

Ethics Update

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Agenda

- Special & Senior Prosecutors
- Prosecutorial Misconduct
- Standards of Conduct
- Disciplinary Cases of Note

Special and Senior Prosecutors

- Senate Bill 223; Sen. Travis Holdman; District 19
- Reorganizes IC 33-39; Creates 33-39-10
- Expands Senior Prosecutor Eligibility
 - Prison Deputies
 - Child Support Deputies
- Tightens Progress Reporting*
- Removes Man Day Limits

Prosecutorial Misconduct

- Thomas v. State, -- NE3d – (Ind. App., May 22, 2014)
 - Contemporaneous Objection
 - Request for Admonishment
 - Request for Mistrial
- Erkins v. State, 988 NE2d 299 (Ind. App. 2013), *trans. granted*, 993 NE2d 625 (Ind. 2013)
 - PM Occurred
 - Fundamental Error

P.M., con't

- Ryan v. State, 992 NE2d 776, 786 (Ind. App. 2013)
 - RPC 3.4
 - “[R]equires fairness to opposing party and counsel, and prohibits an attorney from alluding to matters that the lawyer does not reasonably believe are relevant or will not be supported by the facts in issue.”
- Handy v. State, 2013 Ind. App. Unpub. LEXIS 1454
- McGill v. State, 2013 Ind. App. Unpub. LEXIS 1234

Standards of Conduct

- Ind. State Ethics Comm’n v. Sanchez, 997 NE2d 16 (Ind. App. 2013), *trans. granted*, 3 NE3d 540 (Ind. 2014)
- Indiana Ethics Code: 40 IAC 2-1-1, *et. seq.*
- *In re Gardner*, 5 NE3d 1163 (Ind. 2014)
- *In re Storms*, 2 NE3d 681 (Ind. 2014)

Disciplinary Cases of Note

- *In re Devane*, 5 NE3d 358 (Ind. 2014)
- *In re Kahn*, 2 NE3d 1 (Ind. 2014)
- *In re Barker*, 993 NE3d 1138 (Ind. 2013)
- *In re Geller*, -- NE3d -- (Ind., May 16, 2014)

Disciplinary Cases of Note

- *In re Schalk*, 2 NE3d 681 (Ind. 2014)
- *In re Freeman*, 999 NE2d 844 (Ind. 2013)
- *In re Dixon*, 994 NE2d 1129 (Ind. 2013)
- *In re Smith*, 991 NE2d 106 (Ind. 2013)

Cooperation with the Disciplinary Commission

- *In re Selig*, 998 NE2d 211 (Ind. 2013)
- *In re Adolf*, 988 NE2d 1137 (Ind. 2013)(how not to cooperate)
- *In re Scott*, 989 NE2d 1249 (Ind. 2013)(how to cooperate)
- Admin. & Disc. Rule 23(10)(e)

Disciplinary Case Processing Times

- *In re Baker*, 1 NE3d 147 (Ind. 2014)
- *In re Safrin*, 1 NE3d 144 (Ind. 2014)
- *In re Snulligan*, 999 NE2d 848 (Ind. 2013)
- *In re Drozda*, 999 NE2d 413 (Ind. 2013)
- *In re Kotz*, 996 NE2d 1276 (Ind. 2013)

Final Disciplinary Case of Note

- *In re Devlin*, 4 NE3d 1180 (Ind. 2014)
- "The prosecutor in a criminal case shall . . . make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense"

Ethics Update

Questions, Concerns, Comments
