



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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May 13, 2014

Mr. Jesse Clements
P.O. Box 68082
Indianapolis, IN 46268

Re: Formal Complaint 14-FC-83; Alleged Violation of the Access to Public Records Act by the Hendricks County Superior Court 5

Dear Mr. Clements,

This advisory opinion is in response to your formal complaint alleging the Hendricks County Superior Court 5 ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Hon. Judge Stephanie LeMay-Luken has responded to your complaint. Her response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on April 15, 2014.

BACKGROUND

You sued three Marion County Judges in Hendricks County Superior Court 5. Subsequent to the disposition of that case, you sought access to all of Judge LeMay-Luken's open court cases. The court administrator attempted to arrange windows of time when you would have access to the records. You have been unable to arrange a convenient time for you to review the requested documents and you have had difficulty communicating with court staff.

Judge LeMay-Luken's response indicates you made comments disruptive to the operations of the Hendricks County Courthouse, including threatening to "tear the courthouse up" and the presence of security personnel was necessary to preserve the integrity of the judicial records of the court.

DISCUSSION

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind.

Code § 5-14-3-1. The Hendricks County Superior Court 5 is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1).

The APRA states any person has the right to inspect and copy the Court's public records during regular business hours according to Ind. Code § 5-14- 3-3(a). The APRA also states in Ind. Code § 5-14-3-2 a public agency shall protect public records from loss, alteration, mutilation, or destruction, and regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees.

If you threatened to "tear the courthouse up" as the Judge indicates¹ or any other similar remark intended to harass^{2,3}; a public official is well within her authority to ensure and maintain the security of the public offices, its staff, and the records held within. It appears Judge LeMay-Luken made a judgment call. In deference to the safety of her staff and courtroom, she limited your access to supervised timeframes when security personnel could be present. It appears to be preventative risk mitigation. I believe Judge LeMay-Luken has the discretion to take these measures. This discretion must be exercised within reason and cannot be used to indiscriminately prohibit public access to records.

Nonetheless, after considering both arguments and viewing the evidence in a light most favorable to you, it is the Opinion of the Public Access Counselor the Hendricks County Superior Court 5 did not violate the APRA. It is my expectation alternative timeframes can and will be arranged to the mutual satisfaction of both parties.

If you disagree, remedies are available to you at the judicial review level.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Hon. Stephanie LeMay-Luken

¹ See Exhibit A

² See Exhibit B

³ See generally *Clements v. Albers*, No. 49A02-0910-CV-1033, slip op. at 6 (Ind. Ct. App. May 5, 2010). NFP (*We admonish Clements that such intemperate language, whether used by pro se litigants or licensed attorneys, has no place in legal proceedings of any sort at any time.*)

HENDRICKS SUPERIOR COURT NO. 5
ONE COURTHOUSE SQUARE, #111
DANVILLE, INDIANA 46122-1704



Stephenie LeMay-Luken
Judge
(317) 718-6169 ph. (317) 718-6170 fax

April 23, 2014



VIA ELECTRONIC & FIRST CLASS MAIL

Mr. Luke Britt
PUBLIC ACCESS COUNSELOR
Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, IN 46204-2745

Dear Mr. Britt:

As requested, please find enclosed the case record for *Clements v. Welch et al.*, 32D05-1304-MI-000082. In addition, copies of all correspondence to and from Mr. Clements regarding his public records requests are also enclosed.

Whenever records are made available for Mr. Clements' inspection and/or copying, we request the presence of a court security officer. We also requested the presence of a court security officer on February 21, 2014, since Mr. Clements indicated in his written correspondence dated February 20, 2014 that he would inspect public records the following day. This measure was taken largely in response to Mr. Clements' oral threat to "tear that place [the courthouse] up." Mr. Clements made this threat to a court reporter by telephone in mid-February 2014. We regard as paramount the safety of litigants and courthouse personnel. Thus, Mr. Clements' threat to tear the courthouse up was taken seriously, and the presence of a courthouse deputy was requested.

