

Statement from Sheriff Clarke on a judge's decision today to shift control of the County Correctional Facility-South (formerly House of Correction) away from the Sheriff's Office -

Of course we're going to appeal. My understanding is that the judge's decision wasn't based on any case law.

Judge Van Grunsven had some ethical lapses during this case for which he should have recused himself. He received and downloaded an e-mail from Supervisor Jursik who was part of the case. Jursik is a lawyer and should know better than to contact a judge in a case where the other party is not present. That ex parte communication is forbidden. He said on the record that he didn't read the e-mail. Who doesn't read an e-mail they download? Why would you download an e-mail without reading it first, unless you had an interest in it?

Then the judge said he tuned in to listen to my hosting of the Mark Belling radio program several months ago because he was curious. He said that when I spoke about the case that was before him in court, he turned the radio off. Yeah, OK, I really believe that.

His conduct in this case demonstrated a bias, yet he didn't have the ethical wherewithal to recuse himself just to eliminate the accusation.

Lady Justice is blindfolded to represent objectivity. Van Grunsven peeked out from under that blindfold in this case and saw Sheriff Clarke. Because I have been outspoken on judicial leniency in Milwaukee County, I will not get judicial impartiality at this level, and so I have to seek it at the appellate, and possibly the Wisconsin Supreme Court level.

Judge rules against Sheriff David Clarke on House of Correction control

By [Steve Schultze](#) of the Journal Sentinel
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Milwaukee County Sheriff David A. Clarke Jr. lost his [court challenge](#) Wednesday over whether he can retain control of the House of Correction in Franklin.

But a shift of control to a superintendent appointed by County Executive Chris Abele could still be on hold for some time. Michael Whitcomb, Clarke's lawyer, said the ruling will likely be appealed.

Circuit Judge Paul Van Grunsven ruled that the County Board can decide whether the lockup is a correctional facility or a jail. That was a key point in the litigation. The judge sided with the board that the place has been a house of correction since it was established in 1865 and has continued under that designation.

The board approved transferring the jail management to an appointed superintendent as part of the 2013 budget, following complaints by judges and corrections officials that the sheriff had curtailed electronic monitoring and inmate programming in Franklin.

Clarke had argued the place became a jail after he first took management control of it in January of 2009 and that as sheriff he had constitutional authority over it.

Van Grunsven said he found no support for that argument.

"Clarke has no legal authority to close a house of correction, nor to create a jail," the judge's ruling says.

"When Clarke assumed management of the House of Correction, he renamed it; not as a jail, but as the County Correctional Facility-South," the ruling says. "Clarke knew or should have known what he was given to manage was a house of correction; not a jail."

Abele formally nominated Michael Hafemann as the new superintendent this week. Hafemann, who was hired by Abele in March, has [been denied access](#) to the Franklin facility by Clarke. Hafemann said that Clarke also has not allowed any sheriff's staff to discuss the Franklin operation with him.

Under action by the board last month, the new superintendent should get access to the facility once he is confirmed and the litigation is ended. An appeal could stretch out the litigation for additional months.

Clarke reluctantly took management control of the facility in 2009 at the request of then-County Executive Scott Walker and on the heels of a critical federal report that called the House of Correction dysfunctional.

The sheriff also said last October that he wouldn't fight a transfer of the facility back to an appointed superintendent, saying it wasn't one of his "core functions."

He fought the transfer this year, however, saying if the place is legally construed as a jail, it remains his duty to run it.