

STATE OF INDIANA ) MARION COUNTY SUPERIOR COURT  
 ) SS:  
COUNTY OF MARION ) CAUSE NO.: 49D06-1602-PL-004804

JENNA M. HORNER, DENNIS JACK )  
HORNER, JENNIFER K. THOMPSON, )  
DANIEL C. HARGROVE, AMY M. )  
WILLIS, and DANIEL J. WILLIS, )

Plaintiffs, )

v. )

TERRY R. CURRY, THE MARION COUNTY )  
PROSECUTOR'S OFFICE, THE CONSOLIDATED )  
CITY OF INDIANAPOLIS/MARION COUNTY, )  
JOSEPH H. HOGSETT, PAUL BABCOCK, and )  
BRYAN ROACH, )

Defendants. )

**FILED**  
March 27, 2018  
*Myla A. Eldridge*  
CLERK OF THE COURT  
MARION COUNTY  
PM

**ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT**

This matter came on for hearing on the parties' cross-motions for summary judgment on the 16th day of March, 2018. Plaintiffs were present by Samuel B. Gedge, Wesley Hottot and Scott A. Milkey. Defendant Terry R. Curry was present by David A. Arthur, Senior Deputy Attorney General, and Benjamin M.L. Jones, Deputy Attorney General. Defendant Marion County Prosecutor's Office was present by David A. Arthur, Senior Deputy Attorney General, and Benjamin M.L. Jones, Deputy Attorney General, and Donald E. Morgan. Defendants Consolidated City of Indianapolis/Marion County, Joseph Hogsett, in his Official Capacity as Mayor of Indianapolis, Paul Babcock in his official capacity as Director of the Office

of Public Health and Safety, and Bryan Roach in his official capacity as chief of the Indianapolis Metropolitan Police Department, were present by Donald E. Morgan.

The court, having reviewed the cross-motions and evidence in support, and having heard the arguments of counsel, now **GRANTS**, in part, the motions for summary judgment filed by the defendants, **DENIES**, in part, the motions for summary judgment filed by the defendants, and **DENIES** the motion filed by the plaintiffs.

The motion of the defendants is **GRANTED** on the First Cause of Action. Indiana Code Section 34-24-1-4 provides for civil forfeitures, which were unknown in 1851 when Article 8, Section 2, was added to the Indiana Constitution. E.g., *Judy v. Thompson*, 60 N.E. 270, 271 (Ind. 1901); *State v. Indiana & I.S.R. Co.* 32 N.E. 817 (Ind. 1892); *Burgh v. State ex rel. McCormick*, 9 N.E. 75, 76 (1886). Therefore, the statute and practice under it do not violate the Indiana Constitution. Accordingly, the motion for summary judgment filed by the plaintiffs as to their First Cause of Action is **DENIED**.

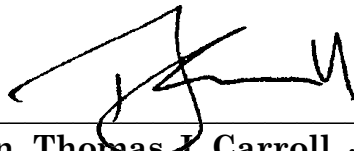
The motions of all parties for summary judgment on the Second Cause of Action are **DENIED**. Relief is denied to all parties without addressing the merits of plaintiffs' claims on this cause of action. On March 13, 2018, the Governor signed Senate Enrolled Act 99 (Public Law 47-2018), which changes the computation of law enforcement costs as well as the distribution of those funds. That law will become effective July 1, 2018, before the issue can be decided by this court and reviewed by the appellate courts. This court does not give advisory opinions. See, e.g., *W.R.S. v.*

*State*, 759 N.E.2d 1121, 1123 (Ind. Ct. App. 2001) (the general rule in Indiana is that a case is deemed moot and may be dismissed “when no *effective* relief can be rendered to the parties before the court” (emphasis added)). See also, *State ex rel. Goldsmith v. Superior Court of Marion Cty., Criminal Div., Room No. Four*, 463 N.E.2d 273, 275 (Ind. 1984) (“We do not provide advisory opinions”).

It is therefore **ORDERED, ADJUDGED** and **DECREED** by the court that judgment be and the same is hereby entered in favor of the defendants and against the plaintiffs on the First Cause of Action.

And it is further **ORDERED, ADJUDGED** and **DECREED** by the court that the Second Cause of Action is **DISMISSED** without prejudice.

All of which is **ORDERED** this 27 day of March, 2018.



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**Hon. Thomas J. Carroll**, Judge  
Marion Superior Court, Civil Division, Room 6

DISTRIBUTION ATTACHED.

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