

53A01-1712-PL-2764  
IN THE INDIANA COURT OF APPEALS



CITY OF BLOOMINGTON,	)	
	)	Appeal from the Monroe Circuit
Plaintiff,	)	Court 6
	)	
v.	)	Trial Court Cause No. 53C06-
	)	1705-PL-1138
ERIC HOLCOMB, in his official capacity,	)	
as Governor of the State of Indiana	)	The Honorable Frank M. Nardi,
	)	Special Judge
Defendant.	)	

**MOTION TO ACCEPT JURISDICTION OVER INTERLOCUTORY APPEAL**

Pursuant to Indiana Appellate Rule 14(B)(1), Defendant Governor Eric Holcomb, by counsel, Attorney General Curtis T. Hill, Jr., Solicitor General Thomas M. Fisher, and Deputy Attorney General Julia C. Payne, moves the Court to accept jurisdiction over the trial court's October 3, 2017, Order denying Defendant's motion to dismiss, which the trial court certified for interlocutory appeal on November 20, 2017. In support of this motion, Defendant states as follows:

1. After the Bloomington City Council introduced a series of annexation ordinances to expand the boundaries of the City of Bloomington within Monroe County, the Indiana legislature passed a new statute that would preclude the City's proposed expansion. The City filed this lawsuit against the Governor alleging that this new statute, Section 161 of Public Law 217-2017 (the "Annexation Statute"), violates Article 4, Sections 19 and 23 of the Indiana Constitution.

2. The Governor filed a motion to dismiss the City's lawsuit pursuant to Indiana Trial Rules 12(B)(1) and 12(B)(6). The Governor argued that he is not a

proper defendant for the City's suit because he has no power to enforce the Annexation Statute, and, thus, the City's injuries are neither traceable to nor redressable by him.

3. The trial court denied the Governor's motion to dismiss on October 3, 2017. Relying on *Stoffel v. Daniels*, 908 N.E.2d 1260 (Ind. Ct. App. 2009), it concluded that because the Annexation Statute does not specify who will enforce its provisions, the governor is somehow responsible for enforcing the statute, and therefore, he is a proper defendant in this case.

4. On November 1, 2017, the Governor filed a motion to certify the denial of Defendant's motion to dismiss for interlocutory appeal pursuant to Indiana Appellate Rule 14(B)(1). The Governor argued that the order involved a substantial question of law, the early determination of which will promote a more orderly disposition of this case, and that the remedy by post-judgment appeal would be inadequate.

5. The trial court granted the Governor's motion and certified its denial of Defendant's motion to dismiss for interlocutory appeal on November 20, 2017.

6. The Indiana Appellate Rules provides the following "[g]rounds for granting an interlocutory appeal":

- (i) The appellant will suffer substantial expense, damage or injury if the order is erroneous and the determination of the error is withheld until after judgment.

























