county commission or municipal governing body shall be responsible for the prosecution of the removal resolution...

(continued ...)

- (f) Any resolution or petition submitted pursuant to this section shall be received and entered of record by the court, or the judge thereof in vacation, and a summons shall thereupon be issued by the clerk of such court, together with a copy of the resolution or petition, requiring the officer or person named therein, or legal counsel therefor, to appear before the court for a preliminary hearing, at the courthouse of the county where such officer resides, for the purpose of a judicial determination as to the validity of the resolution or petition, the clerk having ascertained whether such signatures are the signatures of eligible residents, and to hear any related objections or motions that may be presented. The summons shall be served in the manner by which a summons commencing a civil suit may be served within five business days of the receipt of the resolution or petition by the court.
- (g) The court, or judge thereof in vacation, or in the case of any multi-judge circuit, the chief judge thereof, shall have authority to evaluate any resolution or petition for any procedural defect, and to consider all the allegations made in the resolution or petition in light of the applicable case law and the required strict construction of the grounds asserted, and conclude whether or not the allegations asserted would be sufficient, if proven by clear and convincing evidence, to warrant the removal of the officer from office...

If the court finds, after consideration of any motions or objections, or in the court's discretion provided for herein, that the resolution or petition is defective or the allegations stated therein do not meet the standards for removal set forth herein, the resolution or petition shall be dismissed by the court. If the court finds that the resolution or petition is sufficient under the standards for removal set forth herein to proceed to a hearing before a three-judge court, the court shall forward a copy of the resolution or petition to the Supreme Court of Appeals.

Upon receipt of said resolution or petition, the chief justice of the Supreme Court of Appeals shall, not fewer than twenty days from the date of the receipt of the resolution or petition, designate and appoint three circuit judges within the state, not more than one of whom shall be from the same circuit in which the resolution or petition was filed and, in the order of such

appointment, shall require that the three-judge court designate the date, time and place for the hearing of the resolution or petition forthwith.

Such three-judge court shall, without a jury, hear the charges, any motions filed by either party and all evidence offered in support thereof or in opposition thereto, and upon satisfactory proof of the charges by clear and convincing evidence, shall remove any such officer from office and place the records, papers and property of his office in the possession of some other officer or person for safekeeping or in the possession of the person appointed as hereinafter provided to fill the office temporarily. Any final order either removing or refusing to remove any such person from office shall contain such findings of fact and conclusions of law as the three-judge court shall deem sufficient to support its decision of all issues presented to it in the matter....

West Virginia Code § 6-6-7 (1985); see also *Law. Disciplinary Bd. v. Plants*, 239 W. Va. 347, 352, 801 S.E.2d 225, 230 (2017).

The Raleigh County Commission hereby states that Raleigh County Prosecuting Attorney Benjamin Hatfield committed the following wrongful acts¹ constituting official misconduct and neglect of duty, which form the basis for the grounds for removal as provided in West Virginia Code § 6-6-7:

1. In or around July/August 2024 a Domestic Violence Petition was filed in the Magistrate Court of Fayette County, West Virginia in which an alleged “consensual sexual partner” of Mr. Hatfield claimed that he had violated West Virginia Code § 48-27-101 *et seq.* The petitioner alleges that she was originally denied the ability to file the Domestic Violence Petition in Raleigh County.
2. The Petition was initially denied and appealed before being transferred to Raleigh County Family Court. Due to a potential conflict of interest, the case was transferred to Clay-Nicholas County Family Law Court Judge Harley Stollings.
3. Judge Stollings initially granted the petition for a temporary order based solely upon the testimony from the Petitioner. However, Hatfield appealed and subsequently a hearing for a Protective Order was held before Judge

¹ All of the allegations contained in the following subsections, 1-12, are based upon publicly available information and based upon the good faith belief and independent investigation of the Raleigh County Commission.

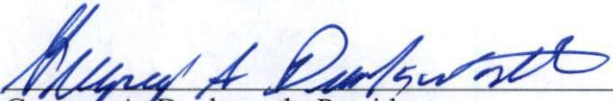
Stollings in which he listened to several hours of testimony from the Petitioner.

