

IN THE  
INDIANA SUPREME COURT

No. 23S-OR-311

State of Indiana ex rel. Richard Allen,  
*Relator,*

v.

Carroll Circuit Court, and the  
Honorable Frances C. Gull, Special  
Judge.  
*Respondent.*

Original Action from the Carroll  
Circuit Court,

Trial No. 08C01-2210-MR-1

**Verified Motion to Clarify Deadline for Response by State of Indiana**

The State of Indiana, by Attorney General Todd Rokita and Chief Counsel of Appeals Angela Sanchez, respectfully requests clarification of the present deadline for the State to respond to Relator’s Petition for Writ of Mandamus or, in the alternative, for an extension of time to respond, to and including Monday, November 27, 2023. In support, the State says:

1. Relator filed his petition on November 6, 2023.
2. Under the Rules of Procedure for Original Actions, the lower court and judge thereof against whom the action is commenced are “the Respondents.” Ind. Original Action Rule 1(D). In criminal cases, the Rules require service of the petition on the Attorney General and authorize the Attorney General to file a brief opposing the writ. Orig. Act. R. (2)(D)(2)-(3) and (3)(F).
3. On the same day the petition was filed, November 6, this Court set a deadline of November 16, 2023, for the filing of “[a]ny briefs opposing issuance of

the writ or any supplemental records....” *See* Orig. Act. R. (3)(F) (“The Respondents, or any party opposing Relator in the respondent court, or the Attorney General, if service on the Attorney General is required by Rule 2(D)(2) may file a brief opposing the petition at any time before the deadline established by Supreme Court order.”).

4. On November 9, 2023, Respondent requested an extension of time to respond to the petition as well as an additional order of the Court. This Court granted the extension and ordered “Respondents’ response brief and any supplemental records” to be filed by November 27, 2023.

5. The order did not indicate whether the deadline for filing any other briefs opposing the writ was similarly extended as the Court had stated when granting Respondents’ request for an extension of time in the related Original Action arising from the same trial court cause. *See* Order, 23S-OR-302 (November 3, 2023) (granting Respondent’s request for extension and ordering “[a]ny briefs opposing issuance of the writ or any supplemental records” to be filed by the new deadline).

6. The State of Indiana, by the Attorney General, is authorized to file a response in this matter but is not a Respondent as defined in the Rules of Procedures for Original Actions. Therefore, the State respectfully requests clarification whether the Court’s order extending the deadline for “Respondents” brief to November 27, 2023, applied also to extend the deadline for the any brief by the State. If the Court did not intend the prior order to apply also to the State, then

the State respectfully requests this Court now grant the State permission to file any brief in response by the deadline presently set for Respondents.

7. Relator's counsel does not oppose the State's request. Undersigned counsel attempted to contact Respondents' counsel but did not receive a response in the relatively short time available before filing.

The State respectfully moves the Court to set the deadline for the State of Indiana to file any brief in response to Relator's Petition for Writ of Mandamus to and including Monday, November 27, 2023.

Respectfully submitted,

/s/ Angela N. Sanchez  
Angela N. Sanchez  
Chief Counsel of Appeals  
Atty. No. 27319-49

OFFICE OF INDIANA ATTORNEY  
GENERAL TODD ROKITA  
Indiana Government Center South  
302 West Washington Street, Fifth Floor  
Indianapolis, IN 46204  
(317) 234-4666  
[Angela.Sanchez@atg.in.gov](mailto:Angela.Sanchez@atg.in.gov)

## VERIFICATION

I affirm under the penalties of perjury that the foregoing representations are true and correct to the best of my knowledge on November 16, 2023.

/s/ Angela N. Sanchez  
Angela N. Sanchez  
Chief Counsel of Appeals

## CERTIFICATE OF SERVICE

I certify that on November 16, 2023, I electronically filed the foregoing motion to clarify deadline using the Indiana E-Filing System (IEFS). I also certify that on November 16, 2023, the foregoing motion to clarify deadline was electronically served upon the following person(s) via IEFS:

### **Counsel for Relator:**

Cara Wieneke  
[Cara.wieneke@gmail.com](mailto:Cara.wieneke@gmail.com)

Mark Leeman  
[markleeman@leemanlaw.com](mailto:markleeman@leemanlaw.com)

### **Counsel for Respondent:**

Matthew R. Gutwein  
[mgutwein@delaneylaw.net](mailto:mgutwein@delaneylaw.net)

Christopher S. Stake  
[cstake@delaneylaw.net](mailto:cstake@delaneylaw.net)

### **Counsel for Amici:**

Joel Schumm  
[jmschumm@iupui.edu](mailto:jmschumm@iupui.edu)

Bernice Corley  
[bcorley@pdc.in.gov](mailto:bcorley@pdc.in.gov)

/s/ Angela N. Sanchez  
Angela N. Sanchez  
Chief Counsel of Appeals