Please do not hesitate if you require any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. LeMay-Luken".

Stephenie LeMay-Luken
Judge, Hendricks Superior Court No. 5

Encl.
cc: Catherine Haines

Exhibit A

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

IN THE HENDRICKS SUPERIOR COURT 5
CAUSE NO. 32D05-1304-MI-000082

JESSE CLEMENTS)
Petitioner/Plaintiff,)
)
vs.)
Hon. HEATHER WELCH)
Hon. JOHN HANLEY)
DAVINA CURRY)
Hon. TIM OAKES)
)
Respondents/Defendants.)

FILED
2014 FEB 28 PM 2:21
Dorrie M. [unclear]

VERIFIED MOTION TO CORRECT ERROR

COMES NOW, the Petitioner/Plaintiff, JESSE CLEMENTS, in *pro per*, and hereby moves this Court, pursuant to Ind. Trial Rule 59, and requests that the trial court disqualify from the instant Cause; set a hearing and grant his motion to correct errors, and set aside its dismissal and, and as grounds thereof states as follows:

1. This motion is going to be published world-wide because the events it depicts evidence the precarious state of Indiana's Judiciary.
2. Each and every ruling [100%] rendered by Judge Luken was contrary to clear determined law of which there is no confusion or unsettled question and each harmed Clements. Ergo, her rulings not only amount to unquestionable error, but, constitute a bad faith and invidious attack on Clements' Civil Rights.
3. Let Clements be clear: thousands of our boys have fought for our liberty and have died or their bodies and/or minds mangled, and their families have also sacrificed. One of the most important liberties that our boys have died for is the perpetuation of the integrity, independence and competence of our court system; therefore, any judge that purposefully defiles their oath of duty to the law and public service spits on the graves and in the faces of the families and the

boys that have fought to protect our liberty.

4. Moreover, even more chilling is the bold and open make-up of Judge Luken's lawless renderings. Her failure to cloak her invidious intent behind a pretense evidences her belief that her malicious misconduct is authorized and will be ratified by Indiana's Higher Courts and oversight authorities, which if true establishes Indiana's entire Judiciary as corrupt.
5. For those in the legal community that might take issues with Clements' style in the motion, please consider two things.
6. First, a judge is the single most important person in our society; but the judge that oaths to dedicate his life to serve the Public and the Law and instead uses their position for corruption, becomes the criminal that is the single greatest threat to our Republic.
7. Second, The First Amendment is first because it is the most important amendment. When government halts protest or limits the way protest is spoken, America will be no more. Retired Chief Justice Shepard interpreted Ind. Const. Art. 1, §9 as follows, no one "may choose the means by which [Clements] decides to speak; [Clements] must have an opportunity to speak his mind "in whatever manner the [Clements] deems most appropriate."” *Whittington v. State*, 669 N.E.2d 1363, 1368 (Ind.1996).
8. It is well-established that the legal community when facing criticism possesses a fragile and closed-minded constitution. Clements, a construction guy, would ask the legal community to follow the admonitions of the Indiana Constitution as interpreted by Retired Chief Justice Sheppard and also to “grow a pair.” Please do not react to criticism like Hitler's Brownshirts or spoiled debutantes; but react to criticism like true lawyers at heart: with dignity, objective intelligence and maturity.
9. On January 29, 2014, the Respondents filed a Motion to Dismiss on Ind. Trial Rule 41(E).

