

**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA**

**January 1998 Term**

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**No. 24965**

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**STATE OF WEST VIRGINIA EX REL. STAN FARLEY,  
SHERIFF OF PUTNAM COUNTY,**

**Petitioner**

**v.**

**HONORABLE O. C. SPAULDING, JUDGE OF  
THE CIRCUIT COURT OF PUTNAM COUNTY, AND THE  
COUNTY COMMISSION OF PUTNAM COUNTY,**

**Respondents**

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**PETITION FOR WRIT OF PROHIBITION**

**WRIT GRANTED, IN PART, AND DENIED, IN PART**

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**Submitted: April 28, 1998**

**Filed: July 14, 1998**

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**JUSTICE McCUSKEY delivered the Opinion of the Court.**

**CHIEF JUSTICE DAVIS and JUSTICE MAYNARD dissent and reserve the right to file separate opinions.**

**JUSTICES WORKMAN and STARCHER concur and reserve the right to file separate opinions.**

## SYLLABUS BY THE COURT

1. “Not only does our Constitution explicitly vest the judiciary with the control over its own administrative business, but it is a fortiori that the judiciary must have such control in order to maintain its independence.” Syllabus Point 2, *State ex rel. Lambert v. Stephens*, 200 W. Va. 802, 490 S.E.2d 891 (1997).

2. “In order for a court to invoke use of its inherent power to require resources, the court must demonstrate that such resources are reasonably necessary for the performance of its responsibilities in the administration of justice. Although courts must be cautious not to reach beyond the power of the judicial branch, it is crucial for the judiciary to be able to invoke such power as is reasonably necessary to maintain itself as an independent and *equal* branch of our government.” Syllabus Point 3, in part, *State ex rel. Lambert v. Stephens*, 200 W. Va. 802, 490 S.E.2d 891 (1997).

3. “A court may use the legal resources available to it to defend those interests it is constitutionally bound to protect, including, but not limited to, ex parte orders in necessary circumstances in administrative matters within the court's inherent authority.” Syllabus Point 5, *State ex rel. Lambert v. Stephens*, 200 W. Va. 802, 490 S.E.2d 891 (1997).

4. “A bailiff is an officer of the court to which he or she is assigned, subject to its control and supervision, and responsible for preserving order and decorum, taking charge of the jury, guarding prisoners, and other services which are reasonably necessary for the court's proper functioning.” Syllabus Point 2, *In re Pauley* 173 W.Va. 228, 314 S.E.2d 391 (1983).

5. “The sheriff, though an important law enforcement officer, does not have the complete or the exclusive control of the internal police affairs of the county. By virtue of [Article IX, Section 11 of the West Virginia Constitution] the county court has the authority to superintend and administer, subject to such regulations as may be prescribed by law, the police affairs of the county.” *Hockman v. Tucker County Court*, 138 W. Va. 132, \_137, 75 S.E.2d 82, 85 (1953).

6. A county commission has the authority to employ individuals to perform security functions for the county judiciary, but this authority is limited insofar as it cannot properly be exercised in a manner which impairs or supplants the power and duty of the county sheriff, under *W. Va. Code* § 51-3-5 (1923) and Rule VII of the West Virginia *Trial Court Rules* (1960), to select one or more deputy sheriffs to serve as court bailiff and to provide a sufficient number of bailiffs for every court of record in the county.

7. The judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, has the inherent administrative power to designate and authorize persons to perform security services necessary to the safe and efficient operation of the county judiciary, provided that such administrative action does not impair or supplant the power and responsibility of the county sheriff to furnish deputy sheriffs to serve as court bailiffs for the county's courts.

**McCuskey, Justice:**

In this original proceeding in prohibition, the petitioner, Stan Farley, Sheriff of Putnam County, petitions this Court to issue a writ of prohibition preventing the Honorable O. C. Spaulding, Chief Judge of the Circuit Court of Putnam County, from enforcing two administrative orders which he entered on August 26, 1997. Pursuant to the judge's orders, nine individuals, who had been hired by the Putnam County Commission to perform court security functions for the county's judiciary, were designated as court marshals and granted certain powers and duties.

