

RE: ASSIGNMENT OF THE HONORABLE PAUL T. FARRELL, JUDGE OF THE SIXTH JUDICIAL CIRCUIT, TO THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

Davis, Justice, responding to the Administrative Order entered August 9, 2018:

Under article VIII, section 3, “[t]he chief justice shall be the administrative head of all the courts. He may assign a judge . . . for temporary service.” Further, article VIII, section 8 of the Constitution of West Virginia expressly provides for the appointment of a circuit court judge “for temporary assignment as a justice of the supreme court of appeals[.]” Significant to the Administrative Order at issue, article IV, section 9 expressly provides that when the Senate is sitting as a “court of impeachment, the president of the supreme court of appeals, or, if from any cause it be improper for him to act, then any other judge of that court, to be designated by it, shall preside[.]”

Because all three sitting Justices of this Court are disqualified from presiding over any impeachment proceeding in the Senate in which Chief Justice Workman, Justice Walker and I may be the subject of the Articles of Impeachment, by the Rule of Necessity, the Chief Justice is constitutionally charged with appointing a Justice to preside. Any statement to the contrary is intellectually flawed and has no basis under our State Constitution.