4. In an Order filed by Judge Stollings on August 21, 2024, Judge Stollings stated that “the Court finds that the parties engaged in consensual sexual intercourse on more than one occasions” but the Petitioner “is not a victim of domestic violence, sexual assault, or stalking.” Additionally, Judge Stollings found that “the Petitioner failed to prove the allegations of domestic violence or abuse by a preponderance of the evidence” as required by the West Virginia Code, thereby denying the Petition.
5. Judge Stollings’ Order was appealed to Greenbrier Circuit Court Judge Robert Richardson who reversed Judge Stollings Order and sent it back to Family Law Court for a full hearing.
6. A full hearing before Judge Stollings was scheduled on September 23, 2024. Prior to the September 23, 2024, hearing an incident occurred on September 17, 2024, at the YMCA Paul Cline Sports Complex in Beckley, West Virginia between the Petitioner and Mr. Hatfield in which Petitioner alleged that Mr. Hatfield “stared steadily at her for at least three seconds and pursed his lips as if to blow a kiss.” Based upon these allegations an additional Petition was filed by the Petitioner alleging that Mr. Hatfield was in contempt of the original Court Order that stated that he was “to have no contact with Petitioner.”
7. Based upon the more than five (5) hours of testimony from the Petitioner and Mr. Hatfield at the September 23, 2024 hearing, Judge Stollings granted a 180-day Domestic Violence Protective Order against Prosecuting Attorney Hatfield and made the following findings:
 - a. The actions by Mr. Hatfield were intended to intimidate or threaten the Petitioner and to be in contempt of the Court’s order to have no contact with Petitioner.
 - b. Mr. Hatfield came within 35 feet of the Petitioner and had an unobstructed view at the time of the Petitioner.
 - c. That Mr. Hatfield’s testimony that he did not see Petitioner to be not credible.
 - d. Mr. Hatfield attempted to cause or intentionally, knowingly, or recklessly caused physical harm to the Petitioner or other persons named herein with or without dangerous or deadly weapons.
 - e. Mr. Hatfield placed the Petitioner or other persons named herein in reasonable apprehension of harm.
 - f. Mr. Hatfield created a fear of physical harm by harassment, stalking, psychological abuse, or threatening acts.

8. On August 22, 2024, Just For Kids Child Advocacy Center requested that Mr. Hatfield refrain from being present at its office. The request was prompted in part due to an “anonymous threat against one of [its] employees at [its] center prior to the hearing last week....” *See* correspondence from Just For Kids attached hereto as **Exhibit A**.
9. Three of the four Circuit Court Judges for Tenth Judicial Circuit of West Virginia, the Circuit in which Mr. Hatfield prosecutes criminal matters, requested an investigation of Mr. Hatfield and stated that they had “[b]een told by individuals that [they] respect, that there is evidence that Mr. Hatfield has engaged in activities which are inappropriate on a professional basis and are impacting the operations of the Prosecuting Attorney’s Office.” *See* correspondence from Tenth Judicial Circuit of West Virginia attached hereto as **Exhibit B**.
10. The County Commission is aware that the Commission of Special Investigations for the Legislature and the State of West Virginia Office of Lawyer Disciplinary Counsel have ongoing investigations into the alleged official misconduct and neglect of duty of Mr. Hatfield. *See* October 1, 2024, correspondence attached hereto as **Exhibit C**.
11. On or around August 26, 2024, the Raleigh County Commission received numerous “Notices of Representation” wherein claims of hostile work environment, gender-based discrimination, harassment, damage to reputation, deprivation of civil rights to equal protection, and fundamental fairness arising as a direct result of the employment and supervision of Mr. Hatfield. *See* Notices attached hereto as **Exhibit D**.
12. Additionally, there have now been approximately 124 Motions to Recuse filed on behalf of various criminal defendants as the result of the Domestic Violence Protective Order entered against Mr. Hatfield. *See* one exemplar of said Motion to Recuse attached hereto as **Exhibit E**.
13. Additionally, local law enforcement, including both the West Virginia State Police and the Raleigh County Sheriff’s Department has contacted the Raleigh County Commission and stated that it would not appear for any grand jury where Mr. Hatfield was seeking an indictment.

BE IT RESOLVED, that pursuant to West Virginia Code § 6-6-7 the Raleigh County Commission hereby enacts this Resolution to remove Raleigh County Prosecuting Attorney Benjamin Hatfield, a person holding a county office for a term fixed by law, from his duly elected office for reasons listed evidencing official misconduct and neglect of duty.

This Resolution is created upon a Motion made by Commissioner Epling and seconded by Commissioner Hall. All Commissioners voted in favor of passing the subject Resolution.



