



STATE OF INDIANA

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December 22, 2008

James Lease
DOC #167856
One Park Row
Michigan City, Indiana 46360

Re: Formal Complaint 08-FC-242; Alleged Violation of the Access to Public Records Act by the Clerk of the Huntington Circuit Court

Dear Mr. Lease:

This advisory opinion is in response to your formal complaint alleging the Clerk of the Huntington Circuit Court ("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 complaints is enclosed. In my opinion the Clerk did not violate the APRA.

BACKGROUND

You filed the present complaint on November 24, 2008. You allege the Clerk has denied you access to a certified copy of an order.

The Clerk responded to the complaint by letter dated November 25. The Clerk contends the order you have requested was not part of the court's record because the court did not sign the defendant's order but instead had its own order. A copy of the defendant's order was maintained to show the attorney had filed it. The Clerk cannot certify an unsigned order. A copy of the proposed order was sent to you.

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).

You allege that you have been denied access to a certified copy of an order. The Clerk contends the order was not signed by the court and as such cannot be certified. Nothing in the APRA requires the Clerk to certify such a record. The Clerk has provided you with a copy of the proposed order and in doing so has satisfied her obligation under 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: Vicki Stoffel, Clerk of the Huntington Circuit Court