Sheriff Farley attacks the administrative orders as unconstitutional and an impermissible usurpation of his statutory power under *W. Va. Code* § 51-3-5 (1923). On the other hand, the respondents, Judge Spaulding and the Putnam County Commission, assert that the challenged orders are constitutionally valid and, further, that *W. Va. Code* § 51-3-5 (1923) does not preclude the respondent county commission's employment of court security officers, whose responsibilities go beyond merely attending court proceedings. In addition, the respondents contend that the West Virginia Constitution has vested in circuit judges, and particularly in chief circuit judges, the power to regulate courthouse security and to employ the necessary personnel to perform court security functions. For reasons explained below, we find that the West Virginia Constitution and laws of this State support both sides. Accordingly, we grant, in part, and deny, in part,

the writ of prohibition.

## **I.**

### **FACTUAL BACKGROUND**

The new Putnam County Judicial Building opened in August of 1997. The facility was constructed by the Putnam County Commission and equipped by the commission with state-of-the-art security devices, including a metal detector, x-ray machine, video monitoring equipment, and remote-controlled electronic door locks. The building houses the Putnam County judiciary, including two circuit judges, three magistrates, and the family law master, as well as the circuit clerk, the magistrate clerk, the probation department, and the prosecuting attorney.

The planning of the new judicial building included the consideration of adequate court security personnel requirements. Discussions transpired regarding the court security personnel necessary to ensure the security needs of the facility. Among the participants in these discussions were representatives of the county judiciary, the county commission, and the sheriff's office. Their evaluation of security needs took place against the backdrop that in fiscal year 1996-1997, Sheriff Farley had assigned only one full-time deputy sheriff to serve as bailiff for the county's six judicial officers and family law master.

In order to provide efficient and effective court security services for the

new facility, the county commission and the county judiciary undertook a collaborative effort to staff the building with properly trained civilian security officers. Sheriff Farley was informed of the court security program that was being developed by the commission and county judiciary. While there is some dispute as to whether Sheriff Farley endorsed the use of civilian security officers, affidavits of the respondent judge and Linda K. McClanahan, administrative assistant to the county commission, indicate that the sheriff did express support for an aspect of the overall plan which involved returning to law enforcement activities the one deputy sheriff who had been assigned to bailiff services. It also appears from the record that the county commission met with Sheriff Farley on May 21, 1997, to discuss the selection of the Court Marshal; that the sheriff was told of the three individuals under consideration for the position; and that he expressed his preference for Douglas Ratliff, who was eventually selected for the job.

On June 18, 1997, the county commission entered an order adding Douglas Ratliff to the county payroll, effective June 30, 1997. On August 20, 1997, the commission entered an order placing eight persons, selected by Mr. Ratliff to serve as Deputy Court Marshals on the county payroll, effective that day.

On August 26, 1997, Judge Spaulding issued the two administrative orders which are now in dispute. The first order provided as follows:

WHEREAS, Article VIII of the Constitution of West Virginia



provides for the Supreme Court and its Circuit Courts to appoint their officers and employees; and

WHEREAS, adequate security is necessary to assure the safe, secure and peaceful conduct of a circuit court's business; and

WHEREAS, the Circuit Court of Putnam County, West Virginia, has determined that a full-time position for a qualified Court Marshal is necessary for adequate security in the conduct of the court's business; and

WHEREAS, the Putnam County Commission has employed Douglas M. Ratliff to assist this Court in its responsibility of providing the public and employees a safe, secure and peaceful environment in the Putnam County Judicial Building; and

WHEREAS, the Chief Judge of the Circuit Court of Putnam County, West Virginia, has determined that Douglas M. Ratliff is qualified by training and experience to be the Court's Marshal;

NOW, THEREFORE, IT IS **ORDERED**, that Douglas M. Ratliff, an employee of the Putnam County Commission, is hereby designated by the Chief Judge of the Twenty-Ninth Judicial Circuit as Court Marshal for the Circuit Court of Putnam County, to serve at the will and pleasure of the Chief Judge thereof;

**IT IS FURTHER ORDERED** that the Court Marshal may utilize Deputy Court Marshals employed by the Putnam County Commission to assist the Court Marshal and that said Deputy Court Marshals shall have the same powers and authority as the Court Marshal in carrying out their duties; Provided, that said Deputy Court Marshals shall be properly trained, qualified, approved and appointed by this Court to serve at the will and pleasure of the Chief Judge thereof.

