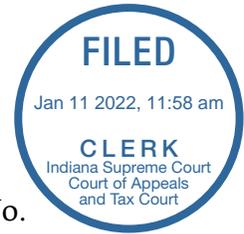


In the
Indiana Supreme Court



Ashley D. (Ramey) Day-Ping,
Appellant(s),

v.

Charles T. Ramey, III,
Appellee(s).

Court of Appeals Case No.
21A-DR-00295

Trial Court Case No.
41C01-1607-DR-432

Order

This matter has come before the Indiana Supreme Court on a petition to transfer jurisdiction, filed pursuant to Indiana Appellate Rules 56(B) and 57, following the issuance of a decision by the Court of Appeals. The Court has reviewed the decision of the Court of Appeals, and the submitted record on appeal, all briefs filed in the Court of Appeals, and all materials filed in connection with the request to transfer jurisdiction have been made available to the Court for review. Each participating member has had the opportunity to voice that Justice's views on the case in conference with the other Justices, and each participating member of the Court has voted on the petition.

Being duly advised, the Court DENIES the petition to transfer.

Done at Indianapolis, Indiana, on 1/11/2022.

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

Loretta H. Rush
Chief Justice of Indiana

Rush, C.J., Massa, J., Slaughter, J., and Goff, J., vote to deny transfer.
David, J., dissents from the denial of transfer with separate opinion.

David, J., dissenting from the denial of transfer.

I would grant transfer for two reasons. First, I'm concerned that the Court of Appeals misapplied the standard of review by relying, in part, on information that was not available to the trial court and by reassessing the weight to be given to witnesses' testimony. I also believe it's imperative to address the increasing number of appellate opinions that explicitly circumvent Appellate Rule 65(E), making the Court of Appeals' decisions effectively final before we have an opportunity to review the merits. *See, e.g., DeWees v. State*, 163 N.E.3d 357, 367 (Ind. Ct. App. 2021), *vacated*; *In re O.G.*, 159 N.E.3d 36, 46 (Ind. Ct. App. 2020), *trans. denied*; *Yeager v. State*, 148 N.E.3d 1025, 1029 (Ind. Ct. App. 2020), *vacated*. Appellate Rule 65(E) requires certification of an appellate opinion only after the expiration of time for all petitions for rehearing, transfer, or review; bypassing this rule encourages parties and trial courts to act in reliance on an opinion that has not yet been considered by the court of last resort. I dissent from the denial of transfer to strongly discourage this practice.