10. On January 29, 2014, on the same day, as a grand finale to Judge Luken's consistent misconduct throughout the Cause, she dismissed Clements' Cause after failing to give him an opportunity to respond to the said motion or failing to ever give him a hearing.
11. Critical to the subsequent analysis is that the Respondents that benefited from Judge Luken's lawlessness are not an ordinary party: they consist of an amalgam of Judges; attorneys; the Attorney General [AG]; the Judicial Center; State Court Administrator; with all of their legal knowledge, political influence and "connections" to colleagues on the higher courts; etc.
12. And this enormous legal Amalgam, operating in its own environment, stands opposed only by one insignificant lowly *pro se* construction guy, Clements, who has no formal legal training.
13. Why are Clements' Civil rights being savaged? Why doesn't the Amalgam insist on the case being prosecuted orderly, in deference to due process, pursuant to the Trial Rules and with fair and open hearings, so the Amalgam can bring its enormous disparity of legal knowledge to bear and crush Clements' legal case demonstrating it to be frivolous?
14. The Amalgam, who are supposed to act honorably, acquiescence to an unfair fight and the AG's dishonest Motion for Protective Order [See Error #10] prove that the Amalgam knew Clements' claims were true and just and feared that Clements would win in a fair legal fight, even though disadvantaged by the disparity of legal skill between the parties.
15. The specific errors and Judge Luken's motives are based on the facts and argument as follows:

**ERROR #1
CRIMINAL MISCONDUCT**

16. In the subject Cause, as subsequently described in detail below, Judge Luken has boldly and openly acted 100% in contravention of the law and her oath to injure Clements.
17. In 1930, the townspeople of Marion, IN stormed the jail and lynched two young Black youths

in the courthouse square, similarly Judge Luken's ostentatious lynching of Clements' Civil Rights was done for two reasons: (1) She does not fear being held accountable by overseers of the Indiana's Legal System; and (2) she is sending a PUBLIC message: "YER KIND AIN'T WELCOME HE'YEAR."

18. Judge Luken's open and bold desecration of Clements' Civil Rights was done because she believes that Prosecutor Baldwin; the Judicial Qualifications Commission, her colleagues on the upper courts will ratify, protect and safeguard her lawless conduct.
19. Moreover, Judge Luken believes that the Indiana Legal Community will glorify and praise her, she probably phones her colleagues and brags, "Guess what I did to Clements today!?"
20. Ladies and Gentlemen examine the photographs of the 1930 Marion Lynchings. With the Black youngsters' violated, partially clothed, brutally beaten bodies dangling from a tree limb in the courthouse square, men, women, children, and grandparents, some smiling, some laughing, and some holding hands, thousands acting proud and giddy about being part of such a "great moment." These people clearly felt there would be no repercussions for their disgraceful conduct. If one places their hand over the dangling bodies, the picture could pass for a cheerful and contented crowd at the County Fair.
21. Today, metaphorically, Clements' Civil Rights, stand as having been lynched and are dangling from a tree in the Hendricks County Courthouse Square and Judges Luken, Oakes, Welch and Hanley along with Attorney General Zoeller, and his litigation team are there with their spouses and children having a gala of a time using their smart phones to pose for pictures and to call loved ones and let them know what a good time they're having.
22. But, what must be understood is the outrageous defiling of Clements' Civil Rights by Judge Luken constitutes criminal judicial misconduct.

23. Clements is not only a *pro se* litigant; but is the primary witness in this subject action.
24. If Judge Luken, upon a witness taking the stand, leaned over and said, “you are such a worthless piece of trash, your civil rights are meaningless and it don’t matter what you have to say, now get the heck out of here;” an honest and lawful prosecutor would prosecute for, *inter alia*, witness tampering, intimidation and obstruction of justice.
25. An honest and lawful Judicial Qualifications Commission would remove her from the bench.
26. Judge Luken’s blatant flouting of civil procedure; refusing to relinquish jurisdiction; refusing to permit Clements to speak in open Court; boldly engaging in and considering *ex parte* communications; and so forth all for the expressed purpose of eradicating Clements’ time; forcing Clements to pay hundreds/thousands of dollars on appeal; attacking; humiliating; disenfranchising; and driving Clements’ primary witness from the Hendricks County Courthouse, is a crime that must be prosecuted.
27. Judge Luken’s actions that are so consistently sadistically contrary to the law and her oath establish only two (2) possibilities: (1) she’s simply insane; or (2) she is acting rationally; but the basis for her actions is grounded in a reason so outrageous that it cannot be spoken.
28. Perhaps Judge Luken has traded the dismissal of this case for campaign support or contributions or a job with the AG’s office. Perhaps she is just satiating her personal lust to harm the self-represented or trying to curry personal favor with her colleagues.
29. Whatever Judge Luken’s “rational” reason for her overt and lawless conduct may be; it is certainly grounded in trading her mandated duties of office and public service for personal favors or pecuniary gain. This constitutes political corruption and the Indiana FBI website opening page states, “Public corruption poses a fundamental threat to our national security and way of life.” This is a criminal act that must be investigated and prosecuted.

