

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

vs.

Case No. 25-M-30
Gregory L. Howard, Judge

JAN HITE KING,
Defendant.

ANSWER TO DEFENDANT'S MOTION TO DISMISS INDICTMENT

Comes now, Seth S. Gaskins, Special Prosecuting Attorney for Cabell County, West Virginia, by assignment, and answers *Defendant's Motion to Dismiss the Indictment Pursuant to the One Year Statute of Limitation Outline in W.Va. Code §61-11-9* as follows:

1. That the Defendant is charged by Indictment with one count of "election false swearing," one count of "election false swearing – aiding and abetting," and one count of "conspiracy."
2. That W. Va. Code §3-9-24 provides (with emphasis added) that "[n]o person shall be prosecuted for any crime or offense under any provision of this chapter, *unless upon an indictment found and presentment made within five years* after the date of the commission of the crime or offense."
3. That count one "election false swearing," and count three of the combined Indictment, "election false swearing – aiding and abetting," are crimes contained within Article 9 of Chapter 3 and are thus subject to the enhanced statute of limitation contained in §3-9-24 herein.
4. That the date of the alleged crimes herein was on February 3, 2022, and the date of the ensuing indictment was on April 4, 2025 – a mere three (3) years later; therefore, the Statute of Limitations has been satisfied.
5. That count five of the combined Indictment, "conspiracy," while not contained within Chapter 3, Article 9 of the Code, should be deemed tolled for the purpose of the misdemeanor

conspiracy statute of limitations of one year, as the underlying crime alleged is a misdemeanor having a five-year statute of limitation.

WHEREFORE, the State prays that this Honorable Court denies the Defendant's Motion and proceed to arraignment on the charges contained in the Indictment herein.

Respectfully submitted,

STATE OF WEST VIRGINIA,

By counsel,



Seth S. Gaskins (W. Va. Bar No. 11906)
525 Main Street, 2nd Floor
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Special Prosecuting Attorney

CERTIFICATE OF SERVICE

I, Seth S. Gaskins, Prosecuting Attorney for Mason County, West Virginia, hereby certify that a true and accurate copy of the forgoing **“ANSWER TO DEFENDANT’S MOTION TO DISMISS”** was transmitted to Tyler C. Haslam, Esq., counsel for Defendant, on this 10th day of April, 2025, via West Virginia E-Filing System as permitted by the *West Virginia Trial Court Rules*.



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