Gregory A. Duckworth, President



Linda K. Epling, Commissioner



Daniel J. Hall, Commissioner



Just For Kids Child Advocacy Center

BY MAIL and
EMAIL TO: Bill.Roop@rcpawv.com

The County Commission of Raleigh County
Gregory Duckworth, President
Linda K. Epling, Commissioner
Daniel J. Hall, Commissioner
116 ½ N. Heber Street
Beckley, WV 25801

August 22, 2024

Dear Commissioners,

As President of the Board of Directors of Just for Kids Child Advocacy Center, I am writing to formally request an accommodation due to recent disruptions in our ability to conduct the critical work we do for abused children. Following the announcement of the Commission's request for an investigation into the alleged inappropriate conduct of Prosecuting Attorney Ben Hatfield, we have received numerous phone calls and the media presence at our facility has disrupted our ability to conduct forensic interviews and counseling sessions.

To ensure continuity and to minimize further disruption that could be caused by Mr. Hatfield's presence at our facilities, we request that the Raleigh County Commission provide written assurance that Mr. Hatfield will delegate his attendance at the regular MDIT meetings to another prosecutor, i.e. John Leo Bridi, and that he refrains from visiting our facility while your investigation is ongoing. This request is also prompted by the recent, anonymous threat against one of our employees at our center prior to the hearing last week. This measure will help maintain the peace of mind of our staff and protect our workplace and the children we serve from further interruption.

This request is not intended to comment on the validity of any allegations against Mr. Hatfield but is to ensure that our facilities remain undisturbed so that our staff's focus can continue to be on the children of Raleigh County.

Thank you for your consideration of this request.

K. Marcy Nolan
President, Board of Directors
Just for Kids Child Advocacy Center
C: 954-562-0155

cc: Dr. Deanee' Johnson
Members, Board of Directors, JFK
Mr. Robert Dunlap

Our mission is to create a safe community for children and families by preventing and responding to child abuse through teamwork, collaboration and services.

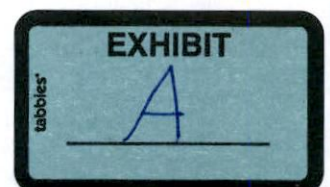
Just For Kids, Inc.

611 N. Kanawha Street, Beckley, WV 25801

304-255-4834

info@ifkwv.com

Just For Kids Child Advocacy Center is a 501 (c)(3) organization



Tenth Judicial Circuit of



JUDGE ANDREW G. DIMLICH
RALEIGH COUNTY JUDICIAL CENTER
222 MAIN STREET
SUITE 153
BECKLEY, WEST VIRGINIA 25801

TELEPHONE (304) 252-2417
FAX (304) 252-2339

West Virginia

Raleigh County

Greg Duckworth, President
Raleigh County Commission
116 N. Heber Street
Beckley, WV 25801

Re: Request for Investigation

Dear Commissioner Duckworth:

This letter is written on behalf of the undersigned Judges of the Circuit Court. Judge Todd A. Kirby did not join in this letter based upon the fact that he previously worked for the Prosecuting Attorney's Office and just recently took his seat on the bench.

It is our understanding that you, Commissioner Epling and Commissioner Hall have previously been made aware of allegations which were filed against Prosecuting Attorney Benjamin Hatfield in a Domestic Violence Petition (DVP). While the allegations in the DVP are serious, it has come to our attention that several other allegations related to Mr. Hatfield's conduct as Prosecuting Attorney are circulating through the courthouse and the law enforcement community. (While this letter was being prepared, it has come to our attention that the Special Family Court Judge assigned to the DVP, GRANTED the DVP against Mr. Hatfield earlier this morning, on at least a preliminary basis with a full hearing to be conducted on August 21, 2024.)

While none of us Judges have any first-hand knowledge of Mr. Hatfield's actions, some of us have been told by individuals that we respect, that there is evidence that Mr. Hatfield has engaged in activities which are inappropriate on a professional basis and are impacting the operations of the Prosecuting Attorney's Office. Some of the information provided to us relates to inappropriate communications with female office staff, use of his position and/or influence to impact the hiring of individuals for positions related to law enforcement outside of his office, and potential abuse of his position and decision making in other aspects of operations within his office.

