

STATE OF INDIANA) IN THE MARION SUPERIOR COURT 4
)
)SS:
COUNTY OF MARION) CAUSE NO. 49D04-2501-PL-003330

STATES NEWSROOM, INC. d/b/a)
THE INDIANA CAPITAL)
CHRONICLE,)
)
Plaintiff,)
)
v.)
)
INDIANA DEPARTMENT OF)
CORRECTION,)
)
Defendant.)

ORDER ON PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT

Comes now the Court and having read the Motion for Summary Judgment and Response in Opposition to Motion for Summary Judgment filed by the parties in this cause of action, the briefs submitted in support of and in opposition to said Motions, and having heard oral arguments. The Court took this matter under advisement on September 9, 2025. The Court being duly advised in the premises, now finds as follows:

FINDINGS OF FACT

1. On June 30, 2024, Plaintiff, The Indiana Capital Chronicle editor-in-chief Niki Kelly, submitted a public records request to the Defendant, Indiana Department of Correction (“IDOC”), seeking the cost of acquiring the drug pentobarbital to resume executions. Indiana law shields the entity the drugs were bought from but not the cost. A redacted invoice would meet the request.
2. On July 5, 2024, Defendant delivered a letter via email to Plaintiff responding to the APRA Request acknowledging receipt and asserting that “Indiana law prohibits the disclosure of information reasonably calculated to lead to the identity of a person who enters a contract

with IDOC for the issuance or compounding of lethal substances necessary to carry out an execution by lethal injection.” I.C. § 35-38-6-1(f).

3. On August 16, 2024, after receiving no responsive records and no written denial from Defendant, Plaintiff emailed Defendant for an update.
4. On August 23, 2024, Defendant sent Plaintiff an email stating “IDOC’s position remains unchanged from the response provided to you on July 5, 2024. The agency is managing dozens of requests for information about its execution procedures and its lawful procurement of pentobarbital as well as litigation pending in Cause No. 24S-SD-00222. IDOC is unable to provide you with a specific timeframe for processing your request. The agency will issue a response in due course, as appropriate under the law.”
5. On October 8, 2024, Defendant, through its Chief Legal Counsel, Anna Quick, sent Plaintiff a written denial of its request.
6. On October 9, 2024, Plaintiff withdrew the First Public Access Complaint and filed a Second Public Access Complaint with the Office of the Public Access Counselor (“PAC”) asserting IDOC improperly denied access to disclosable public records in violation of APRA.
7. On November 8, 2024, Defendant filed a written response justifying the denial.
8. On December 6, 2024, the PAC issued an informal opinion and did not reach a definitive conclusion about whether I.C. § 35-38-6-1(f) declares confidential the requested records showing the cost of pentobarbital.
9. On January 22, 2025, Plaintiff filed its Complaint.
10. On March 26, 2025, the Defendant filed its Answer.
11. On May 12, 2025, Defendant filed its Motion to Dismiss.

12. On May 21, 2025, Plaintiff filed its Motion to Strike Defendant's Motion to Dismiss, or, in the Alternative, Plaintiff's Opposition to Defendant's Motion to Dismiss.
13. On May 21, 2025, Plaintiff filed its Motion for Summary Judgment.
14. On June 27, 2025, Defendant filed its Response in Opposition to Summary Judgment.

CONCLUSIONS OF LAW

Summary judgment is appropriate when there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law. Indiana Rule of Trial Procedure 56(C). The party moving for summary judgment bears the initial burden of demonstrating "the absence of any genuine issue of fact as to a determinative issue." *Hughley v. State*, 15 N.E.3d 1000, 1003 (Ind. 214).

Ind. Code § 5-14-3-1. states:

A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information. This chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.

The above statute also known as APRA is designed to promote transparency in government. *Nardi v. King*, 253 N.E.3d 1098 (Ind. 2025)

Furthermore, Ind. Code § 5-14-3-9(d) requires an agency to respond within a reasonable amount of time after the agency receives the request.

In this case, Plaintiffs made their APRA request for the cost of acquiring the drug pentobarbital on June 30, 2024. On October 8, 2024, Defendant through its Chief Legal Counsel, Anna Quick, denied Plaintiff's request which, took over 100 days to respond.

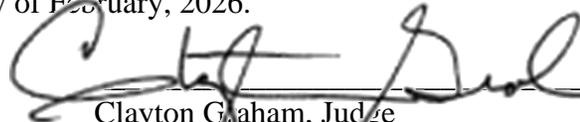
Clearly, Defendant's did not provide any information requested by the Plaintiff in a reasonable time. Initially, Defendant's denied the record request for over six (6) months which forced the Plaintiff's to file a lawsuit in violation of APRA. Defendant only provided a heavily redacted \$900,000 cost figure to Plaintiff's after being sued. The Court notes this cost figure was provided without context.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Summary Judgment is hereby **GRANTED**.

Defendant is to disclose the public records requested on June 30, 2024, identifying the amount of public money spent by the State of Indiana to procure the lethal injection of pentobarbital.

Plaintiff shall be awarded reasonable attorney fees and cost to bring this cause of action. Plaintiff shall submit an affidavit for reasonable attorney fees and court costs within thirty (30) days of the date of this Order.

SO ORDERED this 27th day of February, 2026.


Clayton Graham, Judge
Marion Superior Court 4

Distribution List:
All parties of record.