

STATE OF INDIANA)
) SS:
COUNTY OF CLAY)

JEFFREY P. GALLANT,)
 Petitioner.)
)
vs.)
)
INDIANA ELECTION COMMISSION,)
 Respondent.)
)
and)
)
ALEXANDRA WILSON,)
 Intervenor.)

**EMERGENCY MOTION TO CORRECT ERROR, RECONSIDER AND VACATE
JUDICIAL ORDER**

Comes now Alexandra Wilson (“Candidate”), by Counsel Samantha DeWester, and moves the Court to reconsider the Order issued on March 18, 2026, by the Judge of the Clay County Circuit Court which bars three (3) counties, which are not Parties, from mailing Republican absentee ballots to voters, in violation of IC§ 3-11-4-15. Given the egregious and unlawfulness of the order and the potential harm to voters in the May 2026 Primary and Pursuant to Indiana Trial Rules 52, 59, 65 and 76, this is an emergency request and in furtherance states:

BACKGROUND

1. Candidate timely filed her paperwork to appear on the ballot as a candidate in Indiana Senate District 38 for the May 2026 Republican Primary on February 5, 2026.
2. Petitioner filed his challenge to the Candidate on February 13, 2026.
3. The Indiana Election Commission (“Respondent”) met on February 25, 2026 to hear the Petitioner’s challenge to the Candidate
4. Respondent voted to retain the Candidate on the ballot with a vote of 2-2, which means the Candidate must legally remain on the ballot.

5. Petitioner filed his Verified Petition for Judicial Review of Final Agency Action and his Motion to Expedite Hearing and Resolution of Petition for Judicial Review of Final Agency Action on March 3, 2026.
6. Petitioner did not name the Candidate as a party as required by the Indiana Administrative Orders and Procedures Act (“AOPA”) IC§ 4-21.5-5-7.
7. Candidate has never been served with notice of the pending action as is required by AOPA IC§ 4-21.5-5-8.
8. Petitioner filed his Motion to Add Party to Petition for Judicial Review of Final Agency Action on March 5, 2026 in an attempt to add the Candidate, but never served her with notice of the pending case or pleading as required by AOPA and Indiana Trial Rule 4. That Motion has never been ruled upon by the Court.
9. Petitioner and Respondent filed their Joint Motion for Stipulation Accepting an Agency Record on March 6, 2026. Candidate was never asked to stipulate to the agency record nor was served with a copy of this pleading. That Motion has never been ruled upon by the Court.
10. No further action in the matter occurred until March 12, 2026, when the Petitioner filed his Emergency Motion for Hearing and Resolution of Petition for Judicial Review of an Agency Action, or in the Alternative, to Stay the Commission’s Order Denying Petitioner’s Challenge. The Candidate has never been served with this Motion.
11. On that same date, March 12, 2026, the Clay Circuit Court Judge set the matter for a hearing on March 18, 2026, declaring the court is “required to expedite this hearing...” and set the matter for a hearing on March 18, 2026. The Candidate was never served with this Order.
12. Candidate filed her Motion to Intervene on March 13, 2026. The Court granted the intervention on March 16, 2026.
13. Once she was formally added as a Party, Candidate immediately filed her Motion for Change of Judge on March 16, 2026, pursuant to Indiana Trial Rule 76(B), which entitles Parties to one preemptory change of judge without stating specific grounds for the request.
14. The Court Ordered the Parties to respond to Candidate’s Motion for Change of Judge within twenty-four (24) hours.

15. Petitioner filed his Opposition to Change of Judge on March 17, 2026.
16. Respondent filed its Response in Opposition to Petition for Judicial Review on March 16, 2026.
17. A hearing was held on March 18, 2026 whereby the Court addressed the Candidate's Motion for Change of Judge.
18. After argument of the Parties, the Court eventually orally granted the Motion for Change of Judge.
19. The Court also entertained a discussion from the Petitioner regarding a potential Stay to be issued to the three Counties within Indiana Senate District 38, preventing them from mailing republican absentee ballots by the statutory deadline of March 21, 2026 pursuant to IC§ 3-11-4-15 and Federal Code 52 U.S.C. 20301.
20. The three (3) counties impacted by a Stay are Vigo, Sullivan and Clay. None of which are Parties to this action nor have ever been served in this case.
21. There was no Preliminary Injunction requested by the Petitioner.
22. The three (3) counties were never added as Parties to this case nor ever served regarding a potential Stay or Injunction.
23. No proper hearing was held to determine irreparable harm, the likelihood of success on the merits of the case, public interest or balance of harm.
24. The Court granted a Stay as of March 18, 2026, barring the three (3) counties from sending absentee ballots to voters and ordered the Petitioner to post a bond.

ARGUMENT

Preliminary Injunction – Indiana Trial Rule 65:

“No preliminary injunction shall be issued without an opportunity for a hearing upon notice to the adverse party.” Indiana Trial Rule 65. The Trial Rule is very clear regarding notice to opposing parties as it relates to preliminary injunctions. Here, the Court, sua sponte, issued a preliminary injunction barring three (3) counties from mailing Republican absentee ballots to voters. Vigo, Sullivan and Clay Counties have never been a part of the underlying Verified Petition for Judicial Review nor have ever been served with notice of a request for a preliminary

injunction. Most importantly, the named Parties in the case were never notified that a hearing or any conversation regarding a preliminary injunction would be taking place.

The Court is required to hold an evidentiary hearing regarding a valid request for a preliminary injunction whereby evidence is admitted, testimony taken, exhibits entered, and a record created. If granted, the Court is required to issue an Order that must include specific findings pursuant to Indiana Trial Rule 52.

