

STATE OF INDIANA)
)SS:
COUNTY OF PULASKI)

IN THE PULASKI CIRCUIT COURT

CAUSE NO.: 66C01-2110-MC-000168

STATE OF INDIANA, ex. rel.)
THE PULASKI CIRCUIT COURT,)
)
)
)
)
)
RUSSELL FINNEGAN)

)

FILED
IN OPEN COURT

OCT 12 2021

Brynn Behney
CLERK PULASKI CIRCUIT COURT

RULE TO SHOW CAUSE FOR INDIRECT CRIMINAL CONTEMPT

This matter comes before the Court on its own Motion pursuant to Ind. Code § 34-47-3 *et seq.* to address multiple written communications to the Court and its Officers related to Cause No. 66C01-2106-MC-000099. The Court finds, orders and certifies as follows:

1. The undersigned judge, the Honorable John D. Potter, Jasper Circuit Court, qualified as Special Judge pursuant to Ind. Code § 34-47-3-7 to hear the Indirect Criminal Contempt Citation filed by Special Judge Kim Hall, Starke Circuit Court.
2. Upon conducting the hearing and making its ruling the Court began to receive, vulgar, misogynistic, inappropriate and harassing correspondence from Russell Finnegan in blatant disrespect of the Court's authority.
3. The Court received a copy of its Order finding Russell Finnegan in Contempt returned in correspondence from Russell Finnegan with the words "FUCK U[sic]" written in large block letters on the first page; "HARRY POTTER" written in large block letters on the second page; and "VOID" written in large block letters on the third page. That Order is attached as Exhibit A.
4. The Court received correspondence dated August 16, 2021, three days after the hearing holding Russell Finnegan in Indirect Criminal Contempt for his vulgar, disrespectful correspondence to Judge Kim Hall, which began, after address to John D. Potter, "You can shove this back in your cock craver, what ever orifice [sic] that may be of yours or all of them. You sir are a fucking pervert and a very stupid man." That letter is attached as Exhibit B.

5. On August 16, 2021, Russell Finnegan also filed with the Court a letter to his court appointed attorney in 66Co1-2106-MC-000099 referring to her as “fucking stupid” and a “dumb bitch.” That letter is attached as Exhibit C.

6. On September 1, 2021, Russell Finnegan filed a pleading entitled ‘Johnny, I want my liver(?)[sic] back!’ In the second sentence, Russell Finnegan refers to the undersigned Special Judge as a “lying, fucking pervert.” The letter ends with “Ketch[sic] you on the flip, peace out cocksucker!” That motion is attached as Exhibit D.

7. On September 23, 2021, Russell Finnegan filed another pleading with the Court entitled “Hey Johnny Boy!” He refers to Attorney Samantha Joslyn, his court appointed appellate counsel in 66Co1-2106-MC-000099 as “your baby girl” and his trial counsel Emily Waddle as “baby girl Waddle.” He also refers to his case or cases as a “dumb fucking mess in Pulaski County.” Said pleading is attached as Exhibit E.

8. Each of the pleadings, correspondence or other documents cited herein show the continuing contumacious behavior of Russell Finnegan and his blatant and continuing disrespect and flagrant disregard for the Court’s authority, the Judge, and Attorneys who are officers of this Court.

9. Pursuant to Ind. Code § 34-47-3, the Defendant should be cited to appear in Court and to show cause as to why he should not be held in indirect criminal contempt.

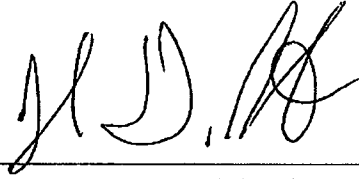
10. Pursuant to Ind. Code § 34-47-2-5, the Clerk shall serve a certified copy of the Rule to Show Cause, by Sheriff, on Russel Finnegan.

11. Pursuant to Ind. Code § 34-47-3-7 a Special Judge shall be selected from the following competent disinterested persons who are an available judge or a member of the Indiana Bar with Russell Finnegan to strike first, followed by the Prosecuting Attorney of Pulaski County:

- a. The Honorable Tom Alevizos, LaPorte Circuit Court;
- b. The Honorable Lisa Swaim, Cass Superior Court II; and
- c. The Honorable James Muehlhausen, Cass Superior Court I.

12. The Court will appoint the person who remains unchallenged to preside as Special Judge who shall then determine hearing dates and all further proceedings.

SO ORDERED THIS 12th Day of October, 2021.

A handwritten signature in black ink, appearing to read 'J.D. Potter', written over a horizontal line.

John D. Potter, Special Judge
Pulaski Circuit Court

Distribution:

Russell Finnegan
State of Indiana
The Honorable Lisa Swaim
The Honorable Thomas Alevizos
The Honorable James Muehlhausen

STATE OF INDIANA)
) SS:
COUNTY OF PULASKI)

PULASKI CIRCUIT COURT

FILED

AUG 19 2021

IN RE: INDIRECT CRIMINAL)
CONTEMPT OF RUSSELL FINNEGAN)

CAUSE NO.
66C01-2106-MC-000099

Jolynn Behney
CLERK PULASKI CIRCUIT COURT

ORDER

The Respondent in this matter, Richard G. Finnegan, is incarcerated in the Pulaski County Jail. On Friday, August 13, 2021 at 11:00 A.M., B.D.P., the undersigned Special Judge has set a hearing on whether or not Mr. Finnegan should be held in indirect criminal contempt for writing certain letters to Special Judge Hall containing potentially contumacious material.

