

**STATE OF INDIANA  
INDIANA CIVIL RIGHTS COMMISSION**

GREGORY L. WILSON, SR., in his official  
capacity as EXECUTIVE DIRECTOR of the  
INDIANA CIVIL RIGHTS COMMISSION,  
Complainant,

vs.

LAFAYETTE URBAN MINISTRY,  
Respondent.

ICRC NO.: HOha18040186

HUD No.: 05-18-1198-8

DATE FILED

JAN 02 2020

ICRC  
COMMISSION

**FINAL ORDER**

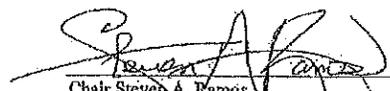
On December 2, 2019, Hon. Caroline A. Stephens Ryker, the Administrative Law Judge ("ALJ") for the Indiana Civil Rights Commission ("ICRC") issued her Initial Findings of Fact, Conclusions of Law, and Order ("Order"). The Parties had opportunity to object to the Order, and neither Party objected to the Order. IC 4-21.5-3-29. After due consideration of the complete record in this matter, the Commission adopts the following and HEREBY Orders:

**THE COMMISSION HEREBY ORDERS:**

1. The findings of fact and conclusions of law as stated in the Order, a copy of which is attached hereto, are incorporated herein by reference. IC 4-21.5-3-28(g)(2).
2. The Order is AFFIRMED under IC 4-21.5-3-29 and hereby becomes the Final Order disposing of the proceedings. IC 4-21.5-3-27(a).

Either party to a dispute filed under IC 22-9 may, not more than thirty (30) days after the date of receipt of the Commission's final appealable order, appeal to the court of appeals under the same terms, conditions, and standards that govern appeals in ordinary civil actions. IC 22-9-8-1.

ORDERED by the Commission majority vote of  
\_\_\_\_ 5 \_\_\_\_ Commissioners on December 20, 2020

  
Chair Steven A. Ramos  
Indiana Civil Rights Commission  
100 North State Avenue, Room N300  
Indianapolis, IN 46204-2255  
Docket Clerk: 317/234-6358

Certificate of Service

Served this 1<sup>st</sup> day of January in 2020 by United States  
Mail on the following:

Joanna Kelley  
711 Cincinnati Street, Apt. #4  
Lafayette, Indiana 47904  
Certified # 9214 8901 0661 5400 0146 2862 58

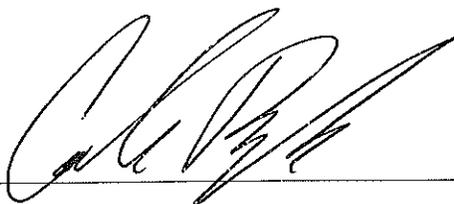
Joanna Kelley  
238 County Rd. 158  
Mountain Home, AR 72653-8144  
Certified #9214 8901 0661 5400 0146 2864 63

Lafayette Urban Ministry  
C/o Joe Micon  
420 North 4<sup>th</sup> Street  
Lafayette, Indiana 47901  
Certified # 9214 8901 0661 5400 0146 2862 72

and personally served on the following attorney of record:

Frederick S. Bremer, Esq.; Staff Counsel  
Indiana Civil Rights Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255  
Telephone: (317)232-2632  
Fax: (317)232-6580  
[fbremer@icrc.in.gov](mailto:fbremer@icrc.in.gov)

Gregory L. Wilson, Sr., Executive Director  
Indiana Civil Rights Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255



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DATE FILED

DEC 02 2019

OFFICE OF THE  
ADMINISTRATIVE JUDGE

**INITIAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PLEASE TAKE NOTICE that, pursuant to IC 22-9-1-6(i), the appointment of an Administrative Law Judge ("ALJ") was deemed necessary by a majority of the members of the Indiana Civil Rights Commission ("ICRC"), and the undersigned ALJ for the ICRC, Hon. Caroline A. Stephens Ryker, a member in good standing before the bar of Indiana, has been appointed by the Chair to serve in that capacity as Presiding Officer over this matter.

On July 18, 2018, the ICRC issued a Notice of Finding with respect to the above-referenced case stating that reasonable and probable cause exists to believe that a discriminatory practice occurred and stating that the ICRC has jurisdiction over the parties and the subject matter of the complaint.

On August 15, 2018, Respondent, by counsel, filed a Notice of Election with the undersigned Administrative Law Judge ("ALJ") for the ICRC. Complainant has not filed a response. Having carefully considered the parties' filings and being duly advised in the premises, the undersigned ALJ proposes that the Commission enter the following findings of fact, conclusions of law, and order.

**FINDINGS OF FACT**

1. Joanna Kelley ("Aggrieved Party") filed a Complaint of Discrimination with the ICRC on April 10, 2018, in which she alleged that Respondent unlawfully discriminated against her in the protected area of housing and on the basis of disability.

2. On July 18, 2018, the ICRC issued – and on the next day served – a Notice of Finding and Issuance of Charge, finding “reasonable cause” and “probable cause” to believe a discriminatory practice occurred.

3. Respondent received the Notice of Finding and Issuance of Charge on July 28, 2018.

4. On August 15, 2018, approximately nineteen (19) days after the date the Notice of Election and Charge was received, Respondent filed its Notice of Election, which Respondent served on the Aggrieved Party, the ICRC’s Director, the ICRC’s Supervising Attorney, and the Docket Clerk by way of the Office of Hearings and Appeals.

