

In the Indiana Supreme Court

State of Indiana, acting by and through its
Department of Natural Resources,

Appellant,

v.

Kailee M. Leonard and Jeffrey S.

McQuary,

Appellees.

Court of Appeals Case No.
22A-MI-685

Trial Court Case No.
49D01-1706-MI-23427



Published Order Inviting Amicus Curiae Briefing

The Court of Appeals issued an opinion in *State by and through DNR v. Smith*, 202 N.E.3d 1105, 1112 (Ind. Ct. App. 2023), *trans. pending*, holding that the State was not required to indemnify appellees under I.C. § 34-13-4-1, which provides that government employees acting within the scope of their employment are entitled to indemnification if their conduct was “noncriminal.” The appellees have filed a transfer petition, and appellant has opposed transfer. At issue is whether an employee found liable under 42 U.S.C. § 1983 for violating a claimant’s federal rights committed a noncriminal act entitling the employee to indemnification. The Supreme Court invites amicus curiae briefing on the pending transfer request.

Pursuant to Appellate Rule 41, any entity wishing to prepare and file a brief as amicus curiae must file a motion for leave to appear as amicus and tender its proposed brief on or before **June 30, 2023**. The Court encourages the submission of joint briefs if similarly aligned entities seek to appear as amici. Any amicus brief must not exceed 4,200 words, exclusive of the items listed in Appellate Rule 44(C), and must be accompanied by the verified statement of word count. *See* App. R. 44(F).

The parties may file a single response brief, not exceeding 4,200 words, addressing any and all amicus brief(s) whose arguments they oppose; any such response brief must be filed on or before **July 14, 2023**, and must comply with Appellate Rule 44(C) and (F).

Done at Indianapolis, Indiana, on 5/19/2023.

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

Loretta H. Rush

Chief Justice of Indiana