

STATE OF INDIANA  
INDIANA CIVIL RIGHTS COMMISSION

GREGORY L. WILSON, SR., in his official ) Docket No.: HOha18020101  
capacity as EXECUTIVE DIRECTOR of the )  
INDIANA CIVIL RIGHTS COMMISSION, ) HUD No.: 05-18-0769-8  
Complainant, )  
vs. )  
BRENDAN WOODS APARTMENTS, )  
Respondent. )

**FINAL ORDER**

On December 30, 2019 and May 22, 2020, Hon. Caroline A. Stephens Ryker, who was the Administrative Law Judge ("ALJ") assigned to this matter by the Office of Administrative Law Proceedings, issued her Initial Findings of Fact, Conclusions of Law, and Order and her Initial Findings of Fact, Conclusions of Law, and Order on Joint Motion to Dismiss and Waiver of Objections Period (collectively "Orders"). The Parties had opportunity to object to the Order; no objects were filed. With no objections or an intent to review on record, the Commission shall affirm the Orders. IC 4-21.5-3-29. After consideration of the record in this matter and the Orders, **THE**

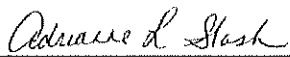
**COMMISSION HEREBY ORDERS:**

1. The findings of fact and conclusions of law as stated in the Orders, copies of which are attached hereto, are incorporated herein by reference. IC 4-21.5-3-28.
2. The Order is AFFIRMED under IC 4-21.5-3-29 and hereby becomes the Final Order disposing of the proceedings. IC 4-21.5-3-27(a).

Either party to a dispute filed under IC 22-9 and IC 22-9.5 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9-8-1; IC 22-9.5-11-1.

SO ORDERED by the majority vote of 4 Commissioners on June 19, 2020.

*Signed this June 23, 2020*

  
Chair Adrienne L. Slash

Certificate of Service

Served this 23rd day of June in 2020 by Certified Mail on the following:

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13065 Virginia Blvd  
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Certified Mail Number: 9214 8901 0661 5400 0152 0102 67  
Also sent by regular mail

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Gregory L. Wilson, Sr., Executive Director  
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**STATE OF INDIANA  
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official  
capacity as EXECUTIVE DIRECTOR of the  
INDIANA CIVIL RIGHTS COMMISSION,

Complainant,

vs.

BRENDAN WOODS APARTMENTS,  
Respondent.

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) Docket No.: HOha18020101

) HUD No.: 05-18-0769-8

) **DATE FILED**

) **DEC 30 2019**

) **OFFICE OF THE  
ADMINISTRATIVE JUDGE**

**INITIAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

On November 22, 2019, the undersigned Administrative Law Judge (“ALJ”) for the Indiana Civil Rights Commission (“ICRC”) issued her Order Granting in Part and Denying in Part Respondent’s Motion to Dismiss; Proposed Default Order (“Proposed Default Order”) in which the ALJ proposed to dismiss the ICRC’s Indiana Civil Rights Law (“ICRL”) probable cause finding based on Complainant Veronica Garcia’s complaint. Having carefully considered the Parties’ filings and being duly advised in the premises, the undersigned ALJ for the ICRC proposes that the Commission enter the following findings of fact, conclusions of law, and order.

**FINDINGS OF FACT**

1. Veronica Garcia (“Garcia”) filed her “Housing Discrimination Complaint” on February 23, 2018 in which she alleged that Respondent discriminated against her in the provision of housing on the basis of disability.
2. On June 23, 2018, the ICRC concluded its investigation and, based on the alleged denial of a reasonable accommodation, issued a Notice of Finding and Issuance of Charge (“NOF and Charge”) that contained a finding of probable cause (“NOF”) under Indiana Code 22-9, *et. seq.* (“ICRL”) and a finding of reasonable cause (“Charge”) under the Indiana Code 22-9.5, *et. seq.* (“Indiana Fair Housing Act” and “IFHA”).
3. On April 23, 2019 and at Respondent’s request, the Commission issued a Subpoena to Monique Snelson (“Snelson”), who is not a party to this matter (“ICRC Subpoena”).

