

**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official) ICRC NO.: HOha18040186
capacity as EXECUTIVE DIRECTOR of the) HUD No.: 05-18-1198-8
INDIANA CIVIL RIGHTS COMMISSION,)
Complainant,)
vs.)
LAFAYETTE URBAN MINISTRY,)
Respondent.)

**DATE FILED
MAY 18 2020
ICRC
COMMISSION**

FINAL ORDER

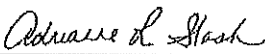
On April 17, 2020, Hon. Caroline Stephens Ryker, Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") issued her Initial Findings of Fact, Conclusions of Law, and Order ("Order"). The parties had opportunity to object to the Order; neither party objected. With no objections or an intent to review on record, the Commission shall affirm the Order. IC 4-21.5-3-29. After consideration of the record in this matter and the Order,

THE COMMISSION HEREBY ORDERS:

1. The findings of fact and conclusions of law as stated in the Order, a copy of which is 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 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.

SO ORDERED by the majority vote of 5 Commissioners on May 15, 2020
Signed this May 15, 2020.



Chair Adrienne Slush

Certificate of Service

Served this 18th day of May in 2020 by United States Mail on the following:

Joanna Kelley
711 Cincinnati Street, Apt. #4
Lafayette, Indiana 47904
Certified Mail Number: 9214 8901 0661 5400 0150 8432 94

Joanna Kelley
238 County Rd. 158
Mountain Home, AR 72653-8144
Certified Mail Number: 9214 8901 0661 5400 0150 8433 17


Lafayette Urban Ministry
C/o Joe Micon
420 North 4th Street
Lafayette, Indiana 47901
Certified Mail Number: 9214 8901 0661 5400 0150 8433 31

Zachary T. Williams
Withered Burns & Williams, LLP
8 N. Third Street, Suite 401
PO Box 499
Lafayette, IN 47902
(765) 742-1988
zwilliams@witheredlaw.com
Certified Mail Number: 9214 8901 0661 5400 0150 8433 86

and personally served on the following attorney of record:

Frederick S. Bremer, Esq.; Staff Counsel
Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255
Telephone: (317)232-2632
Fax: (317)232-6580
fbremer@icrc.in.gov

Gregory L. Wilson, Sr., Executive Director
Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255



**STATE OF INDIANA
INDIANA CIVIL RIGHTS COMMISSION**

JOANNA KELLEY,
Complainant,

vs.

LAFAYETTE URBAN MINISTRY,
Respondent.

ICRC NO.: HOha18040186

DATE FILED

APR 17 2020

OFFICE OF THE
ADMINISTRATIVE JUDGE

INITIAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

On April 15, 2020, Respondent and Complainant, by their respective counsels, filed a Notice of Election with the undersigned Administrative Law Judge (“ALJ”) for the ICRC. Having carefully considered the Parties’ filings and being duly advised in the premises, the undersigned ALJ proposes that the Commission enter the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Joanna Kelley (“Aggrieved Party”) filed a Complaint of Discrimination with the ICRC on April 10, 2018, in which she alleged that Respondent unlawfully discriminated against her in the protected area of housing and on the basis of disability.
2. On July 18, 2018, the ICRC issued – and on the next day served – a Notice of Finding and Issuance of Charge, finding “reasonable cause” and “probable cause” to believe a discriminatory practice occurred.
3. On January 2, 2020, the reasonable cause finding made under the Indiana Fair Housing Act (“IFHA”) was dismissed by the Commission, following the submission of a properly executed Notice of Election.
4. On April 15, 2020, Respondent and Complainant jointly filed a Notice of Election under the Indiana Civil Rights Law (“ICRL”).
5. The Notice of Election was signed by and served on the attorneys of record for each Party.
6. The Notice of Election was made in writing and was made on the form provided by the ICRC.
7. To date, a hearing has not be scheduled or been commenced in this matter.

8. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

CONCLUSIONS OF LAW

1. Indiana Code 22-9-1-16 allows Parties to "...elect to have the claims that are the basis for a finding of probable cause decided in a civil action..." IND. CODE § 22-9-1-16(a). According to the Notice of Finding and Issuance of Charge, "probable cause" was found; therefore, an opportunity to elect out of the administrative forum existed under the ICRL with respect to the "probable cause" claim.

2. In order to make such an election, "...both the respondent and the complainant must agree in writing to have the claims decided in a court of law." IND. CODE § 22-9-1-16(a); 910 IAC 1-3-6.

3. The election must be made on the form provided to the Parties by the ICRC and must be served on all Parties. IND. CODE § 22-9-1-16(a); 910 IAC 1-5-1(b).

4. However, an election is considered untimely if the election is made after a hearing on the merits of the complaint has begun. IND. CODE § 22-9-1-16(b).

5. "If all parties have filed a timely election to proceed in circuit or superior court, the commission shall dismiss the case, without prejudice. Such dismissal shall be sufficient to exhaust all administrative remedies in the case." 910 IAC 1-3-6.

6. Respondent and Complainant jointly filed an election under the ICRL on the form provided by the ICRC. The election was served on the Parties through their attorneys of record.

7. Accordingly, the "probable cause" claim is dismissed. IND. CODE § 22-9-1-16.

8. 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. Ind. Code § 4-21.5-3-29(d). Filings 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

9. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

ORDER

1. Complainant's complaint and probable cause finding made under the Indiana Civil Rights Law is **DISMISSED**, without prejudice. 910 IAC 1-3-6.

2. This order becomes a final order disposing of the proceedings immediately upon affirmation by the Commission. IND. CODE § 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. IND. CODE § 4-21.5-3-18(d)(8); IND. CODE § 4-21.5-3-24.

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

Subject to Indiana Code 4-21.5-3-1, the filing of a document in proceedings before the ICRC's Administrative Law Judge or Commission can be completed by mail, personal service, fax, or electronic mail to:

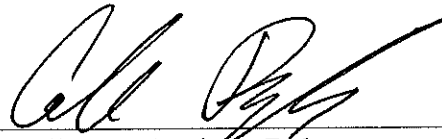
**Docket Clerk
c/o Indiana Civil Rights Commission
100 North Senate Avenue, N300
Indianapolis, IN 46204
Fax: 317-232-6580
Email: docketclerk@icrc.in.gov**

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

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**. IND. CODE § 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. IND. CODE § 4-21.5-3-18(d)(1).

SO ORDERED this 17th day of April, 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

Certificate of Service

Served this 20th day of April in 2020 by United States Mail on the following:

Joanna Kelley
711 Cincinnati Street, Apt. #4
Lafayette, Indiana 47904
Certified Mail # 9214 8901 0661 5400 0150 4942 43

Joanna Kelley
238 County Rd. 158
Mountain Home, AR 72653-8144
Certified Mail # 9214 8901 0661 5400 0150 4942 74

Lafayette Urban Ministry
C/o Joe Micon
420 North 4th Street
Lafayette, Indiana 47901
Certified Mail # 9214 8901 0661 5400 0150 4944 89

Zachary T. Williams
Withered Burns & Williams, LLP
8 N. Third Street, Suite 401
P.O. Box 499
Lafayette, IN 47902
(765) 742-1988
zwilliams@witheredlaw.com
Certified Mail # 9214 8901 0661 5400 0150 4945 26

and personally served on the following attorney of record:

Frederick S. Bremer, Esq.; Staff Counsel
Indiana Civil Rights Commission
Indiana Government Center North
100 North Senate Avenue, Room N300
Indianapolis, IN 46204-2255
Telephone: (317)232-2632
Fax: (317)232-6580
fbremer@icrc.in.gov