

In the
Indiana Supreme Court

IN THE MATTER OF THE) Supreme Court No. 88S00-0509-MS-
APPOINTMENT OF A)
TEMPORARY PROSECUTING)
ATTORNEY IN WASHINGTON)
COUNTY)

ORDER APPOINTING TEMPORARY PROSECUTING ATTORNEY

On September 13, 2005, this Court ordered the suspension of Cynthia L. Winkler, Prosecuting Attorney of Washington County. Matter of Winkler, Cause No. 88S00-0408-DI-347. We now set the effective date of that suspension as October 10, 2005.

This Court, being duly advised, notes that a county prosecuting attorney's duties are concerned with representing the State of Indiana, primarily in criminal matters, although there are many statutes requiring her to perform duties with reference to the practice of law in various fields, both civil and criminal. State ex rel. Indiana State Bar Association v. Moritz, 191 N.E.2d 21 (Ind. 1963). Accordingly, Ms. Winkler's suspension from the practice of law renders her disqualified from performing the duties of a prosecuting attorney. Matter of Catt, 672 N.E.2d 410 (Ind. 1996).

Therefore, Ms. Winkler must be suspended from the performance of her duties as prosecuting attorney during her period of suspension from the practice of law, and her pay for services as prosecuting attorney should be discontinued during her period of suspension.

We further find that given the vacancy in the office of prosecuting attorney that Ms. Winkler's suspension from the practice of law will create, the continued orderly administration of justice requires the appointment of a temporary prosecuting attorney to carry out the duties of the office of prosecuting attorney of Washington County.

This Court has been advised that Nancy Jacobs, a member of the bar of this state, is able to assume the duties of prosecuting attorney of Washington County, effective October 10, 2005, and continuing during the period of suspension.

IT IS, THEREFORE, ORDERED that Cynthia L. Winkler is hereby suspended, effective October 10, 2005, from her duties as prosecuting attorney of Washington County for a period of one hundred-twenty (120) days. During such period of suspension, all payments to her for services as prosecuting attorney shall be discontinued.

IT IS, FURTHER, ORDERED that Nancy Jacobs is hereby appointed to serve as full-time prosecuting attorney of Washington County, effective October 10, 2005 through February 7, 2006. This Order shall be sufficient authority for Nancy Jacobs to carry out the regular functions and duties of the office as defined by the laws of this state and to be compensated for her services at the rate and manner equal to that paid a duly elected full-time prosecuting attorney of Washington County.

The Clerk of this Court is directed to forward notice of this Order to Cynthia L. Winkler and her attorney of record; the Indiana Supreme Court Disciplinary Commission and its attorney of record; to Nancy Jacobs, 508 East Main Street, Madison, IN 47250; to the Hon. Robert L. Bennett, Washington Circuit Court, 99 Public Square, #200, Salem, IN 47167-2098; to the Hon. Frank Newkirk, Jr., Washington Superior Court, 801 Jackson Street, Salem, IN 47167-1218; to the Division of State Court Administration, payroll department; to the Auditor of Washington County; to the Clerk of the Washington Circuit Court; and to West Publishing Company for publication.

The Clerk of the Washington Circuit Court shall file this Order in the Record of Judgments and Orders of the Washington Circuit Court.

DONE at Indianapolis, Indiana, this _____ day of September, 2005.

Acting Chief Justice of Indiana

All Justices concur.