4. On May 18, 2019, Snelson generally objected to the ICRC Subpoena “[b]ased on communication with Veronica Garcia....”
5. On November 22, 2019, the undersigned ALJ entered a Proposed Default Order under the Indiana Administrative Orders and Procedures Act, Indiana Code 4-21.5-3-24, (“IAOPA”), in which she proposed to dismiss the probable cause finding made under the ICRL because Complainant Garcia interfered with the ICRC Subpoena that was issued to Snelson.
6. In the Proposed Default Order, Complainant Garcia was notified of her opportunity to file a written motion under IAOPA requesting that the Proposed Default Order not be entered. She was additionally advised that if no written motion was filed, then the ALJ would enter a default order only with respect to the probable cause finding made under the ICRL.
7. Complainant Garcia did not file any such motion.
8. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

#### **CONCLUSION OF LAW**

1. Under the ICRL and IFHA, the ICRC has jurisdiction over housing complaints alleging disability discrimination, and accordingly, the ICRC has jurisdiction over Garcia’s complaint. IND. CODE § 22-9-1-2; IND. CODE § 22-9-1-6; IND. CODE §§ 22-9-6; IND. CODE § 22-9.5-4-1; IND. CODE § 22-9.5-5-5.
2. Probable cause findings are made under the ICRL, and reasonable cause findings (“Charges”) are made under the IFHA. IND. CODE § 22-9-1-18; IND. CODE § 22-9.5-6-8. The NOF and Charge includes a finding of reasonable and probable cause; however, **this default order concerns only the probable cause finding.**
3. With respect to the probable cause finding made under the ICRL, Garcia is a party --a Complainant-- because Garcia is the individual who filed a complaint with the ICRC. IND. CODE § 22-9-1-3(n)(1).
4. Under IAOPA, a complaint may be dismissed “[a]t any stage of a proceeding, if a party fails to...attend or participate in a prehearing conference, hearing, or other stage of the proceeding....” IND. CODE § 4-21.5-3-24. Dismissal of Garcia’s ICRL probable cause finding is appropriate under IAOPA.
5. Discovery is a vital stage in preparing for a hearing on the merits, and it is designed to be self-executing, with minimal oversight by the adjudicator. *Pitts v. Johnson Cty. Dep’t of Pub.*

*Welfare*, 491 N.E.2d 1013, 1014-1015 (Ind. Ct. App. 1986). The Indiana Trial Rules on discovery apply in administrative proceedings before the Commission. 910 IAC 1-4-1; 910 IAC 2-7-5.

6. Non-party discovery is expressly permitted by Indiana Trial Rule 36(A), and the Commission has the authority to issue Subpoenas at the request of a party. IND. TR. R. 36(A); IND. CODE § 22-9-1-6(h).
7. Garcia had the opportunity to object to the issuance of the ICRC Subpoena for non-party discovery, which Garcia did not do. IND. TR. R. 34(C); IND. CODE § 22-9-1-6(h); IND. TR. R. 34(C)(2); 910 IAC 1-5-2(f); 910 IAC 2-7-6(f).
8. Although Respondent has alternative remedies to dismissal available under the Indiana Trial Rules and IAOPA that address Snelson's failure to provide responses, the available remedies do not address Garcia's behavior. IND. TR. R. 34(C); IND. TR. R. 37(A); IND. CODE § 4-21.5-6-2; IND. CODE § 22-9-1-6(h).
9. Garcia may not circumvent the process for non-party discovery laid out in the Indiana Trial Rules by directing Snelson not to respond to a properly issued ICRC Subpoena. Accordingly, Garcia has failed to participate in the discovery process in accordance with the Indiana Trial Rules and has interfered with Respondent's opportunity to fully and fairly prepare for mediation and a hearing. Dismissal of her ICRL probable cause finding is therefore appropriate under IAOPA.
10. On November 22, 2019, the undersigned ALJ concluded that Complainant Veronica Garcia had interfered with the ICRC Subpoena issued to Snelson and that dismissal of the probable cause finding made under the ICRL was therefore appropriate. Accordingly, the ALJ issued a Proposed Default Order, and a responsive, written motion was due on or by December 2, 2019. IND. CODE § 4-21.5-3-24.
11. Complainant Veronica Garcia did not file any such responsive motion, and as a result, IAOPA requires that the ALJ enter a default order dismissing this matter. IND. CODE § 4-21.5-3-24(c).
12. Dismissal of this matter is appropriate under IAOPA. IND. CODE § 4-21.5-3-24.

