



STATE OF INDIANA

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February 4, 2009

Rodney Perry
DOC #974441
One Park Row
Michigan City, IN 46360

Re: Formal Complaint 09-FC-18; Alleged Violation of the Access to Public Records Act by the Clerk of the Lake Circuit and Superior Courts

Dear Mr. Perry:

This advisory opinion is in response to your formal complaint alleging the Clerk of the Lake Circuit and Superior Courts ("Clerk") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. A copy of the Clerk's response to the complaint is enclosed. In my opinion the Clerk did not violate the APRA.

BACKGROUND

You filed the present complaint on January 5, 2009. You allege that you sent to the Clerk on November 13, 2008 and December 1, 2008 a request for a copy of any letter of appointment for a judge or magistrate related to your case. On December 15 the Clerk responded to you, asking for further information. You allege you submitted the further information on December 22 and the Clerk has not responded.

The Clerk responded to the complaint by letter dated January 13 from attorney David Saks. The Clerk contends one document responsive to the request was located, an "RJO" for September 5, 2007. The Clerk contends the RJO has been sent to you. The Clerk further contends the document was sent at no charge.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Clerk is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2(m). Accordingly, any person has the right to inspect and copy the public records of the Clerk during regular business hours unless the public records are excepted from

disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

If:

- (1) a person is entitled to a copy of a public record under this chapter; and
- (2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the record; the agency must provide *at least one copy* of the public record to the person . . .

I.C. § 5-14-3-8(e), *emphasis added*.

You allege that you have been denied access to the requested records, and the Clerk contends it has provided you with a copy of the September 5, 2007 record responsive to your request. The APRA requires a public agency to provide one copy of a disclosable public record but does not require an agency to provide additional copies or to repeatedly provide copies of a particular record. *See* I.C. § 5-14-3-8(e). If the Clerk has provided you one copy of the RJO, the office has not violated the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the Clerk has not violated the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: David Saks, Attorney at Law
Thomas Philpot, Clerk of the Lake Circuit and Superior Courts