

COA Opinion: Specific, positive allegations of misconduct are necessary to sustain a quo warranto application

10. November 2010 By Jason Byrne

On November 9, 2010, the Court of Appeals published its *per curiam* opinion in *Barrow v. Mayor of Detroit*, No. 298128. This case arose out of 2009 mayoral candidate Tom Barrow's challenge to the results of the 2009 Detroit mayoral election. Specifically, this case was the appeal of the Wayne County Circuit Court's denial of Mr. Barrow's application for leave to file a quo warranto action alleging that the declared winner of that election, Dave Bing, had usurped the office of mayor as a result of alleged misconduct in connection with the election and ballot recount. The Court of Appeals found that an application for leave to file a quo warranto action should only be granted where the application alleges sufficient facts, grounds and apparent merit to justify further inquiry. Here, the Court of Appeals concluded that although Mr. Barrow had made specific factual allegations regarding the number of votes, he did not allege specifics about the purported errors, mistakes and violations committed in connection with those votes. Thus, because the application did not allege specific facts that justified further examination through a quo warranto action, the Court of Appeals affirmed the denial of Mr. Barrow's application.