

# Court of Appeals, State of Michigan

## ORDER

Robert Davis v Roy Roberts

Docket No. 306165

LC No. 00-000000

Michael J. Talbot  
Presiding Judge

Christopher M. Murray

Cynthia Diane Stephens  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

The motion to file a reply brief is GRANTED.


The "Ex Parte Application for Special Leave to File a Complaint for Writ of Quo Warranto" is DENIED. Respondent admittedly did not take an oath of office when he assumed the position of emergency manager in May of 2010 pursuant to his gubernatorial appointment and contract with the state. Respondent's failure to take the oath immediately did not violate MCL 201.3(7); therefore, the office of emergency manager was not, and did not need to be, declared vacant. Further, respondent remedied his omission by taking an oath of office in August of 2010, before the instant action was filed. Consequently, petitioner has failed to disclose sufficient apparent merit to justify further inquiry by quo warranto proceedings. *Penn School District 7 v Bd of Ed of Lewis-Cass Intermediate School Dist*, 14 Mich App 109, 117; 165 NW2d 464 (1969). Additionally, respondent was a de facto officer between the date of his appointment and the date he took his oath of office; thus, acts taken in his official capacity during that timeframe are recognized as valid. See generally *Greyhound Corp v Public Service Comm'n*, 360 Mich 578; 104 NW2d 395 (1960); *People v Matthews*, 289 Mich 440; 286 NW 675 (1939).



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

OCT 06 2011

Date

  
Chief Clerk