The Court is also required to apply a four-factor test that must show irreparable harm, likelihood of success on the merits, balance of harms, and public interest.

No request for a preliminary injunction was filed in this case nor were any parties put on notice regarding such a request. The hearing, held on March 18, 2026, was mainly regarding the Motion to Change Judge. Without notice, that hearing morphed into a preliminary injunction hearing disguised as a conversation about the original Stay request from the Petitioner that had yet to be ruled upon. Outside of the counsel present, no testimony was taken, no evidence was entered, and no legally-mandated factual basis was provided by the Court.

Findings by the Court - Indiana Trial Rule 52:

“In the case of issues tried upon the facts without a jury or with an advisory jury, the court shall determine the facts and judgment shall be entered thereon pursuant to Rule 58. Upon its own motion, or the written request of any party filed with the court prior to the admission of evidence, the court in all actions tried upon the facts without a jury or with an advisory jury (except as provided in Rule 39[D]) shall find the facts specially and state its conclusions thereon. The court **shall** make special findings of fact without request

(1) in granting or refusing preliminary injunctions;

(2) in any review of actions by an administrative agency; and

(3) in any other case provided by these rules or by statute.”

The Court failed to issue any findings of facts as to why three (3) counties should be enjoined from mailing Republican absentee ballots to voters. Instead, the Court issued an Order simply directing the counties to cease and desist from mailing any Republican absentee ballots.

Court Ordered Relief Unavailable in a Stay Under AOPA:

The Court, sua sponte, granted relief far outside of the scope of the Verified Petition for Judicial Review filed by the Petitioner and the subsequent Stay that was requested. The Court, instead, chose to compel non-parties to act outside of the scope of the Petition for Judicial Review. The Court has ordered county officials to withhold Republican ballots from the voters. Additionally, the Court is forcing the non-party counties to ignore State and Federal Election Laws by barring them from mailing out Republican absentee ballots. Under Indiana Code § 3-11-4-15, ballots “prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk at least fifty (50) days before a general, primary, special, or municipal election.” Thus, state law requires that the ballots be prepared no later than March 21, 2026. Federal law also requires that absentee ballots must be sent to any “absent uniformed services voter or overseas voter” who requests such a ballot “at least 45 days before an election for Federal office, not later than 45 days before the election.” 42 U.S.C.A. § 1973ff-1(a)(8). **Thus, both federal and state law require that absentee ballots must have been mailed to those who had already requested such ballots by March 21, 2026.**

Stay of Decision by the Indiana Election Commission:

The Court’s March 18, 2026, Order also Stays the underlying decision by the Indiana Election Commission. The Commission voted 2-2 (tied) to keep the Candidate on the ballot. Any Stay of that decision would result in returning to the status quo. See *Medical Licensing Bd. of Indiana v. Provisor*, 678 N.E.2d 814 (Ind. Ct. App. 1997), rehearing denied (holding that stay of an agency action pending judicial review preserves the status quo to avoid undue hardship); *State ex rel. Indiana Alcoholic Beverage Comm’n v. Lake Superior Court Room Four Sitting at Gary*, 884 N.E.2d 284 (Ind. Ct. App. 2008). That means the Candidate remains on the ballot and is a valid candidate for the May 2026 Primary. With or without a Stay of the Indiana Election Commission’s decision, the Candidate remains on the ballot. Because the Indiana Election Commission voted 2-2 (tie) the Candidate is lawfully allowed to remain on the ballot. Staying that decision and returning to the status quo means the same; the Candidate remains on the ballot.

Change of Judge:

Candidate timely filed her Motion to Change Judge on March 13, 2026. Pursuant to Indiana Trial Rule 76, a Motion for Change of Judge is automatic and without explanation. When a request for a change of Judge is timely filed, as it was here, the Court is divested of jurisdiction to take any further action outside of granting the change of judge. *Harper v. Boyce*, 809 N.E.2d 344, 347 (Ind. Ct. App. 2004); *In re Marriage of Brown*, 180 Ind. App. 1, 4, 387 N.E.2d 72, 74 (1979). Instead, the Court in this action decided to issue what is essentially a preliminary injunction before issuing the Order for change of Judge, hold a hearing regarding the change of judge and allows other Parties to weigh in on the Candidate's Motion for Change of Judge. None of this should have occurred or is contemplated under the Rules. All Orders after the Motion for Change of Judge should be deemed void.

CONCLUSION

Because the Court did not follow the appropriate Trial Rules and process regarding issuance of a preliminary injunction, nor did it meet the burdens imposed by the Trial Rules, the Order of March 18, 2026 should immediately be vacated and the errors corrected. Barring the mailing of republican absentee ballots directly impacts the Candidate's ability to campaign and effectively run for elected office. It also prevents the Candidate from receiving votes from the public via absentee ballots. Additionally, the Court erred in holding a hearing and issuing an Order after the Candidate's Motion for Change of Judge was filed. The Court clearly exceeded its jurisdiction by issuing this Order.

WHEREFORE, the Candidate, respectfully requests that the Court reconsider the Order, void the Order and immediately issue a new Order directing the mailing of Republican absentee ballots in the three (3) affected Counties; Vigo, Clay and Sullivan.

Respectfully submitted,

Samantha DeWester

Samantha E. DeWester
DeWester Law, LLC
609 E. 23rd Street
Indianapolis, IN 46205
317-435-0696
Samantha@DeWesterLaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document has been served upon counsel for the Parties via e-filing on March 20, 2026.

Samantha DeWester

Samantha E. DeWester
DeWester Law, LLC
609 E. 23rd Street
Indianapolis, IN 46205
317-435-0696
Samantha@DeWesterLaw.com