

In the Circuit Court of Jefferson County, West Virginia

JOHN A. CLINE,
Plaintiff,

v.

Case No. CC-19-2026-C-189
Judge Bridget Cohee

DAVID C. TABB,
THE JEFFERSON COUNTY BOARD
OF BALLOT COMMISSIONERS,
JACQUELINE C. SHADLE,
GARY DUNGAN,
JIM McGEE ET AL,
Defendants

ORDER DENYING MOTION TO STAY

UPON THE MOTION TO STAY, this Court finds good cause to DENY the Motion. As the court found in the detailed findings of fact and conclusions in the Order Granting Petition and Finding David C. Tabb is not qualified as a candidate for the Harpers Ferry Magisterial District entered in this matter on September 10, 2026, upon the preponderance of the evidence presented at an expedited hearing held the same day, David C. Tabb does not qualify as a candidate in the Harpers Ferry Magisterial District. Mr. Tabb resides in the Charles Town Magisterial District. He has filed documents under oath in 2022 and 2024 asserting that he resides in the Charles Town Magisterial District. Further delay of implementation of the Court Order to omit Mr. Tabb from the ballot will have serious resulting loss of absentee voters being able to vote in the election. The federal deadline for mailing the absentee ballot is September 18, 2026.

Mr. Tabb continues to refuse to acknowledge his knowing misstatement of his magisterial district. Mr. Tabb continues to refuse to correct or withdraw his erroneous statement of his magisterial district on his 2026 candidate filings. The court should not

award the behavior of a litigant who has filed a false statement under oath with the Secretary of State to the detriment of the voters of Jefferson County. Mr. Tabb's serious pattern of wrong-doing in continuing to insist that he lives in the Harpers Ferry Magisterial District despite his own contradictory filings under oath shall not be permitted to negatively impact the orderly administration of the election.

Mr. Tabb failed to even appear to defend the Petition to disqualify him on the basis of his false statement under oath of residency. He failed to provide the court with any factual basis to justify his contradictory filings in 2022, 2024 and 2026. There was no defense presented on the merits of the Petition at the hearing on September 10, 2026. The court acted within the court's discretion in W. Va. Code 7-1-15(2) in granting the Petitioner leave to file the Petition out of time pursuant to the testimony of four witnesses regarding the many efforts to address Mr. Tabb's disqualification unsuccessfully.

The petitioner was not able to discover the grounds for challenging the qualifications of the candidate prior to knowing from reading an August 27, 2026 newspaper article in the Martinsburg Journal despite the exercise of reasonable diligence. The petitioner only discovered the grounds upon reading that the SEC had issued an opinion denying relief, a fact that did not occur until August 11, 2026. The petition was filed September 1, 2026, less than one week after the Petitioner discovered the grounds for the challenge.

The Motion to Stay is DENIED.

This Order does not alter the period provided by W. Va. Code § 7-1 15(e) for a party to seek appellate review.

The Clerk is directed to transmit a copy of this Order promptly to all counsel of record and to the Jefferson County Board of Ballot Commissioners who shall proceed

forthwith upon the Order entered directing them to omit Mr. Tabb from the ballot.

Entered: September 11, 2026.

/s/ Bridget M. Cohee

Circuit Court Judge

28th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.