30. U. S. Supreme Court Chief Justice Berger opined [in dicta] that “We [judges] have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be treason to the constitution. *United States v. Will*, 449 U.S. 200, 216 (FN 19) (1980).
31. Judge Luken is usurping jurisdiction by denying a timely filed Ind. Trial Rule 76(B) Motion [See Errors #2 and #4]; ergo, per Justice Berger, Judge Luken is committing treason.
32. And after reviewing Errors #2-6, it will be demonstrated that Judge Luken has done this before in other cases, this is not an isolated incident it is part of a pattern of lawless Rulings [Error #7].

ERROR #2
JUDGE LUKEN LACKS JURISDICTION-ALL ORDERS ARE VOID

33. On April 12, 2013, Clements filed a Petition pursuant to Ind. Trial Rule 27, to perpetuate testimony of future defendants of a Federal Court Action.
34. The Respondents failed to file an answer, though one is not required by Rule.
35. The only filing that could possibly be considered a response under Ind. Trial Rule 12 to the Petition by the Respondents was filed on May 6, 2013.
36. On May 13, 2013, Clements filed a timely motion for automatic change of judge under Ind. Trial Rule 76(B).
37. On May 14, 2013, Judge Luken denied the motion.
38. Upon the timely filing of a T.R. 76(B) Motion a judge has no discretion in ruling on the motion, granting the motion is mandatory; Judge Luken was required to direct the change of judge. *Justak v. Bochnowski*, 391 N.E.2d 872, 877 (Ind.Ct.App. 1979).
39. Moreover, “upon the filing of the motion, [Judge Luken] was divested of jurisdiction except to grant the change of change of judge. *Id.*

40. And any judgment issued by a judge without jurisdiction is *void ab initio*; it is a nullity and can be ignored. *Id.*
41. New Chief Judge Vaidik [with ex-Chief Judge Robb concurring] identified a litigant's prospects to change of judge under T.R. 76(B) as a "**Right.**" *Green v. Green*, 863 N.E.2d 473, 478 (Ind.Ct.App. 2007).
42. The dumbest Indiana attorney is aware of this Rule and the dumbest Indiana judge after a having a lobotomy would be aware of the Rule.
43. This is a text book example of bad faith and malicious conduct by a judge. Judge Luken knows the law; she considered the law, but said, "I don't care about the law, me and D.C. Stephenson ARE THE LAW. This *pro se* scum will have no civil rights in my courtroom."
44. Clements believes a judge possess the most important role in our society; hence, a soiled, criminal and dishonest judge is the greatest scourge in our society.
45. And to **YOU, on the Judicial Qualifications Commission**, do not listen to Ms. Meiring, hire independent counsel from outside Indiana, talk to the American Judicature Society and/or Ms. Grey they are 100% available, Read your Handbook (Our group believes your failure to punish is the reason why corrupt judges flourish in Indiana) and understand judicial misconduct:
- a. P.4 talks about your purpose;
 - b. P. 5-8 you cannot punish a judge for legal error; but you must punish for misconduct and here you will learn the difference between error and misconduct.
 - c. P. 11-22 talks of the investigations and discipline process.
 - d. P.25-53 Speak detail ethical standards for Judges [Please pay particular attention to P.34 *ex parte* communications].