**IT IS FURTHER ORDERED** that the Court Marshal and Deputy Court Marshals are authorized to:

1. perform the services of court bailiff including assuring the security for all court proceedings;
2. escort prisoners to and from court proceedings;
3. make arrests in and around the Putnam County Judicial Building and the Putnam County Courthouse for offenses committed in their presence or in the presence of the Court;
4. carry a concealed firearm or other deadly weapon upon their person in the Putnam County Judicial Building and the Putnam County Courthouse; and
5. use reasonable and necessary force, including deadly force, in the exercise of their responsibilities and duties.

The second order designated eight individuals to serve as Deputy Court Marshals for the Circuit Court of Putnam County. As of March 4, 1998, a Court Marshal, two full-time Deputy Court Marshals, and six part-time Deputy Court Marshals were employed by the county commission to serve the county judiciary.

In connection with this litigation, the respondent judge conducted a survey of the other judicial circuits in West Virginia in order to ascertain whether any of them use “civilian bailiffs.” This survey revealed that circuit courts in eleven counties use civilian bailiffs to some degree. In some of these counties, the civilian bailiffs are employees of the sheriff. In other counties, they are employees of the county commission.

## **II.**

## STANDARD OF REVIEW

The standard of review upon a petition for writ of prohibition was articulated by this Court in Syllabus Point 1 of *State ex rel. W. Va. Fire & Casualty Co. v. Karl*, 199 W. Va. 678, 487 S.E.2d 336 (1997):

" ' "In determining whether to grant a rule to show cause in prohibition when a court is not acting in excess of its jurisdiction, this Court will look to the adequacy of other available remedies such as appeal and to the over-all economy of effort and money among litigants, lawyers and courts; however, this Court will use prohibition in this discretionary way to correct only substantial, clear-cut, legal errors plainly in contravention of a clear statutory, constitutional, or common law mandate which may be resolved independently of any disputed facts and only in cases where there is a high probability that the trial will be completely reversed if the error is not corrected in advance." Syllabus Point 1, *Hinkle v. Black*, 164 W.Va. 112, 262 S.E.2d 744 (1979).' Syllabus Point 12, *Glover v. Narick*, 184 W.Va. 381, 400 S.E.2d 816 (1990)." Syllabus Point 1, *State ex rel. Doe v. Troisi*, 194 W.Va. 28, 459 S.E.2d 139 (1995).

*See also* Syl. Pt. 1, *State ex rel. U. S. Fidelity and Guar. Co. v. Canady*, 194 W. Va. 431, 460 S.E.2d 677 (1995). In addition, we review questions of law and statutory interpretations *de novo*. Syl. Pt. 1, *Chrystal R. M. v. Charlie A. L.*, 194 W.Va. 138, 459 S.E.2d 415 (1995).

### **III.**

#### **DISCUSSION**

The issue before this Court is two-fold: Does a county commission have the authority to employ individuals to perform court security functions for the county's judiciary, and, if so, does a circuit court judge have the power to authorize those persons to provide security in the conduct of the court's business, including the performance of the duties of court bailiff? In order to resolve these questions, we must examine the pertinent constitutional and statutory provisions which give rise to the various duties and powers in this case.

##### ***A. The Powers and Duties of the Circuit Court***

Article VIII, Section 6 of the West Virginia Constitution provides, in relevant part:

Circuit courts shall also have such other jurisdiction, authority or power, original or appellate or concurrent, as may be prescribed by law. Subject to the approval of the supreme court of appeals, each circuit court shall have the authority and power to establish local rules to govern the court. Subject to the supervisory control of the supreme court of appeals, each circuit court shall have general supervisory control over all magistrate courts in the circuit. Under the direction of the chief justice of the supreme court of appeals, the judge of the circuit court, or the chief judge thereof if there be more than one judge of the circuit court, shall be the administrative head of the circuit court and all magistrate courts in the circuit.

