

Chief Justice Annette Kingsland Zielger: Statement

Posted on Wednesday, Aug 2, 2023

>> WisPolitics is now on the State Affairs network. Get custom keyword notifications, bill tracking and all WisPolitics content. [Get the app or access via desktop.](#)

Chief Justice Annette Kingsland Zielger
Wisconsin Supreme Court
(608) 266-1881

Madison, Wisconsin (August 2, 2023) – The unauthorized action taken today by some of my colleagues firing Director of State Courts Randy Koschnick is flawed procedurally, legally, and on its merits. As Chief Justice, I contemplated actions I might take to attempt to stop this unauthorized action, but given my colleagues' reckless conduct, other court employees would also become victims of this unauthorized action. I say this because it would be other court employees who would suffer the consequences of choosing to follow my directive over following the demand of four justices. And these valued employees may then be at risk of losing their jobs. Our valued employees would be put in a lose-lose situation, and I can't risk putting the jobs of more employees of the court in jeopardy.

We are a collegial court, not a court of four. I expect better of my colleagues. A vote of four may dictate decisions of our court, but those votes are taken during formally noticed court conferences scheduled by the Chief Justice; no such conference has occurred. This

action is procedurally flawed in at least that respect. It is also not how a collegial court decides matters and is dysfunctional at best. Court conferences are not just window dressing. They are part of the deliberative process, and that deliberative process has been completely usurped by this overreach today. Apparently several of my colleagues do not think court conferences are necessary to conduct court business when there is a pre-ordained determination. Their actions today effectively silence those members of the court who have not been privy to these secret discussions.

This unauthorized action is also legally flawed for a number of reasons. Seemingly, the unauthorized action to fire Director Koschnick was made without regard for the Constitution, case law, or supreme court rules which address who can fill such a position of public trust. Moreover, as I stated earlier, this decision impacts more than Director Koschnick. It impacts the many valued, devoted, hardworking employees in the court system who are likely left wondering who and what is next? Our courts deserve stability.

This type of action has never occurred simply because a new justice secures a new majority, whether liberal or conservative. Certainly, when former Justice Michael Gableman won his seat in 2008, the court did not fire then-Director of State Courts A.

John Voelker. In fact, Mr. Voelker stayed on for many years until he resigned after accepting a position with the Department of Employee Trust Funds in the summer of 2014.

On the merits, this decision is unwise. Director Koschnick has completed 18 years of judicial service in a court of general jurisdiction, and was the administrative head of District 3 for five years as chief judge. He was a well-respected lawyer who served the public before becoming a judge. He has served as Director of State Courts since

August 1, 2017. He has done his job well, and he is someone I depend on to fulfill his role in a non-partisan, non-political manner. He has had only what is best for the court system in mind when he acting as director. For example, I have prioritized a mental health initiative to address the significant mental health needs of the many people in Wisconsin who enter the court system. He has been devoted to undertaking these efforts with me. He was instrumental in planning and helping to coordinate the Chief Justice's Summit on Mental Health which took place in Madison on April 21, 2023. In addition, Director Koschnick has largely resolved the longstanding court reporter shortage crisis in the Wisconsin circuit courts. Moreover, he has been honored by the State Bar of Wisconsin for his innovative efforts to keep the courts running during COVID. He has always conducted himself with dignity and respect and is an asset to me as Chief Justice, and to the entire court system.

And what is the rush to fire Director Koschnick? What is the purpose of doing such an unauthorized action as the first order of business for the 2023-24 term? I have not been made aware of any urgent issues that would require the immediate removal of Director Koschnick. Whether there are requisite votes to do so is not a reason to eliminate input from all members of the court in conference, properly noticed by the Chief Justice. Allowing all seven justices the opportunity to be heard and having the benefit of thoughtful discussion and debate before a formal vote is taken is key to a properly functioning court.

Even as Chief Justice, I have only one vote. The court's action today violates the Wisconsin Constitution which endows the Chief Justice with administrative authority. The authority of the Chief Justice is being undermined and eroded unlike any time in this court's history. The court has had different shifts in make-up over the years, but this lack

of respect for longstanding institutional process is reckless.

To say that I am disappointed in my colleagues is an understatement. My colleagues' unprecedented dangerous conduct is the raw exercise of overreaching power. It is shameful. I fear this is only the beginning.