

**In the
Indiana Supreme Court**

STATE OF INDIANA)	Supreme Court No. 89S00-0601-SJ-10
)	
vs.)	
)	Case No. S2-1933-CR
MARVIN D. CASTOR)	in the Wayne Superior Court No. 2

ORDER

On February 9, 2006, this Court appointed the Honorable Peter D. Haviza to serve as special judge in the cause below, State v. Marvin D. Castor, No. S2-1933-CR. On or about March 15, 2006, Castor tendered to the Clerk of this Court a “Motion to Correct Errors and Motion to Compel.” Because a motion to correct errors may be filed only in a trial court after the trial court has entered a final judgment, this Court treats Castor’s “Motion to Correct Errors” as a motion to reconsider the order of February 9, 2006. Castor argues that this Court improperly appointed Judge Haviza. Upon the recusal of Judge Haviza’s predecessor, it was determined that under the local rule no other judge was eligible to serve as special judge. In such situations, this Court is authorized to appoint a special judge. *See*, Ind. Criminal Rule 13(D) and Ind. Trial Rule 79(H). Castor does not articulate why Judge Haviza’s appointment was improper. Accordingly, the Court DENIES Castor’s motion to reconsider.

Castor’s “Motion to Compel” seeks an order from this Court compelling the trial court to require that the trial court clerk stop denying Castor access to the trial court. This Court has exclusive, original jurisdiction to supervise the exercise of jurisdiction of all lower courts through the issuance of writs of mandate and prohibition. *See*, Ind. Original Action Rule 1(A). Actions commenced in this Court seeking a writ of mandamus or prohibition against a lower state court and judge thereof are known as “original actions.” *See*, Orig. Act. R. 1(B). In effect, Castor’s motion to compel seeks the kind of relief that must be requested, if at all, under the Rules of Procedure for Original Actions, yet he has failed to comply with the procedural requirements set out in those rules for filing an original action. Therefore, Castor’s motion to compel is DISMISSED without prejudice to any right he may have to institute a proceeding under the Rules of Procedure for Original Actions.

IT IS, THEREFORE, ORDERED that Castor's motion to reconsider is DENIED and his motion to compel is DISMISSED without prejudice.

The Clerk of this Court is directed to forward notice of this Order to the Hon. Peter D. Haviza, Randolph Superior Court, 100 South Main Street, 2nd Floor, Winchester, IN 47394-1892, and to the Clerk of the Wayne Superior Court.

The Clerk of the Wayne Superior Court is directed to forward notice of this Order to all parties of record in the case below.

DONE at Indianapolis, Indiana, this _____ day of March, 2006.

Acting Chief Justice of Indiana