

STATE OF COLORADO

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Bill Ritter, Jr.
Governor

D 2011-001

EXECUTIVE ORDER

Rescinding Executive Order D 2010-021 and Reinstating Executive Order D 2010-18, Which Requires the Attorney General to Prosecute All Criminal Actions and Proceedings in the Seventh Judicial District

By the authority vested in the Office of the Governor of the State of Colorado, I, Bill Ritter, Jr., Governor of the State of Colorado, hereby issue this Executive Order rescinding Executive Order D 2010-021 and reinstating Executive Order D 2010-18, which requires the Attorney General to prosecute all criminal actions and proceedings in the Seventh Judicial District.

I. Background and Purpose

On Thursday, September 30, 2010, Myrl Serra, District Attorney for the Seventh Judicial District, was arrested for alleged criminal conduct, which allegedly took place, at least in part, in the course of Mr. Serra performing his official duties. While Mr. Serra is presumed innocent of any and all alleged criminal conduct, Mr. Serra's arrest compromised his ability to effectively carry on the functions of his office. As a result, on September 20, 2010, Lieutenant Governor Barbara O'Brien, in her capacity as Acting Governor, executed Executive Order D 2010-018 appointing the Attorney General of the State of Colorado to prosecute all criminal actions and proceedings in the Seventh Judicial District.

On December 16, 2010, the Honorable J. Steven Patrick, Chief Judge for the Seventh Judicial District, entered an order finding that, as a result of his arrest and the conditions of his bond, Mr. Serra is "absent" from his office, and, pursuant to C.R.S. § 20-1-108, Judge Patrick appointed Dan W. Hotsenpiller to discharge the duties of the District Attorney for the Seventh Judicial District effective January 10, 2011. Based on this order, on December 21, 2010, I issued Executive Order D 2010-021, rescinding Executive Order D 2010-018 effective January 10, 2011.

On Tuesday, January 4, 2011, Mr. Serra resigned as the District Attorney for the Seventh Judicial District effective at 12:01 p.m. on Tuesday, January 11, 2011. As a result, at 12:01 p.m. on Tuesday, January 11th, the office of the District Attorney for the Seventh

Judicial District will become vacant. While Governor Hickenlooper will fill the vacancy in the office pursuant to article VI, section 20(4) of the Colorado Constitution and section 1-12-204 of the Colorado Revised Statutes, doing so will take some time. Moreover, because of the resignation, Judge Patrick vacated his December 16, 2010 order earlier today.

Based on these circumstances, it is necessary that I take action to assure the continued functioning of the office of the district attorney in the Seventh Judicial District until such time as Governor Hickenlooper fills the vacancy. Specifically, I am rescinding Executive Order D 2010-021 and reinstating Executive Order D 2010-018, which, pursuant to C.R.S. § 24-31-101(1)(a), requires the Attorney General to appear for the State and prosecute all criminal actions and proceedings in which the State is a party in the Seventh Judicial District.

II. Directive and Duration

Executive Order D 2010-021 is rescinded, and, therefore, Executive Order D 2010-018 shall remain in effect without interruption and the Attorney General shall continue to be required to appear for the State and prosecute all criminal actions and proceedings in which the State is a party in the Seventh Judicial District. This Executive Order and Executive Order D 2010-018 shall remain in effect until modified or terminated by further Executive Order or until the Governor appoints a district attorney for the Seventh Judicial District pursuant to article VI, section 20(4) of the Colorado Constitution and section 1-12-204 of the Colorado Revised Statutes, at which time this Executive Order and Executive Order D 2010-018 shall be rescinded.

Executive Order D 2010-17, appointing the Attorney General for the State of Colorado as the State's prosecutor to investigate and, if appropriate, prosecute criminal matters related to possible criminal conduct by Myrl Serra, remains in full force and effect as originally promulgated.



GIVEN under my hand and the
Executive Seal of the State of
Colorado this seventh day of
January, 2011.

A handwritten signature in blue ink that reads "Bill Ritter, Jr." with a stylized flourish at the end.

Bill Ritter, Jr.
Governor