Although we have been told that there may be a current investigation of the matters related to the DVP by the Federal Bureau of Investigation (FBI), it is our understanding that the investigation may be limited to potential wrongful actions by the Petitioner against Mr. Hatfield. Our information does not indicate that the FBI has been provided any of the additional information or allegations which have been presented to us.

EXHIBIT

tabbies

B

Since these allegations began surfacing (soon after the filing of the DVP), we have attempted to obtain additional information to determine how we, as Judges, should react to the allegations and rumors. In discussing our options, we believe that based upon the precedent which was set recently by the Commission in response to allegations against former Circuit Clerk Robert McComas, that the Commission needs to request a full investigation of all the allegations against Mr. Hatfield.

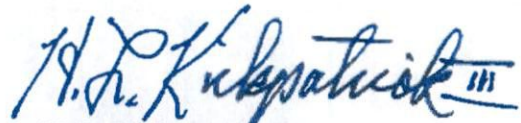
While the Prosecuting Attorney and his office are not under our supervision or control, we feel the need to express our concerns to ensure the continued smooth operation of the court system and to avoid any negative perception of the legal process. Therefore, we believe asking that the Commission request a full investigation of the allegations of Mr. Hatfield is one of the obligations we have. We further request that the investigation be conducted by an outside agency that does not interact with the Raleigh County Prosecuting Attorney's Office on a regular basis to minimize any potential conflicts. Once an agency is selected, we are willing to discuss the information we have been provided with the investigator(s).

Thank you for your prompt attention to this matter. Should you have any questions, please feel free to contact any of our offices.

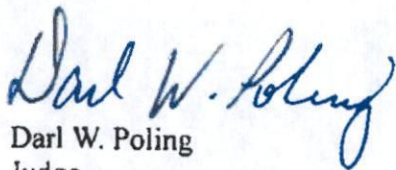
Sincerely



Andrew G. Dimlich
Chief Judge



H. L. Kirkpatrick, III
Judge



Darl W. Poling
Judge

County Commission of Raleigh County



116 ½ North Heber Street
Beckley, West Virginia 25801-4522



October 1, 2024

In regards to the matters involving the Raleigh County Prosecuting Attorney's Office.

The County Commission requested an investigation by the Commission of Special investigations and are aware of an investigation by the Office of Disciplinary Council of the West Virginia State Bar. We are cooperating with each of these investigations.

Additionally, based upon a letter received from three Raleigh County Circuit Judges and some employees, we have initiated our own investigation into these complaints as it relates to the work place.

These matters are personnel related and we cannot comment any further at this time.

A handwritten signature in blue ink, appearing to read "Gregory A. Duckworth", written over a horizontal line.

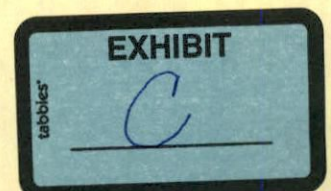
Gregory A. Duckworth, President

A handwritten signature in blue ink, appearing to read "Linda K. Epling", written over a horizontal line.

Linda K. Epling, Commissioner

A handwritten signature in blue ink, appearing to read "Daniel J. Hall", written over a horizontal line.

Daniel J. Hall, Commissioner



BRADFORD & GRAY

PLLC

Attorneys at Law
220 N. Fayette Street
Beckley, WV 25801

Matthew A. Bradford, Esq.
Brandon L. Gray, Esq.

Phone: (304) 255-5628
Toll Free: 1-800-287-5628
Fax: (304) 255-7071

August 26, 2024

Raleigh County Commission
116 ½ Heber Street
Beckley, WV 25801

Re: Notice of Representation
Demand Request for Preservation of Evidence

Dear Raleigh County Commission:

My firm and the Lupardus Law Office, LC., are engaged by **Jane Doe**, an employee working under the supervision of Benjamin Hatfield, Raleigh County Prosecuting Attorney, and therefore the Raleigh County Commission, to investigate and advance claims for hostile work environment, gender-based discrimination, inappropriate harassment, damage to reputation, deprivation of civil rights to equal protection, and fundamental fairness arising as a direct result of his employment and supervision of Benjamin Hatfield in both his official and individual capacities, the Raleigh County Prosecuting Attorney's Office, and the Raleigh County Commission.

