

December 13, 2004

Herbert Scott Foust
1946 West U.S. Highway 40
Greencastle, IN 46135

Re: Formal Complaint 04-FC-214; Alleged Violation of the Access to Public Records Act by the Elkhart Superior Court 4

Dear Mr. Foust:

This is in response to your formal complaint alleging that the Elkhart Superior Court violated the Access to Public Records Act by failing to respond to your request for records. I find that Elkhart Superior Court did not violate the Access to Public Records Act.

BACKGROUND

You allege that you sent a request for records to the Elkhart Superior Court 4 on October 25, 2004. In your request, you asked for a copy of all filings in cause number 20D04-9608-CP-082, including all papers, motions, filings, pleadings, orders, judgments, complaints, and a true copy of the chronological case summary. When you did not receive a response, you filed this formal complaint, which I received on November 12, 2004.

I sent a copy of your complaint to Elkhart Superior Court 4, and received the enclosed response from Judge Olga H. Stickel. Judge Stickel states that any correspondence regarding a case would have been sent to the Clerk's office as the keeper of records. Judge Stickel further states that the Clerk, upon inquiry, has not received any correspondence involving the above cause number since the year 2000. Judge Stickel enclosed a copy of the chronological case summary, which I also send to you.

ANALYSIS

Any person may inspect and copy the public records of a public agency during the agency's regular business hours, unless the record is excepted from disclosure under IC 5-14-3-4. IC 5-14-3-3(a). An agency must respond in writing to a request for public records within

seven (7) calendar days of its receipt of the request, if the request was received by U.S. Mail. In this case, your request was apparently not received by the court, as neither the court nor the clerk has any record of your correspondence. There was no violation of the Access to Public Records Act for failing to respond to a request that was not received by the agency.

Judge Stickel recommends, as do I, that you direct future requests to the Clerk of the Elkhart Superior Court when requesting case records.

CONCLUSION

For the foregoing reasons, I find that the Elkhart Superior Court has not violated the Access to Public Records Act by failing to respond to a request it did not receive.

Sincerely,

Karen Davis
Public Access Counselor

cc: Judge Olga H. Stickel