

**In the
Indiana Supreme Court**

STATE OF INDIANA *ex rel.*
Brandon MCINTOSH,
Relator,

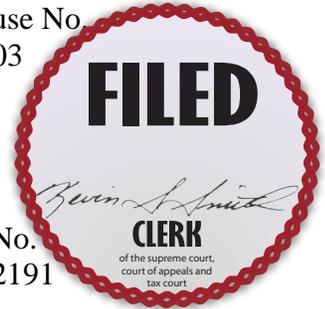
v.

THE VIGO SUPERIOR COURT, *et al.*,
Respondents.

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Supreme Court Cause No.
84S00-1104-OR-203

Trial Court Cause No.
84D06-1006-FC-02191



PERMANENT WRIT OF MANDAMUS AND PROHIBITION

Relator, by counsel, has filed a petition for writ of mandamus and prohibition and accompanying application papers under the rules governing original actions. Relator alleges that the trial court failed to rule on a motion within the time required by Trial Rule 53.1 and that the trial court clerk failed in her duty to withdraw the case from the trial court for appointment of a special judge after Relator filed his praecipe. This Court issued an order allowing an opportunity for the filing of responsive briefs, but none were filed.

Each Justice has had an opportunity to review the petition and other papers filed in this matter. All five Justices have voted to grant the permanent writ.

Accordingly, the Court GRANTS the permanent writ in the following manner. The Honorable Michael J. Lewis is directed to cease exercising jurisdiction over this case except as to any administrative tasks necessary to effectuate this writ. Patricia R. Mansard, clerk of the trial court, is directed to give written notice to Judge Lewis and this Court that submission of the trial court case is being withdrawn in accordance with Trial Rule 53.1(E)(2). Motions to reconsider or petitions for rehearing are not allowed. Ind. Original Action Rule 5(C).

Judge Lewis is reminded of his obligation to file a written report pursuant to Trial Rule 53.1(F) after the clerk complies with Trial Rule 53.1(E)(2) and this Court issues an order appointing a special judge.

The Clerk is directed to send a certified copy of this writ to the Hon. Michael J. Lewis, Judge, Vigo Superior Court No. 6; Patricia R. Mansard, Clerk, Vigo Circuit Court; Douglas M. Grimes, 6941 Ironwood Ave., Gary, Indiana 46403; Terry Modesitt, Vigo County Prosecuting Attorney; Gregory F. Zoeller, Attorney General of Indiana; and Andrew Kobe, Deputy Attorney General. The Clerk of this Court is further directed to post this order to the Court's website, and Thomson Reuters is directed to publish this order in the bound volumes of this Court's decisions.

Done at Indianapolis, Indiana, this 17th day of May, 2011.

/s/ Randall T. Shepard
Randall T. Shepard
Chief Justice of Indiana

Shepard, C.J., and Dickson, Sullivan, Rucker, and David, JJ., vote to grant the writ.