

## Kirk Allen

---

**From:** Kirk Allen  
**Sent:** Monday, January 27, 2020 5:23 PM  
**To:** statesattorney@shelbycounty-il.com  
**Subject:** Media Question

Office of Shelby County State's Attorney

Attention State's Attorney Mrs. Vonderheide

Prior to January 1, 2019, we find no provision in the County Code for a County to hire a private attorney outside of the court appointed process. In support of this point, I ask that you review Ashton v. County of Cook, Illinois Supreme Court case from 1943, which has not been overruled or negatively treated on appeal and is even still being cited as recently as 2017. <https://casetext.com/case/ashton-v-county-of-cook?resultsNav=false&tab=keyword>

*The law is well settled that when the constitution or the laws of the State create an office, prescribe the duties of its incumbent and fix his compensation, no other person or board, except by action of the legislature, has the authority to contract with private individuals to expend public funds for the purpose of performing the duties which were imposed upon such officer. (Fergus v. Russel, 270 Ill. 304; Stevens v. Henry County, 218 Ill. 468; Hope v. City of Alton, 214 Ill. 102.)*

In another [Illinois Supreme Court case, Cook V Bear Sterns – 2005](#):

*“This court held that by law the State’s Attorney is “the attorney and legal adviser of the county officials in all matters pertaining to the official business of the county.” Ashton, [384 Ill. at 297](#). **The Counties Code neither expressly nor implicitly authorized the county board to employ private attorneys. Ashton, [384 Ill. at 299](#). Therefore, the court held that private counsel could not enforce his contingent fee contract to perform legal services for the County, as the contract was wholly void. Ashton, [384 Ill. at 301](#).”** That case has not been overruled or negatively treated on appeal either.*

*In light of the established case law on the point of a County Board hiring private attorneys, do you agree that the hirings that took place in 2014 (County Board Action) were improper and not supported by any laws in place at that time?*

*If you disagree and believe it was legal for the County Board to make such hiring, can you provide any statutory provision for such action?*

Looking forward to your response for a future article.

Thanks  
Kirk Allen  
Director, Edgar County Watchdogs Inc.