The language contained in Article VIII, Section 6 is a part of the 1974

Judicial Reorganization Amendment to the West Virginia Constitution, which rewrote the constitutional powers and duties of our state's judicial branch of government.<sup>1</sup> “The overriding purpose behind the passage of the Reorganization Amendment was to provide a unified court system in West Virginia to facilitate the prompt and efficient administration of justice.” *State ex rel. Lambert v. Stephens*, 200 W.Va. 802, 807-08, 490 S.E.2d 891, 896-97 (1997) (citing *State ex rel. Bagley v. Blankenship*, 161 W.Va. 630, 634, 246 S.E.2d 99, 102 (1978)). To that end, the Reorganization Amendment vested the judicial power of the State “solely” in this Court and its inferior courts and created “a hierarchy to be used in resolving administrative conflicts and problems.” *State ex rel. Frazier v. Meadows*, 193 W.Va. 20, 28, 454 S.E.2d 65, 73 (1994); see W. Va. CONST. art. VIII, § 1.

The administrative structure established by the Reorganization Amendment has been analyzed by this Court. In *Frazier, supra*, we noted that “[t]he Reorganization Amendment essentially made the Chief Justice of the Supreme Court the administrative head of all courts. Significantly, the administrative power vested in the Chief Justice of the Supreme Court also flows to the lower court judges.” 193 W. Va. at 28, 454 S.E.2d at 73; see W. Va. CONST. art. VIII, § 3. We elaborated upon this structure in *Lambert*,

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<sup>1</sup> The Reorganization Amendment rewrote Article VIII, substituting Secs. 1 to 15 for former Secs. 1 to 30, amended Sec. 13 of Article III, and added Secs. 9 to 13 to Article IX.

*supra*, where we discussed the provisions of the Amendment which vest administrative power in the circuit courts. We stated in *Lambert, supra*, that

[t]he drafters of the Reorganization Amendment implicitly recognized, however, that this Court can neither make nor micro-manage every administrative decision that needs to be made at the local level. Thus, Article VIII, Section 6 of the West Virginia Constitution provides that, subject to control by this Court, a circuit court judge, or a chief circuit judge in a multi-judge circuit, is given the power to control local affairs. See *Rutledge*, 175 W.Va. at 381, 332 S.E.2d at 837; Syl. Pt. 2, *Carter v. Taylor*. In addition, this section also gives the circuit court judge, or the chief judge thereof, the "general supervisory control over all magistrate courts...." W. Va. Const. art. VIII, § 6.

200 W.Va. At 808, 490 S.E.2d at 897 (footnotes omitted).

In *State ex rel. Skinner v. Dostert*, 166 W. Va. 743, 278 S.E.2d 624 (1981), we interpreted Article VIII, Section 6, together with relevant language contained in Article VIII, Section 10, as follows:

The plain and apparent meaning of these sections is that the circuit court may exercise the administrative powers necessary to "secure the convenient and expeditious transaction of ... business". The operative phrases are "supervisory control", "administrative head", "division of business", and "convenient and expeditious transaction of such business". These operative phrases describe functions executive in nature. In essence, the language of article 8, sections 6 and 10 are the grants of executive power within the judiciary.

*Id.* at 759, 278 S.E.2d at 635.

Recently, in *Lambert, supra*, this Court made a fundamental inquiry concerning the separation of powers doctrine and the scope of a court's inherent authority to require sufficient resources for it to perform its functions. With regard to the separation of powers doctrine, we stated:

As part of our constitutional democracy on both the national and state level, we ascribe to the principle that there shall be three equal branches of government--legislative, executive, and judicial. Article V, Section 1 of the West Virginia Constitution states, in part: "The legislative, executive and judicial departments shall be separate and distinct, so that neither shall exercise the powers properly belonging to either of the others...." W. Va. Const. art. V, § 1. These "separate and distinct" branches of government fulfill the essential function of "checks and balances."

