

12-32

NORTH CAROLINA
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 12 CVS 1614
ON APPEAL TO NC COURT OF APPEALS

IN THE MATTER OF
TRACEY E. CLINE

ORDER

FILED
2012 JUN 26 PM 3:37
DURHAM COUNTY, N.C.
BY *[Signature]*

THIS CAUSE came on to be heard before the undersigned Superior Court Judge sitting in chambers in the Wake County Courthouse, pursuant to a Motion for Appointment of Counsel filed by James Van Camp on behalf of Tracey E. Cline, seeking appointment, at State expense, to represent Tracy Cline on appeal.

The Court finds that there are no funds available for the appointment and that in previous cases of this nature the State has never funded attorney representation for the appealing party.

WHEREFORE, IT IS ORDERED that the Motion for Appointment of appellate counsel for Tracy Cline is denied. The Clerk of Superior Court of Durham County shall mail a copy of this Order to the following persons:

1. Mr. James Van Camp, Attorney at Law, P.O. Box 1389, 2 Regional Circle, Pinehurst, NC 28374;
2. Tracey Cline;
3. Kerstin W. Sutton;
4. Honorable John Smith, Director of the Administrative Office of the Courts, P.O. Box 2448, Raleigh, NC 27602/

This the 12th day of June, 2012.

Robert H. Hobgood
ROBERT H. HOBGOOD
Judge Presiding

copies mailed to cety parties above 6-26-12 sm

FILED 12-26

STATE OF NORTH CAROLINA
2012 MAY 23 PM 2:13
COUNTY OF DURHAM COUNTY G.S.C.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 12 CVS 1614

IN THE MATTER OF
TRACEY E. CLINE

[Handwritten signature]

) MOTION FOR COURT APPOINTED
) COUNSEL AND PAYMENT OF FEES
) AND COSTS

NOW COMES TRACEY E. CLINE ("Ms. Cline"), through her undersigned counsel, JAMES R. VAN CAMP, PATRICK M. MINCEY, and WILLIAM M. VAN O'LINDA, Jr., and pursuant to proceedings under N.C.Gen.Stat. § 7A-66, moves this Court to order Ms. Cline receive indigent defense counsel in these proceedings.

In support of her Motion, Ms. Cline shows the following:

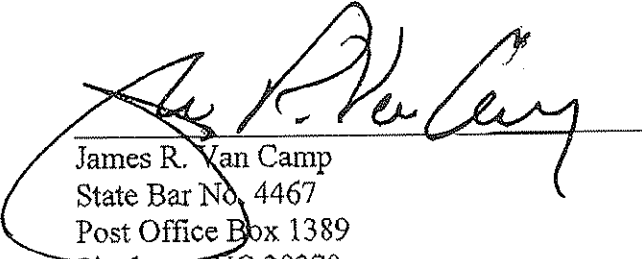
1. On January 18, 2012, Kerstin Walker Sutton ("Ms. Sutton") filed an "Affidavit of Kerstin Walker Sutton Filed Pursuant to N.C.G.S. § 7A-66" ("Affidavit") requesting an inquiry into whether District Attorney Tracey E. Cline ("Ms. Cline") should be removed or suspended from the Office of District Attorney for the Fourteenth Judicial District of North Carolina.
2. After a hearing, on March 2, 2012, the Court issued an order removing Ms. Cline from her elected position as District Attorney for Durham County pursuant to N.C.Gen.Stat. § 7A-66.
3. On March 2, 2012 the undersigned counsel filed Notice of Appeal.
4. On March 27, 2012, Ms. Sutton filed a Motion For Appointment of Independent Counsel to assist her in litigating Ms. Cline's appeal.
5. In support of her March 27, 2012 Motion, Ms. Sutton stated the following:
 5. Ms. Cline's appeal will raise novel legal issues, including whether her speech was entitled to First Amendment protection.
 6. On appeal, the Order should be defended by an attorney with significant experience litigating constitutional issues in the appellate courts.
6. On April 12, 2012, the Court granted Ms. Sutton's Motion for Appointment of Independent Counsel to represent her in this case.
7. The Court's March 2, 2012 Order removing Ms. Cline from her elected position resulted in the immediate and total termination of her income.

8. Since the March 2, 2012 Order was entered, Ms. Cline has been unemployed and is no longer financially able to retain counsel to represent her in the appeal.
9. In addition to attorneys' fees, Ms. Cline's appellate costs will include the preparation of extensive and expensive transcripts and appellate filing costs.
10. To date, Ms. Cline has born all costs associated with her representation and without court appointed assistance.
11. In the course of six weeks, from the time Ms. Sutton filed her Affidavit on January 18, 2012 to the time this Court removed Ms. Cline from office on March 2, 2012, Ms. Cline encountered substantial legal fees for representation that was required immediately and then the subsequent loss of all income.
12. Ms. Cline is now financially unable to retain counsel to represent her in her appeal and further representation.
13. Ms. Cline agrees with Ms. Sutton that this appeal will concern complex, novel legal issues, including but not limited to, Ms. Cline's rights of free speech and due process under the First and Fifth Amendments of the United States Constitution, and that both parties should be afforded qualified counsel to represent them in a prolonged appeal.

WHEREFORE, Ms. Cline, through the undersigned counsel, moves this Court to appoint the undersigned counsel as Ms. Cline's appellate counsel.

Respectfully submitted, this the 25th day of May, 2012.

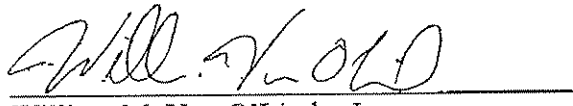
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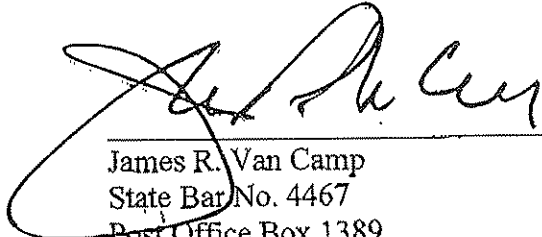
CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Motion upon the persons listed below by first class and electronic mail and addressed as follows:

Burton Craige
Patterson Harkavy LLP
1312 Annapolis Drive, Suite 103
Raleigh, North Carolina 27608
bcrage@pathlaw.com

This the 25th day of May, 2012.

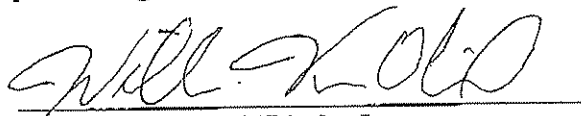
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