

March 3, 2006

George W. Wilson
#918837
Wabash Valley Correctional Facility
P.O. Box 1111
Carlisle, IN 47838

Re: Formal Complaint 06-FC-35; Alleged Violation of the Access to Public Records Act by the Clerk of the Vanderburgh County Circuit Court

Dear Mr. Wilson:

This is in response to your formal complaint alleging that the Clerk of the Vanderburgh County Circuit Court (“Clerk”) violated the Access to Public Records Act by failing to respond within seven days to your request for records. I find that the Clerk did not violate the Access to Public Records Act.

BACKGROUND

You mailed your request for records to the Clerk at 210 Courts Building, 825 Sycamore Street, Evansville, Indiana. You requested a copy of the opening and closing arguments by the defense and prosecutor in a trial held in July, 1991, in cause number 82C01-9008-CF-8289. Your request was dated January 12, 2006. When you received no response from the Clerk, you filed your formal complaint on February 9, 2006.

I sent a copy of your complaint to the Clerk. I spoke with the Clerk by telephone. She told me that she had not received a request from you. She told me that the room in the Courts Building that houses the Clerk’s office is Room 214. She believes that your mail may have been lost due to the faulty address. She is reviewing your request to determine whether she has responsive records, and will contact you. Because the trial was in 1991, the records may be stored off-site.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). If a public agency receives a request for a record via U.S. Mail or by facsimile, the public agency must respond within seven (7) days, or the request is deemed denied. IC 5-14-3-9(b). A public agency is not required to respond, however, where the public agency has never received the request. A response may be an acknowledgment that the public agency has received the request, and some information about when and how the agency intends to comply. The public agency must produce the record within a reasonable period of time. Where the record is stored off-site or is aged, it may reasonably take the agency more time to produce the aged record than more recent records.

CONCLUSION

I find that the Clerk of the Vanderburgh Circuit Court did not violate the Access to Public Records Act, because she did not receive your request. The Clerk should determine whether she has responsive records, and should produce any responsive records within a reasonable period of time.

Sincerely,

Karen Davis
Public Access Counselor

cc: Clerk Susan Kirk