

In the Indiana Supreme Court

State of Indiana ex rel. Roman Catholic
Archdiocese of Indianapolis, Inc.,
Relator,

v.

Marion Superior Court and the Hon.
Stephen R. Heimann, as Special Judge
Thereof,
Respondents.

Supreme Court Case Nos.
20S-OR-520, 20S-SJ-652

Trial Court Case No.
49D01-1907-PL-27728



Published Order Denying Writ of Mandamus and Prohibition and Appointing Special Judge

The Roman Catholic Archdiocese of Indianapolis, Inc. (“Relator”) moved to dismiss after it was sued in the Marion Superior Court (“court”) for intentional interference with a contractual relationship and employment relationship. Relator argued that the claims must be dismissed because under the doctrine of church autonomy, the court lacks jurisdiction over questions of church governance, and because the claims are barred by the First Amendment freedom of association and the “ministerial exception” doctrine. The court denied that motion. Relator next moved to certify that ruling for discretionary interlocutory appeal, but the court denied that motion too. Relator then asked the Hon. Stephen R. Heimann, Special Judge, to recuse. Before the court ruled on that request, Relator filed this original action, seeking a writ of mandamus and prohibition compelling the court to dismiss the case or, short of that, requiring Judge Heimann’s recusal. Later, Judge Heimann *sua sponte* recused and certified that circumstances warrant this Court’s appointment of a successor special judge under Ind. Trial Rule 79(H)(3).

The writ of mandamus and prohibition is an extraordinary remedy, equitable in nature and viewed with disfavor; it will not issue unless the relator can show a clear and obvious emergency where the failure of this Court to act will result in substantial injustice. State ex rel. Commons v. Pera, 987 N.E.2d 1074, 1076 (Ind. 2013). This Court does not grant such writs where there is an adequate appellate remedy. State ex rel. Meade v. Marshall Super. Ct. II, 644 N.E.2d 87, 88 (Ind. 1994). The burden is on the relator to show entitlement to relief. State ex rel. Petty v. Super. Ct. of Marion Cty., Room 3, 269 Ind. 21, 22, 378 N.E.2d 822, 822-23 (1978).

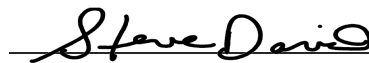
Hearings in original actions are not mandatory but may be held at the Court's discretion. *See* Ind. Original Action Rule 2(D).

Each of the four Justices considering the request for a writ of mandamus and prohibition has reviewed the briefs and other filed materials and conferred with each other. Two Justices vote to deny the writ without a hearing, and two vote to hold a hearing. Because Relator bore the burden of persuading a majority of this Court that a writ of mandamus and prohibition should issue and because it has neither done so nor persuaded a majority to hold a hearing, the petition for a writ of mandamus and prohibition is deemed DENIED.¹ This deemed denial disposes of this original action but does not preclude Relator from filing another original action should future circumstances warrant.

This disposition is final. No petitions for rehearing or motions to reconsider shall be filed in this original action. *See* Orig. Act. R. 5(C).

Due to Judge Heimann's recusal and T.R. 79(H)(3) certification, the Court hereby appoints the Hon. Lance D. Hamner to serve as special judge in case number 49D01-1907-PL-27728. This order vests in Judge Hamner jurisdiction over that case, including authority to consider new and pending issues and reconsider previous orders in the case. *See* Matter of Estate of Lewis, 123 N.E.3d 670, 673 (Ind. 2019). Pursuant to T.R. 79(K), an oath of office is not required.

Done at Indianapolis, Indiana, on 12/10/2020.



Steve David
Acting Chief Justice

All participating Justices concur.
Rush, C.J., is not participating.

¹ This deemed denial results from our standard practice: when the Justices are evenly split, the Court declines to take any affirmative action. State ex rel. Goldsmith v. Marion Cty. Super. Ct., Crim. Div. No. 1, 275 Ind. 545, 550, 419 N.E.2d 109, 113 (1981); *see* Ind. Appellate Rules 58(C) (“When the Supreme Court is evenly divided upon the question of accepting or denying transfer, transfer shall be deemed denied.”) and 59(B) (“When the Supreme Court Justices participating are evenly divided in [a direct] appeal, the trial court judgment shall be affirmed.”); In re Wray, No. 02S00-1511-DI-648 (Ind. Oct. 16, 2020) (order deeming denied suspended attorney’s petition for reinstatement to practice law where he bore burden of persuasion and Justices were evenly divided whether to grant or deny the petition); In re Wilkins, 782 N.E.2d 985, 988 (Ind. 2003) (Boehm, J., concurring in result and noting a 2-2 vote on rehearing petition in attorney discipline case would have left original opinion in place); Nat’l City Bank, Ind. v. Shortridge, 691 N.E.2d 1210, 1211 (Ind. 1998) (observing that if only four Justices considered rehearing petition, affirmative vote of three would be needed to modify Court’s original opinion).