

JEFFREY P. GALLANT
Petitioner

CLAY CIRCUIT COURT, INDIANA

vs.

CAUSE NO. 11C01-2603-RA-185

INDIANA ELECTION COMMISSION
Respondent

and

ALEXANDRIA WILSON
Intervenor

ORDER GRANTING REQUEST FOR CHANGE OF JUDGE
IN ELECTION DISQUALIFICATION ACTION

This is a case involving the challenge to a candidate in a State election under IC 3-8-1-5. The Court granted one of the candidate's (Intervenor) motion to intervene in this appeal from a split-decision by the Indiana Election Commission (Commission) which did not grant the disqualification through equal votes by members of the Commission.

I
FINDINGS OF FACT

1

Petitioner appeared in person and by counsel. The Commission appeared through two Deputy Attorneys General. Intervenor appeared in person and by counsel.

2

The Court commenced the emergency hearing on March 18, 2026, but did not advance to the merits of the appeal from the Commission's split decision. After being granted entry to this Court, Intervenor then immediately that same date filed a change of judge motion under Indiana Trial Rule (TR) 76, which motion took precedence at this hearing.

3

Intervenor's counsel was aware of the appeal fourteen (14) days prior to the hearing, but chose to intervene only two (2) days before the emergency hearing and only then request a change of judge.

4

The Court first addressed Intervenor's motion for change of judge under TR 76. The Court permitted arguments from all counsels.

5

The Court also requested and received information from all parties as an offer of proof as to what injury was occurring or would occur from a delay with the granting of Intervenor's motion for a new judge.

6

Various filings, including legal memorandums, were filed by the parties and reviewed by the Court.

7

The Court conducted its own research as well.

II

CONCLUSIONS OF LAW

The Court being duly advised, now makes the following conclusions of law and findings. Any conclusions of law which rely upon the facts in these conclusions are adopted as findings of fact as well.

1

The Clay Circuit Court has venue and jurisdiction in this cause due to Clay County being within the election district.

2

AOPA expressly embraces the TR 76 change of judge by right and without explanation.

3

At the hearing, Intervenor maintained her request for a change of judge.

4

The parties do not agree on a special judge replacement as permitted as an option in TR 76 and 79.

5

It is clear to the Court that Intervenor was fully aware of the appeal from the Commission's split decision. Intervenor was served copies of all filings in the subsequent appeal, made the conscious decision that it had the right to, and did, intervene, yet waited 14 days after the initial filing in this Court to request a change of judge on the eve of trial. It also appears to the Court that any delay benefits Intervenor. This is because the Commission's split decision has the effect of Intervenor staying on the ballot without a judicial opinion on the ultimate issue of Intervenor's alleged disqualification.

6

To consider the possibility of applying equitable estoppel as urged by Petitioner, the Court permitted arguments by all parties as an offer of proof as to what injury would occur with the further delay from an appointment of a new judge because of the emergency circumstances and Intervenor's delay. Although the Court believes this circumstance is an emergency and a quick decision on the merits is needed due to the fast-approaching election, the Court finds the emergency is not so great as to override TR 76 at this time due to the below remedy.

7

The Court believes that equitable relief could be invoked for this Court to proceed as the trier of fact on the merits without the appointment of a new judge. However, this Court errs on the side of caution to ensure compliance with TR 76. The Court also finds no precedent which applies equitable estoppel on a TR 76 and election disqualification action, although similar examples exist. Further and immediate appellate litigation caused by this Court remaining in the case could also cause a distraction to the merits of the case for all parties. Finally, this Court believes the District Judge will quickly appoint a successor judge and eliminate this issue so that all focus may resort to the merits of the case.

8

Despite the above unusual circumstances in this expedited case, the change of judge request is also technically timely under the time requirements in TR 76 and 79.

III DECISION

For all the above reasons, the Court grants Intervenor's motion for a new judge under TR 76 and 79. A copy of this order will be provided immediately to the District Judge for the appointment of a special judge to serve in this action in the Clay Circuit Court where venue and jurisdiction appear to remain.

So ordered on March 19, 2026.



David O. Thomas, Clay Circuit Judge

Distribution:

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