WEST VIRGINIA CODE: §58-4-18A

§58-4-18a. Writ of error to judgment quashing indictment.

Notwithstanding anything hereinbefore contained in this article, whenever in any criminal case an indictment is held bad or insufficient by the judgment or order of any court of record of limited jurisdiction, the state, on the application of the Attorney General or the prosecuting attorney, may obtain a writ of error to secure a review of such judgment or order by the circuit court of the county in which such court of record of limited jurisdiction sits. No such writ of error shall be allowed unless the state presents its petition therefor to the circuit court, or a judge thereof, within thirty days after the entry of such judgment or order. No such judgment or order shall finally discharge, or have the effect of finally discharging, the accused from further proceedings on the indictment unless the state fails, within such period of thirty days, to apply for such writ of error, or fails to obtain such writ of error upon an application made within such period; but after the entry of such judgment or order the accused shall not be kept in custody or required to give bail pending the hearing and determination of the case by the circuit court, or by the Supreme Court of Appeals if a writ of error is thereafter sought with respect to the decision of the circuit court. If, upon the allowance of any such writ of error, process from the circuit court (or the Supreme Court of Appeals in the event of further judicial review as aforesaid) cannot for any reason be served personally upon the accused, service may be had by filing a copy thereof in the clerk's office of the court of record of limited jurisdiction which entered such judgment or order (or the circuit court if further judicial review is had as aforesaid). Every such writ of error shall be heard and determined as speedily as possible. If the judgment is reversed and the indictment is held to be good and sufficient for a trial of the accused thereon, the case shall be remanded to the court of record of limited jurisdiction in which the indictment was found, in order that such trial may be had.

Except as herein otherwise provided, all of the provisions of the other sections of this article shall, so far as appropriate, be applicable to a petition for a writ of error under this section, and to all subsequent proceedings thereon in case such writ of error is allowed or granted.

WV Legislature