#### **ORDER**

1. The probable cause finding based on Complainant Veronica Garcia's Indiana Civil Rights law complaint is **DISMISSED**, with prejudice.

2. This Order **does not apply** to Gregory L. Wilson, Sr.'s reasonable cause finding made under the Indiana Fair Housing Act in his official capacity as Executive Director of the Indiana Civil Rights Commission.
3. This Order becomes a final order disposing of the proceedings immediately upon affirmation by the Commission under Indiana Code 4-21.5-3-29. IND. CODE § 4-21.5-3-27(a).

### Administrative Review

This Order is not final until confirmed by the Commission. IND. CODE § 4-21.5-3-29. Administrative review may be obtained by Parties not in default by the filing of a writing that identifies with reasonable particularity the basis for each objection within fifteen (15) days after the service of this Order. IND. CODE § 4-21.5-3-29(d). Subject to Indiana Code 4-21.5-3-1, the filing of a document in proceedings before the ICRC can be completed by mail, personal service, fax, or electronic mail to:

Docket Clerk  
C/o the Indiana Civil Rights Commission  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204  
Fax: (317) 232-6580  
Email: [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)

A party shall serve copies of any filed item on all parties. IND. CODE § 4-21.5-3-17(c).

SO ORDERED this 30<sup>th</sup> of December, 2019



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Hon. Caroline A. Stephens Ryker  
Administrative Law Judge  
Indiana Civil Rights Commission  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255  
*Docket Clerk: 317/234-6358*  
*docketclerk@icrc.in.gov*

**Certificate of Service**

Served this 30th day of December in 2019 by United States  
Mail on the following:

Veronica Garcia  
13065 Virginia Blvd  
Apartment #C-2  
Carmel, IN 46032  
Certified # 9214 8901 0661 5400 0146 2710 56

Gary Katona  
P O BOX 132  
Lebanon, IN 46052  
[Info@partnerquest.us](mailto:Info@partnerquest.us)  
Certified # 9214 8901 0661 5400 0146 2711 17

Bruce L. Kamplain  
NORRIS CHOPLIN SCHROEDER LLP.  
101 West Ohio Street, Ninth Floor  
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Fax: (317)269-9338  
[bkamplain@ncs-law.com](mailto:bkamplain@ncs-law.com)  
Certified #9214 8901 0661 5400 0146 2711 79

and personally served on the following attorney of record:

Frederick S. Bremer, Esq.; ICRC Staff Attorney  
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Indiana Government Center North  
100 North Senate Avenue, Room N300  
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Gregory L. Wilson, Executive Director  
Indiana Civil Rights Commission  
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Indianapolis, IN 46204-2255



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INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official  
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INDIANA CIVIL RIGHTS COMMISSION,

Complainant,

vs.

BRENDAN WOODS APARTMENTS,  
Respondent.

) Docket No.: HOha18020101

) HUD No.: 05-18-0769-8

**DATE FILED**

MAY 22 2020

OFFICE OF THE  
ADMINISTRATIVE JUDGE

**INITIAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER ON JOINT  
MOTION TO DISMISS AND WAIVER OF OBJECTIONS PERIOD**

On May 19, 2020, Respondent and Complainant, by counsel, filed a Joint Motion to Dismiss and Waiver of Objections Period (“Motion”) with the undersigned Administrative Law Judge (“ALJ”) for the Indiana Civil Rights Commission (“ICRC”). Having carefully considered all of the foregoing and being duly advised in the premises, the undersigned ALJ **HEREBY FINDS AND ORDERS AS FOLLOWS:**

**Findings of Fact**

1. On June 23, 2018, the ICRC issued a probable cause finding on Complainant’s February 23, 2018 ICRC complaint of discrimination in which Complainant alleged that Respondent discriminated against Complainant in the protected area of housing on the basis of disability by denying a reasonable accommodation request.
2. On May 19, 2020, the Parties jointly moved for the dismissal of this matter.
3. No settlement agreement has been filed by Respondent or Complainant.
4. No evidence of coercion or duress exists.
5. Any conclusion of law that should have been deemed a finding of fact is hereby adopted as such.

