

February 23, 2001

Mr. Larriante J. Sumbry
#965137 2W-13
P.O. Box 41
Michigan City, IN 46361-0041

Re: *Advisory Opinion 01-FC-07*; ;Alleged Denial of Access to Public Records by the Lake Superior Court, Room 1.

Dear Mr. Sumbry:

This is in response to your formal complaint, which was received on January 25, 2001. You have alleged that the Lake Superior Court, Room 1 ("Court") violated the Indiana Access to Public Records Act ("APRA") Indiana Code chapter 5-14-3. Specifically, you claim that the Court denied you access to copies of various public records that are included in two separate case files. Magistrate Kathleen Sullivan responded in writing to your complaint on behalf of the Court. A copy of her response is enclosed. For the reasons set forth below, it is my opinion that you were not denied access to public records by the Court in violation of the APRA.

BACKGROUND

According to your complaint, on December 26, 2000 and January 9, 2001, you requested and were denied access to copies of the following public records from two separate case files:

Cause Number 45G01-9908-CF-153:

Discovery, report of investigation, pre-sentence report, audio recording device transcripts or tapes, original warrant, and informant sworn testimony.

Cause Number 45G01-9908-CF-148:

Discovery, charging information, original warrant, pre-sentence report, criminal docket sheet and post-conviction petition.

When you did not receive copies of the above-listed documents from the Court, you filed a formal complaint with this Office on January 25, 2001.

In response to your complaint, Magistrate Sullivan stated that the Court has already provided you

with copies of all of the documents from the two case files in question that you have requested and to which you are entitled. These copies were provided to you when the Court sent them to you or to your attorney for the purposes of filing direct appeals related to the two cases. Magistrate Sullivan further stated that since the Court is not required to provide duplicate copies of the same documents to you, you may wish to contact the Clerk of the Indiana Court of Appeals for the purpose of obtaining additional copies.

ANALYSIS

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." Ind. Code §5-14-3-1. The Court is a public agency for the purposes of the APRA. Ind. Code §5-14-3-2.

Any person has the right to inspect and copy the public records of the Court during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code section 5-14-3-4. Ind. Code §5-14-3-3(a). A public record is defined as follows:

any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

Indiana Code § 5-14-3-2. The general rule, therefore, is that a public agency is required to permit inspection and copying of public records under the APRA unless there is a valid statutory exception to disclosure. Under Indiana Code section 5-14-3-8(e), a public agency "must provide at least one (1) copy of" a public record to a person, but there is no requirement that a public agency provide multiple copies to the same person.

You claim that the Court has denied you access to various documents from two separate case files. According to Magistrate Sullivan, however, you have already been provided copies of any and all of the documents the Court has and to which you are entitled either to you directly or to your attorney on your behalf for the direct appeals in the two cases in question. Since you have already been provided copies of all documents to which you are entitled by the Court, the Court's position is that there is no obligation for them to provide duplicate copies to you. As noted above, under Indiana Code section 5-14-3-8(e), the Court is not obligated to provide multiple copies of a public record to you so long as one (1) copy has been provided. Accordingly, it is my opinion that since you have already obtained from the Court a copy of any of the public records that satisfy your public records requests, the Court's decision not to provide additional copies to you was not a denial under the APRA.

CONCLUSION

It is my opinion that the Lake Superior Court did not deny you access to public records in violation of the Access to Public Records Act.

Sincerely,

Anne Mullin O'Connor

Enclosures

cc: The Honorable Richard W. Maroc
Magistrate Kathleen A. Sullivan