ERROR # 3

JUDGE LUKEN CANNOT *SUA SPONTE* CHANGE VENUE

46. On the next business day after filing the Petition [April 15, 2013]; Judge Luken *sua sponte* ordered the cause transferred to Marion County.
47. The venue of a case or the authority of a court to decide a case may be challenged by a motion brought under Ind. Trial Rule 12(B)(3). The deadline for filing the motion expires twenty days after service of the prior pleading if a responsive pleading is not required by the rules. If a responsive pleading is required, the motion must be filed before or contemporaneously with the responsive pleading. Ind. Trial Rule 75(A)
48. The right to challenge venue is waived if it is not asserted within the time allowed by the rules. Ind. Trial Rule 75(A); Ind. Trial Rule. 12(H)(1), *Shanklin v. Shireman*, 659 N.E.2d 640, 643-4 (Ind. Ct. App. 1995).
49. On May 7, 2013, the Respondents filed a Motion and requested relief from Judge Luken and made no objection or even a mention that they desired a change of venue.
50. And as of the time of the filing of the instant motion, the Respondents have not requested a change of venue as of the filing of the instant motion.
51. On May 14, 2013, Clements filed a motion for hearing to argue a Motion to Reconsider Judge Luken's *sua sponte* transfer of venue along with a timely filed T.R. 76(B) motion.
52. Though the T.R. 76(B) stripped Judge Luken of jurisdiction, she shamefully denied all three (3) motions.
53. Judge Luken's misconduct is thought out and PURPOSEFUL.

ERROR #4

JUDGE LUKEN HAD NO JURISDICTION TO ACT PRIOR TO APRIL 24, 2013

54. Three Respondents were served with a summons on April 18, 2013 and the fourth on April 24,

2013.

55. Judge Luken issued a voidable Order April 15, 2013, when she violated the law by rendering a *sua sponte* Order that transferred Venue [See, per Error #3]; but the Order is also void because she lack jurisdiction to act in the Cause because none of the Respondents had been served a summons at the time.
56. That is, at the time of Judge Luken's Order was issued to transfer venue, there was no service of process on all the Defendants and it is well established that a basic tenet of Rules of Trial Procedure is that a defendant falls within trial court's jurisdiction for a particular civil action only when he has been served with process. *Fox v. Galvin*, 381 N.E.2d 103, (Ind. App. Ct 1978).
57. It is equally well established that "Jurisdiction" is the legal power, as distinguished from the right, to entertain any matter of proceeding, and to act therein. *Overpeck v. Dowd*, 364 N.E.2d 1043, (Ind. App. Ct 1977).
58. Moreover, there are due process implications as no service on the Defendants is a due process violation as due process requires service of notice and manner reasonably calculated to inform defendant of pending lawsuit. *Washington v. Allison*, 593 N.E.2d 1273, (Ind. App. Ct 1992).
59. And lest the Court believe the Defendants could have informed one another of the proceeding, the mere fact that a party served has actual knowledge of suit does not satisfy due process or give court in personam jurisdiction. *Chesser v. Chesser*, 343 N.E.2d 810, (Ind. App. Ct 1976).
60. And actual knowledge of pending lawsuit derived from sources other than service is not relevant to question whether manner of service satisfies due process. *Washington v. Allison*, 593 N.E.2d 1273 (Ind. App. Ct 1992).
61. In Summary, to act a trial court must have personal jurisdiction over ALL THE PARTIES and

clearly when Judge Luken an order to transfer venue on April 15, 2013, she did not have jurisdiction over all the parties because service of process was not accomplished at the time on all the parties.

62. Judgment entered where there has been no service of process is void for want of personal jurisdiction. *Burke v. DeLarosa*, 661 N.E.2d 43, (Ind. App. Ct 1996); *Roberts v. Watson*, 359 N.E.2d 615 (Ind. Ct. App. 1977).

63. Note: it is appropriate to raise this issue in a Motion to Correct Error See *Roberts v. Watson*, 359 N.E.2d 615 (Ind. Ct. App. 1977).

ERROR # 5
JUDGE LUKEN FLOUTED T.R. 41(E)

64. As stated above Judge Luken dismissed the subject cause on January 29, 2014, the very day a Motion to Dismiss was filed by the Respondents pursuant to T.R. 41(E).

