

**IN THE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

INDIANA PROTECTION AND)	
ADVOCACY SERVICES COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:08-cv-1317-DFH-JMS
)	
COMMISSIONER, INDIANA)	
DEPARTMENT OF CORRECTION,)	
)	
Defendant.)	

MOTION TO DISMISS

Defendant Commissioner, Indiana Department of Correction, by counsel, David A. Arthur, Deputy Attorney General, urges the Court, pursuant to Fed.R.Civ.P 12(b)(1), to dismiss the cause of action herein for the reason that the Court lacks jurisdiction over the subject matter because the plaintiff lacks standing and because this court lacks jurisdiction over “intramural” disputes between state agencies.

A memorandum in support of this motion is filed herewith and is made a part hereof.

WHEREFORE, defendant urges the Court to dismiss the cause of action herein and to grant him all other just and proper relief.

Respectfully submitted,

STEVE CARTER
Indiana Attorney General

By: s/ David A. Arthur
David A. Arthur
Deputy Attorney General
Atty. No. 2461

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 2008, a copy of the foregoing motion was filed electronically. Notice of this filing will be sent to the following by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

David R. Smith
INDIANA PROTECTION & ADVOCACY
SERVICES
drsmith@ipas.in.gov

Debra J. Dial
INDIANA PROTECTION & ADVOCACY
SERVICES
djdial@ipas.in.gov

Gary W. Ricks
INDIANA PROTECTION & ADVOCACY
SERVICES
gricks@ipas.in.gov

Karen T. Davis
INDIANA PROTECTION & ADVOCACY
SERVICES
ktdavis@ipas.in.gov

Kenneth J. Falk
ACLU OF INDIANA
kfalk@aclu-in.org

Gavin M. Rose
ACLU OF INDIANA
grose@aclu-in.org

Office of Attorney General
Indiana Govt. Center South, Fifth Floor
302 W. Washington St.
Indianapolis, IN 46204-2770
Telephone: (317) 232-6286
Fax: (317) 232-7979
E-Mail: David.Arthur@atg.in.gov
518455s4

s/ David A. Arthur
David A. Arthur
Deputy Attorney General