

3. Respondent Maryland General Assembly is the legislative body that directly represents the electorate and plays a major role in developing the public policy of the State.

II. JURISDICTION AND VENUE

4. This matter is a Verified Petition for a Writ of Mandamus pursuant to Maryland Rule 7-401 *et seq* “judicial review of a quasi-judicial order or action of an administrative agency where review is not expressly authorized by law.”¹

5. Subject matter jurisdiction and venue are proper and are also conveyed to this Honorable Court pursuant to Maryland Rule 7-401. “A writ of mandamus is an appropriate remedy for review of a quasi-judicial order or action of an administrative agency only when no other right of appeal is provided by state or local law.”²

III. STATEMENT OF FACTS

6. Governor Hogan’s oath of office requires him to “swear, (or affirm, as the case may be,) that I will support the Constitution of the United States; and that I will be faithful and bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof; and that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of (governor), according to the Constitution and Laws of this State.”³

1, 2 MD Rules, Rule 7-401 Website Link:

[https://govt.westlaw.com/mdc/Document/N86343E609CEB11DB9BCF9DAC28345A2A?viewType=FullText&listSource=Search&originationContext=Search+Result&transitionType=SearchItem&contextData=\(sc.Search\)&navigationPath=Search%2fv1%2fresults%2fnavigation%2f0ad62d2e0000017c1f3d043480d986eP%3fpccid%3d101a3adca9db4b74a5ecea7e623bf8d%26Nav%3dSTATUTE_PUBLICVIEW%26fragmentIdentifier%3dN86343E609CEB11DB9BCF9DAC28345A2A%26startIndex%3d1%26transitionType%3dSearchItem%26contextData%3d%2528sc.Default%2529%26originationContext%3dSearch%2520Result&list=STATUTE_PUBLICVIEW&rank=6&t_querytext=mandamus&t_Method=WIN](https://govt.westlaw.com/mdc/Document/N86343E609CEB11DB9BCF9DAC28345A2A?viewType=FullText&listSource=Search&originationContext=Search+Result&transitionType=SearchItem&contextData=(sc.Search)&navigationPath=Search%2fv1%2fresults%2fnavigation%2f0ad62d2e0000017c1f3d043480d986eP%3fpccid%3d101a3adca9db4b74a5ecea7e623bf8d%26Nav%3dSTATUTE_PUBLICVIEW%26fragmentIdentifier%3dN86343E609CEB11DB9BCF9DAC28345A2A%26startIndex%3d1%26transitionType%3dSearchItem%26contextData%3d%2528sc.Default%2529%26originationContext%3dSearch%2520Result&list=STATUTE_PUBLICVIEW&rank=6&t_querytext=mandamus&t_Method=WIN)

3 MD Governor’s Oath of Office – Constitution of Maryland Article I, sec 9 Website Link:
<https://msa.maryland.gov/msa/mdmanual/43const/html/01art1.html>

7. In his official capacity, Governor Hogan is enjoined to uphold and defend the United States and Maryland State Constitutions.

8. On the 5th day of March 2020 Governor Hogan issued a Proclamation declaring a State of Emergency. Subsequent proclamations and orders by Governor Hogan included but were not limited to:

- a. The stay-at-home Order Number 20-03-30-01 on March 30, 2020 restricting Maryland residents of their freedom of movement, gathering, and worship.
- b. On April 15, 2020 Order Number 20-04-15-01 required Maryland residents to use face coverings to access public transportation, public institutions, food establishments and retail establishments,

9. Governor Hogan's proclamations and orders violated Maryland residents' Declaration of Rights under the Constitution of Maryland in the following manner:

- a. Article 2 - The United States Constitution, and the laws made, or which shall be made, shall be the Supreme Law of the State. Order Number 20-03-30-01 restricted the right to assembly and religious expression guaranteed by the U.S. Constitution's First Amendment, in addition Order Number 20-04-15-01 with its mask requirement infringed by creating a condition to assemble.
- b. Article 10 - Freedom of speech and debate ought not to be impeached in any Court of Judicature. The wearing of a mask under Order Number 20-04-15-01 does not allow one to speak freely and abridges the livery of speech.
- c. Article 36 - It is the duty of every man to worship God in such manner as he thinks most acceptable to Him. Order Number 20-03-30-01 and Order Number

20-04-15-01 infringed with the ability to assemble and worship without discrimination.

- d. Article 44 – “That the provisions of the Constitution of the United States, and of this State, apply, as well in time of war, as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good Government, and tends to anarchy and despotism.”⁴ All of the proclamations and orders issued by the Office of the Governor of Maryland knowingly and wantonly violated the rights of the residents of Maryland through autocratic rule. Comparatively Governor Hogan violated 18 U.S. Code § 242 - Deprivation of rights under color of law; “Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.”⁵

10. Governor Hogan’s Order Number 20-04-15-01 violated Maryland Healthy Occupations Code §14-601. License required to practice medicine, by establishing a medical intervention with the requirement to wear a mask while having no authority to recommend such practice.

