

May 16, 2007

Orza J. Salone
#944875
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361

Re: Formal Complaint 07-FC-99; Alleged Violation of the Access to Public Records Act by the Indiana Supreme Court

Dear Mr. Salone:

This is in response to your formal complaint alleging that the Indiana Supreme Court violated the Access to Public Records Act by failing to respond to your record request.

BACKGROUND

You allege that on March 21, 2007 you mailed to the Indiana Supreme Court a request for the “masters finding of fact and conclusion of law of former Judge R. Alan Brubaker.” You have received no response as of the filing of your complaint on April 9, 2007.

In response to your complaint, Meg W. Babcock of the Indiana Commission on Judicial Qualifications wrote a letter. I enclose a copy of her response. She stated that although your request was not filed with State Court Administration or the Judicial Qualifications Commission, she has checked the Indiana Supreme Court’s docket. She stated that there are no findings of fact or conclusions of law. Ms. Babcock supplied information concerning former Judge Brubaker contained in the public records of the Indiana Supreme Court. These records would be available from Kevin Smith, Supreme Court Administrator and Clerk of the Court. Documents relating to the criminal matter would be available from the Boone County Clerk’s office.

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 in person or by telephone, the public agency is required to respond within 24 hours or the record is deemed denied. IC 5-14-3-9(a). If the public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b).

The Indiana Supreme Court should have responded to your request within seven days if it received your request. There is nothing before me indicating that the Indiana Supreme Court did not receive your request. The Supreme Court should have responded even if your request should have been directed to State Court Administration or the Judicial Qualifications Commission, because the APRA requires a response.

CONCLUSION

For the foregoing reasons, it is my opinion that the Indiana Supreme Court should have responded to your records request within seven days if it received your request, although the Indiana Commission on Judicial Qualifications has now provided a response. I enclose the response for your reference.

Sincerely,

Karen Davis
Public Access Counselor

cc: Meg W. Babcock