*Lambert*, 200 W. Va. at 809, 490 S.E.2d at 898. As we held in Syllabus Point 2 of *Lambert, supra*, "[n]ot only does our Constitution explicitly vest the judiciary with the control over its own administrative business, but it is a fortiori that the judiciary must have such control in order to maintain its independence." Moreover, regarding a court's inherent power to require resources for the performance of its responsibilities, we held in

Syllabus Point 3 of *Lambert*,  
*supra*:

3. Courts have inherent authority to require necessary resources, such as sufficient funds for operating expenses, work space, parking space, supplies, and other material items. In order for a court to invoke use of its inherent power to require resources, the court must demonstrate that such resources are reasonably necessary for the performance of its responsibilities in the administration of justice. Although courts must be cautious not to reach beyond the power of the judicial branch, it is crucial for the judiciary to be able to invoke such power as is reasonably necessary to maintain itself as an independent and *equal* branch of our government.

Ancillary to this inherent administrative power, we recognized a court's right to utilize legal resources in aid of its administrative functions whenever a conflict arises between the judiciary and another branch of government and an amicable solution cannot be found. *Lambert*, 200 W. Va. at 811, 490 S.E.2d at 900. In Syllabus Point 5 of *Lambert*, *supra*, we held that “[a] court may use the legal resources available to it to defend those interests it is constitutionally bound to protect, including, but not limited to, ex parte orders in necessary circumstances in administrative matters within the court's inherent authority.”

More specifically, with regard to the issue now before us, this Court has emphasized “[t]he inherent power that courts possess to provide for necessary attendants in order to perform their constitutional duties.” *In re Pauley*, 173 W. Va. 228, 233, 314



S.E.2d 391, 396 (1983) (citing relevant cases from other jurisdictions). While this Court has not previously addressed the validity of a court's use of its inherent administrative power in order to ensure adequate security for a courthouse, this issue was decided by the Supreme Court of Colorado in *Board of County Comm'rs. v. Nineteenth Judicial Dist.*, 895 P.2d 545 (Colo. 1995). In that case, in response to threats of courthouse violence, the chief judge of a judicial district met with the board of county commissioners and the county sheriff to discuss methods for providing a safe and secure courthouse environment. *Id.* at 547. After several discussions among these parties, the chief judge entered an order requiring that the sheriff provide security for the courthouse and specifying that the board pay the costs of the security equipment and personnel. *Id.* The Colorado court upheld that part of the chief judge's order which required the sheriff to provide security under the "inherent powers doctrine." Ultimately finding that the directive was a proper exercise of the court's inherent authority, the court reasoned:

[T]he Chief Judge properly ordered security to ensure the continuing viability of the courts. Without security the public's confidence in the integrity of the judicial system is threatened. The proper administration of justice requires that courts operate in a safe and secure environment. When society views the security of the court system with skepticism, the authority of the judicial branch is diminished. A weak judicial branch prevents a proper functioning of the

tripartite scheme of government. The Chief Judge properly ordered security so the courts may continue to fulfill their constitutional mandate and administer justice in an orderly and dignified atmosphere.

*Id.* at 548-49.

### ***B. The Powers and Duties of the Sheriff***

*West Virginia Code* § 51-3-5 (1923) provides that

[t]he supreme court of appeals shall not be attended by any sheriff, but every circuit court, county court, and other court of record of any county shall be attended by the sheriff of the county in which it is held, who shall act as the officer thereof.

In addition, Rule VII of the West Virginia *Trial Court Rules* (1960) mandates: The sheriff, or a deputy, shall be present at all times while the court is in session. The sheriff shall provide a sufficient number of deputies to maintain order in the courtroom at all times. The rules and orders of the court pertaining to conduct in the courtroom shall be enforced by him or them.

The provisions of *W. Va. Code* § 51-3-5 and Rule VII of the *Trial Court Rules*, set forth above, were interpreted by this Court in *Frazier v. Meadows, supra*. We concluded in *Frazier* that § 51-3-5 and Rule VII charge the sheriff of a county with the

duty of providing bailiffs for the county circuit court. In addition, we found that § 51-3-5 confers authority on the sheriff to select and assign one or more deputy sheriffs to serve as court bailiff. 193 W. Va. at 26-28, 454 S.E.2d at 71-73. As a necessary corollary to this duty and authority, we recognized that under § 51-3-5 and Rule VII, the sheriff has the further responsibility of “maintaining a sufficient number of deputies for the court.” 193 W. Va. at 24, 454 S.E.2d at 69.