65. And once again Judge Luken flouted the mandate of T.R. 76(B) that establishes she has no jurisdiction to act in the Cause and Judge Luken flouted the dictates of T.R. 41(E) and the dictates of due process by failing to order a hearing. *Rumfelt v. Himes*, 438 N.E.2d 980, 983-4 (Ind. 1982).

66. Like with T.R. 76(B) the dumbest Indiana attorney and the dumbest Indiana judge after a having a lobotomy is aware of T.R. 41(E)'s hearing requirement.

67. Judge Luken's misconduct is 100% purposeful and done with the intent to harm Clements.

ERROR # 6
EX PARTE COMMUNICATIONS

68. Judge Lukan's failure to allow Clements a hearing, not only flouted T.R. 41(E); but Judge Lukan's failure to even permit a response by Clements violates Indiana's prohibition on *ex parte* communications.

69. Ind. Judicial Conduct Rule 2.9 expressly holds that “a judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties or their lawyers...”
70. Judge Luken received a communication [Motion to Dismiss] from one side, in this case a motion, and then acts upon that motion is considering *ex parte* communication in contravention of Jud. Cond. R. 2.9.
71. Clements believes a judge violating Jud. Cond. R. 2.9 is appalling because it is directly contrary to the core characteristic and function of honest judging...that is, a judge listens to two sides and decides.
72. Clements was about 10 years old and understood when my mother, who had no legal training whatsoever, stated, “there are two sides to every story.”
73. This is concept is understood by the dumbest people on the planet from every conceivable walk of life and for Judge Luken, who oaths to listen and decide, to ignore this simple human principle of life demonstrates she possess a deep-seeded fundamental character flaw.
74. Clearly, Judge Luken has an ulterior objective, because if it was to serve the Public and to serve the Law, she would not act like this.
75. On April 22, 2013, Judge Luken “corrected” Respondent Welch’s address and the Record reflects that she was not prompted to do this by motion.
76. How did she know the address was incorrect? How did she know what the correct address was?
77. It is unequivocal that someone adverse to Clements contacted Judge Luken *ex parte* and Judge Luken granted the *ex parte* request.
78. Surely, this same despicable underhanded dishonesty oath-flouting treasons and criminal

communications took place prompting Judge Luken's *sua sponte* transfer venue.

79. By contrast, Clements cannot even get a hearing that is required by law, but the adverse party just picks up that phone and calls Judge Luken and she issues favors.
80. And the respondents are not an ordinary party. The respondents are an amalgam of Judges; lawyers; the Attorney General; the Judicial Center and all their resources and political influence and colleagues on the higher courts; etc. All of these resources and legal experience joined up all working together to legally sodomize little ol'e *pro se* Clements, who has no legal training whatsoever.
81. Clements has one huge advantage over this amalgam. He is a patriotic American who understands honesty, dignity and honor for the backbone of the United States Legal system and that the Law must be followed and Clements has more integrity in his baby finger than the entire amalgam all together.
82. It is interesting that the one advantage Clements has, integrity and always acting within the Law, becomes another disadvantage, if the law in Indiana does not have to be followed by judges, the attorney general, attorneys and the rest of the amalgam.

ERROR # 7
JUDGE LUKEN IS A REPEAT OFFENDER

83. In *Mooney v. Anonymous M.D.*, 991 N.E.2d 565, 581 (Ind.Ct.App. 2013) Judge Luken was found by the Court of Appeals told that she did not have jurisdiction to dismiss Mooney's proposed complaint for damages under Trial Rule 41(E).
84. In *Guillen v. R.D.C. Mail Clerk*, 922 N.E.2d 121 (Ind.Ct.App.2010), the Court of Appeals held that Judge Luken errantly *sua sponte* dismissed the incarcerated Guillen's complaint and the Court made a special note that she disposed of Guillen's one day after it was filed.