The issue before the Court is whether or not the correspondence in disobedience or disrespect of a court, arising from opposition to its authority, justice or dignity. See Fishback v. State, 30 N.E. 304 (Ind. 1892). Contempt can also lie for conduct that tends to deter a Court from the performance of its duties or to obstruct the administration of justice, and for failure to follow a Court order causing damage to the other party. In this case the primary issue of the Indirect Criminal Contempt complaint centers around the Fishback definition of contempt.

Mr. Finnegan has filed with the Court various subpoenas and written requests. The subpoenas purport to subpoena every attorney who has represented him in various other matters, criminal and civil, in Pulaski County. They also purport to subpoena employees of the Courts including the Court reporter, various deputies and jail employees of the Pulaski County Sheriff's Department. Mr. Finnegan also wants to subpoena every Judge in Pulaski County including the retired Circuit Court Judge and judges from surrounding counties that have been special judge in his other cases, as well as himself. This Court cannot fathom how any of these people would have any relevant evidence as to whether or not the letters sent by Mr. Finnegan to Judge Hall were contumacious. These people may have relevant information for the many other cases Mr. Finnegan has pending in the Pulaski County Courts which his other requests seem to address instead of this sole matter of indirect criminal contempt.

What the proposed subpoenas sent to the Clerk do appear to be is an attempt to harass or vex the various targets of the subpoenas. The Court will direct that none of the subpoenas sent to the Clerk be served or processed any further other than to show them filed. The Court is mindful of Mr. Finnegan's rights to a hearing and to present evidence in the contempt citation especially

EXHIBIT

A

might that his liberty interests are in potential jeopardy, therefore, in the event Mr. Finnegan presents credible evidence at the hearing on Friday, August 13, 2021, that any of these persons would have relevant evidence the Court will continue the hearing for further proceedings and allow those persons to be subpoenaed.

Mr. Finnegan has also filed a request with the Clerk for 500 subpoena forms which the Clerk has apparently complied with and given him the forms so that request presents no issue upon which the Court can rule.

Mr. Finnegan also subpoenaed the Sheriff to produce any recordings of telephone calls to and from the Pulaski County Jail with his former attorney in other matters, Andrew A. Achey.

The Court can see no relevance as to how any conversations with a prior attorney in a different matter would have any relevance to this matter. Additionally, the Court would hope, for everyone's sake in the other matters, that the Sheriff of Pulaski County does not have recordings of attorney-client phone calls. Mr. Finnegan has filed these requests *pro se*, even though the

Court appointed a stand-by attorney, and the Court is not sure that Mr. Finnegan understands the ramifications of subpoenaing prior counsel or conversations with prior counsel. Such actions could constitute a waiver of the attorney-client privilege held by Mr. Finnegan, so the Court will deny the Subpoena *Duces Tecum* to the Pulaski County Jail, however, the Court is mindful of Mr. Finnegan's rights to a hearing and to present evidence to the contempt citation especially in light that his liberty interests are in potential jeopardy, therefore, in the event Mr. Finnegan presents credible evidence at the hearing on Friday, August 13, 2021, that any of these requests are relevant the Court will continue the hearing for further proceedings and allow those persons to be subpoenaed.

Mr. Finnegan has also filed a document entitled "Mandatory Judicial Notice pursuant to Indiana Rules of Evidence, Rule 201 (C)(2) and verified petition for appointment of a special prosecutor pursuant to IC 33-39-10-2." Mr. Finnegan alleges that the elected prosecutor of Pulaski County has committed certain crimes and that he has filed a request for her arrest in another case. These pleadings and allegations are the type of falderal that the Indiana Supreme Court as well as Federal Courts have held to be dismissible at first sight because of the inherent nature of the flummery set out in print. See Tyler v. Carter, 151 F.R.D. 537 (1993). Further, in Indiana the Indirect Criminal Contempt proceeding is initiated as an independent action in the name of the State within a reasonable time after the action by information. In re Percello, 291 N.E.2d 698 (Ind. 1973) shows that it does not mean a formal criminal information like a

charging affidavit. The Respondent must have notice of the time and place of the actions and a clear and succinct statement of the facts constituting the alleged contempt. That was done in Judge Hall's order citing Mr. Finnegan with a contempt charge. The undersigned has Ordered the Clerk to provide certified copies of the letters sent to the Court to be available at the hearing for all parties. The role of the State is nominal and the Court finds there is no conflict requiring the necessity of a special prosecutor at this time. Should evidence arise to the contrary the Court will address this issue at that time.