5. To date, no election has been filed under the Indiana Civil Rights Law (“ICRL”).

6. Any Conclusion of Law that should have been deemed a Finding of Fact is hereby adopted as such.

### CONCLUSIONS OF LAW

#### *Election under the Indiana Fair Housing Act*

1. Article 2 of Title 910 of the Indiana Administrative Code “...provides the ICRC’s interpretation of the coverage and application of IC 22-9.5...” and contains guidance on making an election under the Indiana Fair Housing Act (“IFHA”). 910 IAC 2-1-1; 910 IAC 2-6-6(h).

2. “A complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in a finding of reasonable cause decided in a civil action. . .” Ind. Code § 22-9.5-6-12. According to the Notice of Finding and Issuance of Charge, “reasonable cause” was found; therefore, an opportunity to elect out of the administrative forum existed on a claim brought under the IFHA.

3. “The notice of the election must be filed with the docket clerk of the ICRC and serviced on the director, the respondent, and the aggrieved persons on whose behalf the complaint was filed.” 910 IAC 2-6-6(h)(2).

4. “If the complainant, the respondent, or the aggrieved person on whose behalf a complaint was filed makes a timely election to have the claims asserted in the charge decided in a civil action under IC 22-9.5-6-12, the administrative law judge shall dismiss the administrative proceeding.” 910 IAC 2-7-9(a).

5. An election must be made under the IFHA within “twenty (20) days after the date of receipt by the electing person...” Ind. Code § 22-9.5-6-12(b).

6. Respondent's Notice of Election was timely filed and was served on all required parties. Accordingly, Respondent's Notice of Election is effective such that the Commission shall dismiss the administrative proceeding under the IFHA.

*Election under the Indiana Civil Rights Law*

1. Indiana Code 22-9-1-16 allows parties to "...elect to have the claims that are the basis for a finding of probable cause decided in a civil action..." Ind. Code § 22-9-1-16(a). According to the Notice of Finding and Issuance of Charge, "probable cause" was found; therefore, an opportunity to elect out of the administrative forum existed under the ICRL with respect to the "probable cause" claim.

2. In order to make such an election, "...both the respondent and the complainant must agree in writing to have the claims decided in a court of law." Ind. Code § 22-9-1-16(a); 910 IAC 1-3-6.

3. The election must be made on the form provided to the parties by the ICRC and must be served on all parties, Ind. Code § 22-9-1-16(a); 910 IAC 1-5-1(b).

4. However, an election is considered untimely if the election is made after a hearing on the merits of the complaint has begun. Ind. Code § 22-9-1-16(b).

5. "If all parties have filed a timely election to proceed in circuit or superior court, the commission shall dismiss the case, without prejudice. Such dismissal shall be sufficient to exhaust all administrative remedies in the case." 910 IAC 1-3-6.

6. Respondent and Complainant have not jointly filed an election under the ICRL, and accordingly, the "probable cause" claim remains in the administrative forum. Ind. Code § 22-9-1-16; *Fort Wayne Metro. Human Relations Comm'n v. Marathon Gas Station*, 926 N.E.2d 1085, 1089 (Ind. Ct. App. 2010).

7. Administrative review of this initial decision may be obtained by filing objections with the Commission that state with reasonable particularity each basis for each objection within 15 days after service of this initial decision. Ind. Code § 4-21.5-3-29(d). Filings can be made with the Docket Clerk of the Indiana Civil Rights Commission by email, fax, or by mail at the following:

**Docket Clerk  
c/o Indiana Civil Rights Commission  
100 North Senate Avenue, N300  
Indianapolis, IN 46204**

Fax: 317-232-6580  
Email: [aneromosele@icrc.in.gov](mailto:aneromosele@icrc.in.gov)

8. Any Finding of Fact that should have been deemed a Conclusion of Law is hereby adopted as such.

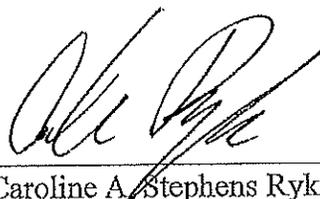
**ORDER**

1. With respect to the reasonable cause finding made under the Indiana Fair Housing Act, the administrative proceedings on Kelley's complaint are **DISMISSED**, with prejudice. 910 IAC 2-7-9(a).

2. With respect to the probable cause finding made under the Indiana Civil Rights Law, the administrative proceedings on Kelley's complaint remain in the administrative forum. Nothing in this order prevents the parties from filing a proper Notice of Election under the ICRL at a later date.

3. This order becomes a final order disposing of the proceedings immediately upon affirmation by the Commission. Ind. Code § 4-21.5-3-29.

SO ORDERED this 2<sup>nd</sup> day of December, 2019



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Hon. Caroline A. Stephens Ryker  
Administrative Law Judge  
Indiana Civil Rights Commission  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255  
*Anehita Eromosele, Docket Clerk*  
317/234-6358

Certificate of Service

Served this 2 day of December in 2019 by United States Mail on the following:

Joanna Kelley  
711 Cincinnati Street, Apt. #4  
Lafayette, Indiana 47904

Joanna Kelley  
238 County Rd. 158  
Mountain Home, AR 72653-8144

Lafayette Urban Ministry  
C/o Joe Micon  
420 North 4<sup>th</sup> Street  
Lafayette, Indiana 47901

and personally served on the following attorney of record:

Frederick S. Bremer, Esq.; Staff Counsel  
Indiana Civil Rights Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255  
Telephone: (317)232-2632  
Fax: (317)232-6580  
[fbremer@icrc.in.gov](mailto:fbremer@icrc.in.gov)

Gregory L. Wilson, Sr., Executive Director  
Indiana Civil Rights Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N300  
Indianapolis, IN 46204-2255



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Docket Clerk,  
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