“We have defined a bailiff as “[a] court officer or attendant who has charge of a court session in the matter of keeping order, custody of the jury, and custody of prisoners while in the court.”” *Frazier*, 193 W.Va. at 28, 454 S.E.2d at 73 (quoting *Pauley*, 173 W.Va. at 233, 314 S.E.2d at 396). Additionally, in Syllabus Point 2 of *Pauley*, *supra*, we held that “[a] bailiff is an officer of the court to which he or she is assigned, subject to its control and supervision, and responsible for preserving order and decorum, taking charge of the jury, guarding prisoners, and other services which are reasonably necessary for the court's proper functioning.” Moreover, in *Frazier*, *supra*, we stated:

The bailiff, as an officer of the court, nevertheless, falls within the administrative hierarchy set up by the Reorganization Amendment. We underscore the point that ministerial attendants such as clerks and bailiffs, regardless of the method of their selection, fall within the administrative control of the court system. Judges are ultimately responsible for any action or inaction of their employees and only a judge can determine whether his assistants are suitable and sufficient for his needs.

193 W. Va. at 29, 454 S.E.2d at 74.

***C. The Powers and Duties of the County Commission***

Article IX, Section 11 of the West Virginia Constitution provides, in pertinent part:

The county commissions . . . . shall . . . under such regulations as may be prescribed by law, have the superintendence and administration of the internal police and fiscal affairs of their counties . . . .

This Court has interpreted this provision, formerly contained in Article VIII, Section 24, as vesting the county commissions of this State with “a wide discretion in the superintendence and administration of the internal police and fiscal affairs of their counties.” Syl. Pt. 1, *Meador v. County Court*, 141 W. Va. 96, 87 S.E.2d 725 (1955). Under the relevant language of Article IX, Section 11, we stated in *Hockman v. Tucker County Court*, 138 W. Va. 132, 137, 75 S.E.2d 82, 85 (1953):

The sheriff, though an important law enforcement officer, does not have the complete or the exclusive control of the internal police affairs of the county. By virtue of the quoted constitutional provision the county court has the authority to superintend and administer, subject to such regulations as may be prescribed by law, the police affairs of the county.

Additionally, *W. Va. Code* § 7-3-2 (1989) mandates that

[t]he county commission of every county, at the expense of the county, shall provide at the county seat thereof a suitable courthouse . . . together with suitable offices for the judge of the circuit court and judges of courts of limited jurisdiction, clerks of circuit courts, courts of limited jurisdiction and of the county commission, assessor, sheriff, prosecuting attorney, county superintendent of schools, and surveyor, and all other offices as are or may be required by law . . . . The county commission shall keep the courthouse, jail and other offices in constant and adequate repair, and supplied with the necessary heat, light, furniture, record books, and janitor service, . . . and other things as shall be necessary . . . .

Moreover, under *W. Va. Code* § 7-1-3m (1974), the county commission is “empowered to employ, fix compensation for and discharge such . . . personnel . . . as may from time to time be necessary to aid such courts in exercising their powers or discharging their duties as provided by law.”

In *State ex rel. County Court v. Arthur*, 150 W. Va. 293, 297, 145 S.E.2d

34, 37 (1965), this Court noted that

[w]hen a statute imposes upon a county court the duty to perform a particular function, it has the power to so act, together with such powers as are reasonably necessary to perform that function. For example, under the provisions of Code, 1931, 7-3-2, as amended, the county court of each county is charged with the duty to provide and maintain, at the county seat, a courthouse. While no statute expressly authorizes the court to purchase mops and brooms, such authority is implied as a necessary and reasonable incident to

the proper maintenance of the courthouse.

