

In the Indiana Supreme Court

State of Indiana ex rel. Jesse L. Hardin,
Relator,

v.

The Jasper Superior Court No. 1, et al.,
Respondents.

Supreme Court Case No.
21S-OR-23

Trial Court Case No.
37D01-1808-PL-703



Permanent Writ of Mandamus

The relator filed a petition for writ of mandamus, seeking relief under the Rules of Procedure for Original Actions. The relator sought a writ requiring the respondents to (1) grant his motion for change of judge from the Hon. Mary R. Harper and (2) vacate the non-emergency orders Judge Harper issued after the filing of the change-of-judge motion and before the change was granted. The record reflects Judge Harper eventually found the change-of-judge motion proper and granted it. In response, on February 8, 2021, the Jasper Newton Foundation, Inc. (“JNF”) filed an amended counter-petition for writ of mandamus that would require the respondent court to name a successor judge in accordance with subpart (D) of the local rule. The record shows that on February 9, 2021, the trial court issued an order appointing a successor judge under subpart (D) of the local rule.

In light of these developments, JNF’s counter-petition is moot, and the relator’s petition is partially moot to the extent it seeks to compel a change of judge from Judge Harper, which has occurred. However, “[w]hen presented with a timely motion for a change of judge, the trial judge is divested of jurisdiction to act in the case on any matter other than the motion for change of judge or emergency matters.” *State ex rel. Wade v. Cass Cir. Ct.*, 447 N.E.2d 1082, 1083 (Ind. 1983). Accordingly, this Court GRANTS the petition for writ of mandamus, in part, and ORDERS the respondent, the Jasper Superior Court No. 1, to vacate the non-emergency orders issued by Judge Harper after the filing of the change-of-judge motion and before her granting of that motion. This writ is effective immediately. Motions to reconsider or petitions for rehearing are not allowed. Ind. Original Action Rule 5(C).

Done at Indianapolis, Indiana, on 3/5/2021.

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

Loretta H. Rush
Chief Justice of Indiana

All Justices concur.