Mr. Finnegan has also filed another request seeking the removal of the Pulaski Circuit Court, Court Reporter from this proceeding which the Court will not do out by its long and winding title. Although the petition on its face appears to be of the type which the Court can summarily deny as frivolous, the issue is moot as the Court has made arrangement for a different Court reporter to record this hearing set for August 13, 2021.

Finally, Mr. Finnegan has filed a self-titled "Invitation" to the appointed stand by attorney to meet with him at the Pulaski County Jail. This presents no issue for the Court other than to caution Mr. Finnegan that filing letters to his attorney with the Court likely waives his attorney-client privilege to those matters in the letter.


IT IS THEREFORE ORDERED ADJUDGED AND DECREED that the Clerk is not to serve or to send out any of the subpoenas filed herein by Mr. Finnegan as those are Ordered quashed.

IT IS FURTHER ORDERED that the Subpoena *Duces Tecum* to the Sheriff is also quashed.

IT IS FURTHER ORDERED that request for a Special Prosecuting Attorney is denied and the request for a special court reporter is moot even though those matters are captioned as request for the Court to take judicial notice.

ORDERED THIS 9TH DAY OF AUGUST, 2021.

Received 13 August 2021
about 10:00 pm Eastern Time
RGF


John D. Potter, Special Judge
Pulaski Circuit Judge

EXHIBIT

Dear John D. Potter,

you can shove this back in your cock craver, what ever
office that may be of yours or all of them. You are
are a fucking power and a very stupid man. The
statute of limitations for the four felony offenses that
you and Jolynn Behney have ~~has~~ committed in plain
view absent of all jurisdiction of subject matter
that has now criminally confined me by unlawfull
imprisonment, will run for five years. Power corrupts
and absolute power is pretty neat.

Sincerely, Russell B. Finegan 16 Aug 2021

Russell B. Finegan 16 Aug 2021

AUG 16 2021

received

Please tell send one copy to "Harry" John D. Potter in Kisselack
and send one to me at the jail.

To: Jolynn Behney Courthouse Room 230 112 E Main St
Whitman, IN 46996.

Dear Emily Waddle,

If I am successful I will have your licence to practice removed from you for the rest of your life. How fucking stupid does a dumb bitch have to be to lie in open court? You kids want come back to Pulaski County and play again? I do!

Sincerely, Russell J. Fernández 16 Aug 2021

EXHIBIT

C

State of Indiana

vs.

Pulaski Circuit Court

Cause No. 66C01-2106-MC-000099

Russell G. Finnegan

INR: Indirect Criminal Contempt
of Russell Finnegan

Jonny, I want my love back!

and my goddamn jury right asshole. Check this out you lying, fucking, pervert, Indiana constitution Article I, Section 19. "In all criminal cases whatever, the jury shall have the right to determine the law and the facts." What is your malfunction Jonny with following instruction?

Power corrupts and absolute power is pretty fucking neat. That theft statute that Indiana has on the books is pretty fucking neat too. Our general assembly did a good job with that one.

Ketch you on the flip, peace out cockroaches!

Sincerely, Russell G. Finnegan 15 Sep 2021

EXHIBIT

I certify that upon filing with the clerk of court a true copy of this shall be sent to Samantha M. Joslyn 129 E. Washington St, Rensselaer, Indiana 47978.

Harrell D. Jennings 1 Sep 2021

FILED

SEP 07 2021

Jolynn Bettey

CLERK PULASKI CIRCUIT COURT

received

SEP 02 2021

Harrell D. Jennings 1 Sep 2021

Please fill and save per certificate.

Winamac, IN 46996

To: Jolynn Bettey Courthouse Room 230 112 E Main St

EXHIBIT

E

State of Indiana

Polaski Circuit Court

vs.

Cause No. 66C01-2106-MC-000099

Russell Finnegan

FILED

IN RE: The Indirect Criminal
Contempt of Russell Finnegan

SEP 23 2021

Jolynn Bullock
CLERK PULASKI CIRCUIT COURTHey Johnny Boy!

Do I need to shit can your baby girl Joslyn?
Is she going to do me like your baby girl
Waddle? Do I need to get someone out of
the public defender office of Indianapolis that is
smart enough not to get wrapped up in this
dumb fucking mess in Polaski County, that knows
how to read and comprehend at an elementary
4th grade level?

How come you appropriately respond and
acknowledge my filings? Why won't Kim Hall
do that? Emily Waddle has surrendered her
assistance in this case, she is no longer on the
case and appropriately should not be. I still need
transcript from the hearing on August 13, 2021.
Polaski County is broke as a joke, I don't think
they will give Joslyn one even for the appeal.
The jail house is full of defendants in need
of transcripts. We are tying like hell to
raid cash bonds and demand cash payment for
pretrial release and it just isn't enough.

Russell B. Finnegan 23 Sep 2021

To: Lynn Behney Courthouse Room 230 112 E Main St
Whamac, IN 46796.

Please file.

FILED

Russell D. Ferrigno 23 Sep 2021

SEP 23 2021

Lynn Behney

CLERK PULASKI CIRCUIT COURT