⁴ Constitution of Maryland Declaration of Rights Website Link: <https://msa.maryland.gov/msa/mdmanual/43const/html/00dec.html>

⁵ 18 U.S. Code § 242 Website Link: <https://www.law.cornell.edu/uscode/text/18/242>

“The FDA regulates face masks, including cloth face coverings, barrier face coverings, and surgical masks as medical devices when they are intended for a medical purpose. Medical purposes include uses related to helping prevent the spread of COVID-19. Face masks intended for use by the general public for non-medical purposes, such as for use in construction and other industrial applications, are not medical devices.”⁶

11. Maryland Code, Public Safety § 14-107 codifies the Governor’s authority to act in the best interest of the residents of the State of Maryland. Further Maryland Code, Public Safety § 14-107(d)(1)(i) “suspend[s] the effect of any statute or rule or regulation of an agency of the State or a political subdivision.”⁷ Governor Hogan’s COVID-19 proclamations and orders under Maryland Code, Public Safety § 14-107(d)(1)(i) violated the U.S. Constitution’s Fourteenth Amendment whereas “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.”⁸ Governor Hogan acted with wanton disregard for the United States and Maryland Constitutions and denied the residents of Maryland due process through the issuance of dictatorial edicts which removed enumerated rights.

12. The Maryland General Assembly and Governor Hogan are both complicit in usurping the United States Constitution’s Article VI, Paragraph 2 commonly referred to as the Supremacy Clause which reads:

⁶ FDA Website Link: <https://www.fda.gov/medical-devices/coronavirus-covid-19-and-medical-devices/face-masks-barrier-face-coverings-surgical-masks-and-respirators-covid-19#:~:text=A%3A%20The%20FDA%20regulates%20face,the%20spread%20of%20COVID%2D19.>

⁷ MD. Code, Pub. Safety 14-107 Website Link: <https://casetext.com/statute/code-of-maryland/article-public-safety/title-14-emergency-management/subtitle-1-maryland-emergency-management-agency-act/section-14-107-effective-until-1012021-state-of-emergency-declaration-by-governor>

⁸ U.S. Constitution 14th Amendment Section 1 Website Link: <https://www.law.cornell.edu/constitution/amendmentxiv>

"This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding." ⁹ — the General Assembly complicit by enacting Maryland Code, Public Safety § 14-107(d)(1)(i) and Governor Hogan for the abusive use of the legislation.

13. All such actions stated above are a clear, apparent violation of the United States and Maryland Constitutions and should cease immediately.

⁹ The Free Dictionary [Internet]. "Supremacy Clause". West's Encyclopedia of American Law, edition 2, The Gale Group, 2008 [cited 26 Sep. 2021]. Available from: <https://legal-dictionary.thefreedictionary.com/supremacy+clause>

WHEREFORE, as a result of the foregoing, Petitioner respectfully requests that proper process be issued and sued on Respondents, requiring Respondents to answer or otherwise respond in the time period allotted by law, and that this Honorable Court would award judgment in favor of Petitioner and against Respondent as follows:

1. Governor Hogan be compelled to uphold the Constitution of Maryland that the Governor swore to uphold according to the oath of office.
2. Governor Hogan cease all statewide COVID-19 mandates to include those delegated to County and Municipal governments.
3. Compel the Maryland General Assembly to perform a full review of Maryland Code, Public Safety § 14-107 to ensure the powers of the Governor and those of the General Assembly conform with the Supremacy Clause of the United States Constitution. As a point of reference during the 2021 MD General Assembly House Bill 0017 was introduced by Delegate Daniel Cox which addressed these concerns but never made it out of Committee during the legislative session.
4. That this Honorable Court "order a speedy hearing" of this declaratory judgment action as permitted by Fed. R. Civ. P. 57.

Respectfully Submitted the xx day of October, 2021.

By: /s/ Andrew P. Kuhl
206 German Hill Rd
Baltimore, MD 21222
Petitioner

VERIFICATION

STATE OF Maryland,
COUNTY OF Baltimore City,

I have read the foregoing factual allegations contained in this Verified Petition for Writ of Mandamus and do hereby certify that they are true and correct to the best of my knowledge.

Andrew P. Kuhl
Signature of *Pro Se* Relator

Andrew P. Kuhl
Name of *Pro Se* Relator

SWORN TO AND SUBSCRIBED before me this 12th day of October, 2021.

Barbara Woodell
Notary Public

My Commission Expires:

06/19/25