85. Does any of this sound familiar?
86. How many times has she desecrated the Civil Rights of litigants in her courtroom in unpublished opinions or where she so thoroughly disenfranchised the litigants they never appealed?
87. Judge Luken's "in your face" brand of adjudication is done for the expressed purpose of sending a message, like the message sent to Blacks by the lynchers of Marion, to humiliate, dominate and disenfranchise litigant, so they don't come back.
88. Judge Luken is a bully; she takes something pure and just like the Law and turns it into her own personal contemptible tree limb and noose.

ERROR # 8
JUDGE LUKEN VIOLATED THE CONSTITUTION

89. The Ind. Constitution Art 1 § 12 states, "All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay."
90. The foregoing evidences that the doors of Judge Luken's Courtroom were locked to Clements.

ERROR # 9
JUDGE LUKEN MUST BE DISQUALIFIED

91. No action that the judge has taken, not a single ruling or action comports with the law. The judge has acted with absolute disregard of: the Trial Procedure; Clements' Civil Rights; her jurisdictional limitations; fairness; the law and the concept of simple human decency and good manners.
92. Clements believes that Judge Luken's actions, which are 100% arbitrary and capricious with respect to the law, are based on "rational," but unstated motives. And these "rational" motives,

if stated, would subject Ms. Luken to criminal prosecution and permanent removal from the bench.

93. Judge Luken's propensity for criminal action is totally unrelated to anything Clements has done in the Cause; therefore, her actions are the product of extrajudicial motivations and her disqualification is mandatory. *Hite v. Haase*, 729 N.E.2d 170, 176 (Ind. Ct. App. 2000).

94. Moreover, her ex parte conduct requires disqualification as well. "Ex parte communications by their nature suggest partiality...even an ex parte contact which involved no comment about the pending case was held to constitute such an appearance of impropriety "as to vitiate the proceedings (Citations omitted)." *Tyson v. State*, 622 N.E.2d 457, 459 (1993).

ERROR # 10
JUDGE LUKEN DISMISSED A VIABLE CASE

95. On May 6, 2013, the Head of civil litigation for the AG's Office filed a Motion for Protective Order on behalf of the Legal Amalgam [Respondents].

96. The Motion only set forth and argument for judicial immunity and to make the argument "viable" the AG purposefully misrepresented Clements' Cause.

97. The AG purported to quote ¶12 of Clements' Petition; but purposefully left off that Clements would sue for "injunctive relief" for violations of his civil rights; this was left out of the quote because immunity does not apply in that situation.

98. Clements' Petition alleged that Clements would sue for Injunctive Relief for the Respondent's flouting of Declaratory Orders; again this was left out of the quote because immunity does not apply in that situation either.

99. And of course, a "judge" that hires an attorney to silence Clements with a bogus defamation suit also does not enjoy immunity because that "judge" is not performing that malicious and

tortious act as a “judge.”

100. In other words, the AG in order to attack Clements Petition had to misrepresent Clements’ Petition by 100%.

101. When the head of civil litigation of the AG’s office and the entire legal Amalgam represented by the Respondents has to resort to such despicable, intellectually dishonest and oath flouting conduct; rather than simply set forth an honest and cogent legal and rational argument to have Clements Petition dismissed; it proves they view Clements’ Petition as viable.

ERROR # 11
JUDGE LUKEN BLOCKED PUBLIC RECORD ACCESS

102. During the two weeks prior to February 21, 2014, Clements had numerous conversations with the Hendricks County Clerk concerning accessing records in Judge Luken’s Court.

103. In an effort of being respectful of the Clerk’s time, Clements initially requested to view all of Judge Luken’s cases; but agreed to limit this request to current cases as it required much less time for the Clerk to retrieve and return the files to their existing location.

104. Clements and the Clerk, the custodian of the said records, agreed that the records would be made available at 11:00am to 2:00pm on Friday, February 22, 2014 and this agreement was memorialized in writing to the Clerk.

105. Obviously, Judge Luken learned from the Respondents, Judges Oakes, Hanley and Welch the reasons Clements sought inspection of the records.