**Conclusions of Law**

1. The Commission has jurisdiction over the Parties and this matter. IC 22-9-1-2; IC 22-9.5-6-1; IC 22-9-1-6.



2. The Parties did not file a consent agreement that requires the approval and signature of the Commission. IC 22-9-1-6.
3. A Complainant can withdraw an ICRC complaint by filing a Notice of Withdrawal, which is a written statement made by the Complainant in which the Complainant requests that the matter be closed, with the Commission. 910 IAC 1-2-6.
4. If a hearing has been set, then the majority of the Commission must agree to the withdrawal before the withdrawal is effective in closing the matter, but if a hearing has not been set, then the Notice of Withdrawal filed by a Complainant is immediately effective in closing the matter as of the date of filing. *Id.* Complainant and Respondent have requested that the Commission issue a final order on this matter.
5. Before this decision is final, the Commission must affirm this decision by the majority vote of the Commission. IC 4-21.5-3-29.
6. Additionally, administrative review of this initial decision may be obtained by filing objections with the Commission that state with reasonable particularity each basis for each objection within 15 days after service of this initial decision. *Id.*
7. However, the Parties may "...waive any right conferred..." to them by the Indiana Administrative Orders and Procedures Act, including the fifteen (15) day appeal period. IC 21.5-2-2. The Parties' waiver is effective.
8. Accordingly, this matter is dismissed, pending the approval of the Commission at the next Commission Meeting.<sup>1</sup>

#### Order

1. The Parties' Joint Motion to Dismiss and Waiver of Objections Period is **GRANTED**.
2. This matter is **DISMISSED**, with prejudice.
3. All previously set deadlines, conferences, and hearings are hereby **VACATED**.
4. This order becomes a final order disposing of the proceedings immediately upon affirmation by the Commission. IC 4-21.5-3-29.

#### Default

A Party who fails to attend or participate in a prehearing conference, hearing, or other later stage of the proceeding may be held in default or have a proceeding dismissed. IC 4-21.5-3-18(d)(8).

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<sup>1</sup> The next Commission Meeting is currently scheduled for June 19, 2020.

### Resolution of the Matter

**Parties must notify the Presiding Officer of a settlement.** If a hearing has not been set, the filing of a written, Notice of Withdrawal by Complainant is immediately effective in closing the matter; however, if a joint motion to dismiss or request for withdrawal is made after the case has been set for hearing, the written consent of a majority of the Commissioners must be obtained. 910 IAC 1-2-6. **Notification of a settlement will not result in the closure of the complaint or staying of deadlines unless accompanied by a written motion for dismissal, withdrawal, or staying of deadlines.**

### Filing

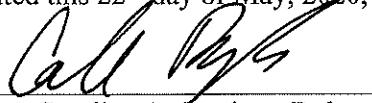
Filings for the Commission can be made with the Docket Clerk of the Indiana Civil Rights Commission by email, fax, or by mail at the following:

**Docket Clerk  
c/o Indiana Civil Rights Commission  
100 North Senate Avenue, N300  
Indianapolis, IN 46204  
Fax: 317-232-6580  
Email: [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)**

### Contact Information

The name, official title, and mailing address of the Presiding Officer and a telephone number through which information concerning schedules and procedures may be obtained, is included below. **However, all *ex parte* contacts –direct or indirect communications regarding any issue in the pending proceeding without notice and opportunity for all Parties to participate in the communication – are forbidden by law.** Repeat: a Party shall serve copies of any filed item on **all Parties**. IC 4-21.5-3-17(c). The attached Certificate of Service includes the names and mailing addresses of all known Parties and other persons to whom notice is being given. IC 4-21.5-3-18(d)(1).

Dated this 22<sup>nd</sup> day of May, 2020,



Hon. Caroline A. Stephens Ryker  
Administrative Law Judge  
Indiana Civil Rights Commission  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255  
*Micah Benson, Docket Clerk*  
317/234-6358; [docketclerk@icrc.in.gov](mailto:docketclerk@icrc.in.gov)

**Certificate of Service**

Served this 22nd day of May in 2020 by United States Mail on the following:

Veronica Garcia  
13065 Virginia Blvd  
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Carmel, IN 46032

Served by regular mail and by Certified # 9214 8901 0661 5400 0151 1809 92  
*December 30, 2019 Initial Findings of Fact, Conclusions of Law, and Order  
reserved by regular mail and by the same Certified Number.*

Gary Katona  
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and personally served on the following attorney of record:

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