***D. The Proper Balance of Powers in This Case***

As indicated above, the facts in the action before this Court are that the county commission hired nine civilians to serve as security officers at the new Putnam County Judicial Building. Thereafter, the respondent chief judge entered a pair of administrative orders designating one of those persons as Court Marshal and the other eight as Deputy Court Marshals and authorizing all nine civilians to (1) perform the services of court bailiff including assuring the security for all court proceedings; (2) escort prisoners to and from court proceedings; (3) make arrests in and around the Putnam County Judicial Building and the Putnam County Courthouse for offenses committed in their presence or in the presence of the Court; (4) carry a concealed firearm or other deadly weapon upon their person in the Putnam County Judicial Building and the Putnam County Courthouse; and (5) use reasonable and necessary force, including deadly force, in the exercise of their responsibilities and duties. In one of the two orders, which were entered simultaneously, the respondent judge found that “adequate security is necessary to assure the safe, secure and peaceful conduct of a circuit court’s business” and that “a full-time position for a qualified Court Marshal is necessary for adequate security in the conduct of the court’s business.” It is also apparent from the orders that the Deputy Court Marshals were intended to assist the Court Marshal in providing adequate security for the judicial building and its occupants.

Under the circumstances of this case, we find that the county commission's hiring of court security personnel was within its constitutional power to superintend and administer the internal police and fiscal affairs of the county. *See* W. Va. CONST. art. IX, §11; *Meador, supra*; *Hockman, supra*. We also believe that the court security officers in question are necessary to the efficient operation of the Putnam County judicial facility with its state-of-the-art security equipment, and, therefore, that the commission had the implied authority to employ them. *See Arthur, supra*; W. Va. Code § 7-3-2; W. Va. Code § 7-1-3m. We do not find that the commission's employment of these personnel in any way impaired or supplanted the power and duty of the county sheriff under W. Va. Code § 51-3-5 and Rule VII of the West Virginia *Trial Court Rules*.

In addition, we find that properly trained security officers, whose duties include operating the new facility's security devices, are reasonably necessary in order to ensure adequate security for not just the courtroom but the entire judicial building and its occupants. *See Lambert, supra*. As in *Board of County Comm'rs, supra*, we find that Judge Spaulding had the inherent power to provide adequate court security, which is essential to the safe and orderly administration of justice. However, because the sheriff is both empowered and obligated, under § 51-3-5 and Rule VII, to provide deputies to serve as court bailiffs for all levels of the county judiciary, we find that the respondent judge improperly entered the sheriff's bailiwick to the extent that he authorized the court marshals to perform the courtroom services of bailiff and to escort prisoners to and from

court proceedings. *See Frazier, supra; Pauley, supra.* Under the separation of powers doctrine, this Court cannot permit these usurpatory portions of the respondent judge's order to stand.

Accordingly, under the facts of this case and the foregoing legal principles, we hold that a county commission has the authority to employ individuals to perform security functions for the county judiciary, but this authority is limited insofar as it cannot properly be exercised in a manner which impairs or supplants the power and duty of the county sheriff, under *W. Va. Code* § 51-3-5 (1923) and Rule VII of the *West Virginia Trial Court Rules* (1960), to select one or more deputy sheriffs to serve as court bailiff and to provide a sufficient number of bailiffs for every court of record in the county. We further hold that the judge of the circuit court, or the chief judge thereof if there is more than one judge of the circuit court, has the inherent administrative power to designate and authorize persons to perform security services necessary to the safe and efficient operation of the county judiciary, provided that such administrative action does not impair or supplant the power and responsibility of the county sheriff to furnish deputy sheriffs to serve as court bailiffs for the county's courts.

Therefore, we grant the writ of prohibition, in part, and prohibit the enforcement of the first two grants of authority contained in the respondent judge's order on the grounds that they are usurpatory of the sheriff's power and duty under § 51-3-5



and Rule VII. Conversely, we conclude that the remainder of the respondent judge's orders constitutes a valid exercise of his inherent administrative powers and, consequently, we deny the writ of prohibition to the extent that it would bar enforcement of those provisions. For example, under our ruling, the court marshals can make arrests in and around the new judicial building and the county courthouse for offenses committed in their presence or in the presence of the circuit court.

#### **IV.**

#### **CONCLUSION**

Upon all of the foregoing, this Court hereby orders that the writ of prohibition is granted, in part, and denied, in part.

Writ granted, in part, and denied, in part.