You are hereby on notice of these claims. It is hereby demanded that the Raleigh County Commission take all steps to preserve evidence relating to the conduct of these officials and offices, including but not limited to all audio/video captured in the Raleigh County Prosecuting Attorney's Office via any electronic recording means, all audio/video recordings of Benjamin Hatfield within the possession and/or control of any of the entities named herein, all emails by and between Benjamin Hatfield and any employees of the Raleigh County Commission, prosecuting attorney's office, other county employees, the county manager, and every Commissioner of Raleigh County, whether on county or personal emails; all cell phone messages, calls, texts, pictures, and history of the same on cell devices, Sim Cards, Cloud storage or other storage which are authored by, appear authored by, from, directed to, sent to, or which address, mention, discuss, or involved Raleigh County Prosecuting Attorney Benjamin Hatfield, or which address, mention, discuss or involve Raleigh County employee **Jane Doe**; all records, texts, emails, messages, and memoranda concerning the implementation, plans for implementation, and discussions concerning whether to implement county employee access to human resources for complaints, suggestions or concerns during the last five years; all emails, cell phone texts, letters, faxes, notes, and memoranda concerning any allegations or suspicions raised concerning the behavior of Benjamin Hatfield, the possibility of compromised cases, any complaints or allegations which have been made by any source concerning Benjamin Hatfield; all pay records for Raleigh County Prosecutor office employees; all cell phone pictures, history, and messages of County Commission employees; all records, notes, memoranda and recordings of any meetings, messages, or communications between any of the Raleigh County Commissioners and



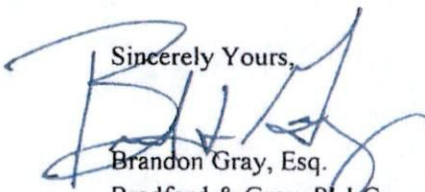
Page 2
August 26, 2024

Benjamin Hatfield; all emails, cell phone records, letters, memos or other communication authored by or from any of the Raleigh County Commissioners or employees of the Raleigh County Commission which in any way relate to any allegations made against Benjamin Hatfield from any source, the domestic violence protection case involving Benjamin Hatfield, the actions or inactions of Raleigh County and/or Fayette County Magistrates and court personnel; and any and all other records, recordings, photos, electronically stored documents or images, and information which may bear in any way on the allegations for which you are now on notice.

This demand for preservation includes the Raleigh County Commission, each of the Raleigh County Commissioners, the Raleigh County Commission employees and contracted entities, the Raleigh County Prosecuting Attorney's Office, all employees of the Raleigh County Prosecuting Attorney's Office, and Benjamin Hatfield, in his official capacity and individually.

This demand for preservation is on-going.

Sincerely Yours,



Brandon Gray, Esq.
Bradford & Gray, PLLC
220 North Fayette Street
Beckley, WV 25801

And

Timothy P. Lupardus
Lupardus Law Office, LC
PO Box 1680
Pineville, WV 24874

BRADFORD & GRAY PLLC

Attorneys at Law
220 N. Fayette Street
Beckley, WV 25801

Matthew A. Bradford, Esq.
Brandon L. Gray, Esq.

Phone: (304) 255-5628
Toll Free: 1-800-287-5628
Fax: (304) 255-7071

August 26, 2024

State of West Virginia
Office of the Attorney General
Attorney General Patrick Morrissey
1900 Kanawha Blvd E Apt 26
Charleston, WV 25305
Certified Mail No.: 7019 0160 0000 9256 2491

Raleigh County Commission
116 N Heber St
Beckley, WV 25801
Hand Delivered

Re: Notice of Representation

Dear Mr. Morrissey and County Commissioners:

Pursuant to the provisions of West Virginia Code § 55-17-3, I am giving notice that **Tabatha Frazier**, through counsel Brandon L. Gray and Bradford & Gray PLLC, and through Timothy P. Lupardus and Lupardus Law Office LC, intends to file a civil action against the Raleigh County Prosecuting Attorney, Benjamin Hatfield, and as such will also be naming the Raleigh County Prosecuting Attorney's Office, and the Raleigh County Commission, as a political subdivision of Raleigh County, in said civil action.

I intend to file a Civil Complaint at the end of the thirty (30) day notice period against Prosecuting Attorney Benjamin Hatfield, the Raleigh County Prosecuting Attorney's Office, and the Raleigh County Commission for claims of hostile work environment, gender-based discrimination, inappropriate harassment, damage to reputation, deprivation of civil rights to equal protection, and fundamental fairness arising as a direct result of the employment and supervision of Benjamin Hatfield as the Raleigh County Prosecuting Attorney.