

In the Indiana Supreme Court

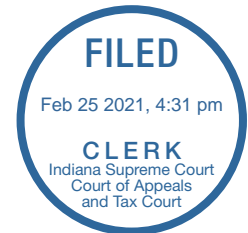
Indiana Department of Correction,
Appellant,

v.

A. Katherine Toomey,
Appellee.

Supreme Court Case No.
19S-PL-401

Trial Court Case No.
49C01-1501-PL-3142



Published Order

On July 5, 2019, the State appealed four trial court orders under Indiana Appellate Rules 4(A)(1) (providing the Supreme Court with mandatory and exclusive jurisdiction over appeals of final judgments declaring a statute unconstitutional in whole or in part) and 59(A). After oral argument and further review, the four participating members of the Court are evenly divided on the proper disposition of the case.

This rare circumstance is anticipated in our rules, which provide that “[w]hen the Supreme Court Justices participating are evenly divided in such an appeal, the trial court judgment shall be affirmed.” Appellate Rule 59(B).

The trial court’s June 12, 2019 “Order for Plaintiff’s Fee Petition”; November 29, 2018 “Order Denying the Department of Correction’s Motion to Modify Summary Judgment Order”; July 12, 2018 “Findings of Fact and Conclusions of Law Regarding Defendant’s Request that Documents Be Made Public Pursuant to Indiana Administrative Rule 9(G)(4) and I.C. § 5-14-3-1 *et seq.*”; and October 24, 2016 “Ruling on Motion for Summary Judgment” are hereby affirmed. Petitions for rehearing are not allowed.

Done at Indianapolis, Indiana, on 2/25/2021.

A handwritten signature in black ink that reads "Loretta H. Rush".

Loretta H. Rush
Chief Justice of Indiana

Rush, C.J., and Goff, J., vote to affirm the trial court.
David and Massa, JJ., vote to reverse the trial court.
Slaughter, J., did not participate in the decision of this matter.