106. Clements intended in the instant motion to demonstrate that Judge Luken treats represented litigants disparately concerning T.R. 41, T.R. 75 and T.R. 76(B) Motions.

107. But, Judge Luken enlisted the Hendricks County Court Administrator to prevent Clements

from viewing the records.

108. Amazingly the Court Administrator on behalf of Judge Luken stated, “under the APRA this [notify you that a record search is underway] is all I have to do.”

109. And as one would expect, the Court Administrator is WRONG. In reality IC 5-14-3-3(a) and (b) states in part:

“(a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency...

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). Within a reasonable time after the request is received by the agency, the public agency shall either:

(1) provide the requested copies to the person making the request; or

(2) allow the person to make copies:

(A) on the agency's equipment; or

(B) on the person's own equipment.”

110. It is incontrovertible that the APRA provides that a public agency shall provide records that are responsive to the request within a “reasonable time.” And a “reasonable time” had already been negotiated with the Clerk [11:00am; Feb. 21], who is the custodian of the subject records.

111. Also, it is a bit disgraceful that a Court Administrator would characterize their duty by citing the minimum standards of the law. The law cannot regulate good or efficient conduct, the law only establishes the minimum tolerable conduct permitted in our society before one can be incarcerated or fined.

112. For example, the parent who neglects their child as much as possible, but not enough to break the law, is the parent endeavors to conduct themselves just above the minimum standard of the law. We cannot call this parent a lawbreaker, but it would be universally agreed this parent is a total putz.

113. Assuming that the Court Administrator serves at the pleasure of the judges, then her conduct

is governed not only by the APRA, but by the Code of Judicial Conduct.

114. The Scope of the Code states, “To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.”

115. The Court Administrator should be seeking to exceed the standards of the APRA not operate at its minimum. Of course, this assumes the Code is not just a pretense with no real life application.

ERROR # 13

JUDGE LUKEN IS PATENTLY UNFIT TO BE A JUDGE OR ATTORNEY

116. A person that takes an oath to be judge in the United States commits their life to public service and become powerless. Their biases, wants and desires become a nullity all that is important is that their body is an empty vassal for the pureness of the law to flow through.

117. Judge Luken is the exact opposite of this.

118. A judge can make mistakes; lose their temper; have bias creep up and infect a decision; but the real judge will after the ability to reflect will recognize they’ve done wrong and no judge at heart would openly flout the law.

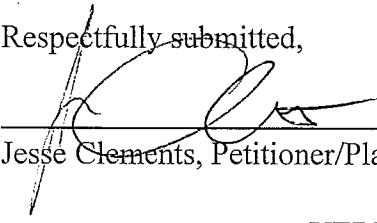
119. Judge Luken’s denial of this motion and failure to relinquish jurisdiction will prove she is patently unfit for Public Service or any profession based on integrity.

WHEREFORE Clements request this Honorable Court:

- A. Relinquish Jurisdiction.
- B. Set a hearing on the Motion to Correct Error
- C. Grant the Motion to Correct Error and vacate the judgment;

I AFFIRM UNDER THE PENALTY FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT OF MY OWN PERSONAL KNOWLEDGE, INFORMATION AND BELIEF.

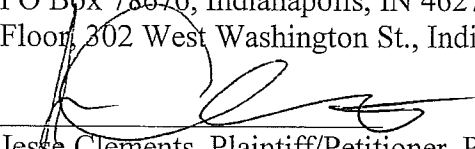
Respectfully submitted,



Jesse Clements, Petitioner/Plaintiff, Pro Se

VERIFICATION/CERTIFICATE OF SERVICE

It is hereby verified/certified by the undersigned that a true and correct copy of the foregoing has been furnished on this 28th day of February, by US Mail with correct postage to Davina L. Curry, PO Box 78676, Indianapolis, IN 46278 and Mr. Joel , Indiana Government Center South-5th Floor, 302 West Washington St., Indianapolis, IN 46204.



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