

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

THE ASSOCIATED PRESS, STATES  
NEWSROOM d/b/a Indiana Capital Chronicle,  
GANNETT CO., INC., CIRCLE CITY  
BROADCASTING I, LLC, and TEGNA INC.,

*Plaintiffs,*

v.

RON NEAL, *in his official capacity as the  
Superintendent of Indiana State Prison*, and  
LLOYD ARNOLD, *in his official capacity as  
the Commissioner of the Indiana Department  
of Correction*,

*Defendants.*

Case No. 1:25-cv-872-JMS-MJD

**PLAINTIFFS' OPPOSITION TO TRANSFER OF VENUE  
TO THE NORTHERN DISTRICT OF INDIANA**

Plaintiffs, who are news organizations primarily based in or operating out of Indianapolis, respectfully submit their opposition to Defendants' May 8, 2025 motion to transfer this case to the Northern District of Indiana.

The Court should not grant transfer. Venue in the Southern District of Indiana is proper, the parties are primarily located in the Southern District, and five of the declarants in support of Plaintiffs' motion for preliminary injunction are based in the Indianapolis area. Transfer would also risk delaying resolution of that time-sensitive motion, ECF 19, which seeks relief prior to the May 20, 2025 execution of Benjamin Ritchie.

**ARGUMENT**

Venue is proper in the Southern District of Indiana under 28 U.S.C. § 1391(b) because all Defendants are residents of Indiana and Defendant Lloyd Arnold resides in this District in his

official capacity as the Commissioner of the Indiana Department of Correction (“IDOC”). ECF 14, Defs.’ Mot. to Transfer ¶ 9 (“[T]he Court has venue to hear Plaintiffs’ complaint[.]”).

Under 28 U.S.C. § 140(a), “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” A movant seeking the transfer of a case to an alternative venue “has the burden of establishing, by reference to particular circumstances, that the transferee forum is *clearly* more convenient.” *Coffey v. Van Dorn Iron Works*, 796 F.2d 217, 219–20 (7th Cir. 1986) (emphasis added). To determine whether to transfer a case to an alternative venue, courts weigh “four factors in deciding whether to transfer an action: (1) the convenience of the parties; (2) the convenience of the witnesses; (3) the *situs* (or location) of material events and access to proof; and (4) the interests of justice.” *Collins v. City of Seymour*, No. 1:13-CV-01838-TWP, 2014 WL 279865, at \*2 (S.D. Ind. Jan. 24, 2014).

In evaluating these factors, “unless the balance is strongly in favor of the defendant, the plaintiff’s choice of forum should rarely be disturbed.” *In re Nat’l Presto Indus., Inc.*, 347 F.3d 662, 664 (7th Cir. 2003) (quoting *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508 (1947)). In other words, “there is typically a strong presumption in favor of the plaintiff’s choice of forum.” *Commissioning Agents, Inc. v. Long*, 187 F. Supp. 3d 980, 986 (S.D. Ind. 2016) (citing *Overton & Sons Tool & Die Co. v. Precision Tool, Die & Mach. Co.*, No. 1:13-CV-01302-TWP, 2014 WL 1669863, at \*5 (S.D. Ind. Apr. 28, 2014); *Dunlap v. Switchboard Apparatus, Inc.*, No. 1:12-CV-0020-TWP-DKL, 2012 WL 1712554, at \*6 (S.D. Ind. May 15, 2012)); *see also Miller Pipeline Corp. v. Brit. Gas plc*, 901 F. Supp. 1416, 1425 (S.D. Ind. 1995) (same).

The presumption in favor of a plaintiff’s chosen forum is especially strong “when the forum is the plaintiff’s home forum.” *Long*, 187 F. Supp. 3d at 986. Such is the case here. States

Newsroom's Indiana publication, the Indiana Capital Chronicle, TEGNA Inc.'s Indiana station, WTHR-13, and Circle City Broadcasting I, LLC's WISH-TV all operate out of Indianapolis in the Southern District. Gannett Co., Inc., although not headquartered in the Southern District, maintains a substantial presence there; its Indianapolis newspaper, the Indianapolis Star, is the largest in the state. And The Associated Press is a national organization that covers events throughout the state, including in Indianapolis. Indianapolis is also substantially easier to travel to for Plaintiffs' counsel than South Bend.

Because the majority of Plaintiffs are located here, as are Defendant Arnold and IDOC, maintaining this case in the Southern District will serve the convenience of the majority of the parties and witnesses. Defendants' counsel, the Office of the Indiana Attorney General, is also located in Indianapolis. Moreover, the majority of the declarants in support of Plaintiffs' May 12, 2025 Motion for Preliminary Injunction are located in the area, including Plaintiffs' employees Casey Smith, Kristine Phillips, Timothy Spears, Jennie Runevitch, and Rich Nye. Ignoring the convenience of all of the other parties and witnesses in this case, Defendants argue that venue should be dictated exclusively by the location of Defendant Ron Neal. ECF 14 ¶ 8. In doing so, Defendants rely on *Gonzalez v. Feinerman*, 663 F.3d 311, 315 (7th Cir. 2011). But *Gonzales* did not involve any venue issue—it involved a prisoner seeking injunctive relief from the warden of the prison where he was being held to approve surgery on his hernia. *Id.* at 313. The court recognized, unremarkably, that the warden was an appropriate defendant because “he would be responsible for ensuring that any injunctive relief is carried out.” *Id.* at 315.

Here, both Defendant Neal in his capacity as Superintendent and Defendant Arnold in his capacity as Commissioner of IDOC are equally responsible for ensuring that injunctive relief is carried out. And Plaintiffs are not prisoners located in the same district as Defendant Neal—they

are news organizations who primarily operate out of Indianapolis. Their choice of forum accordingly “carries significant weight” in the venue analysis. *Long*, 187 F. Supp. 3d at 986. *Gonzales* simply has no bearing here.<sup>1</sup>

The third factor—the location of material events and evidence—neither weighs in favor of nor against transfer. The majority of the evidence in this case is expected to be “documentary or electronic in nature,” and thus can be readily accessed whether this case proceeds in the Southern District or is transferred. *Id.* at 989 (noting that courts consider this factor “neutral” where majority of evidence is documentary). Additionally, Plaintiffs have alleged through Count I of their two-count complaint that *Press-Enterprise Co. v. Superior Court*, 478 U.S. 1 (1986) (“*Press-Enterprise II*”) secures for the public a qualified right to access executions. ECF 9, Compl. ¶¶ 51–67. That right attaches to proceedings (i) which have historically been open to the public, and (ii) where access would serve a significant role in the functioning of the proceeding. *Press-Enterprise II*, 478 U.S. at 8–9. For purposes of this analysis, the relevant history to consider is not “the particular practice of any one jurisdiction, but instead . . . the experience in that *type* or *kind* of hearing throughout the United States.” *See El Vocero de Puerto Rico v. Puerto Rico*, 508 U.S. 147, 150 (1993) (citation and internal quotation marks omitted). Thus, resolution of this claim may depend in large part upon the Court taking judicial notice of how executions occurred historically not just in Indiana but throughout the country.

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<sup>1</sup> The court’s order transferring *Corcoran v. Reagle*, No. 1:24-cv-02165-JRS-MG (S.D. Ind. Dec. 10, 2024), ECF No. 5, to the Northern District of Indiana likewise has no bearing here because that case was brought in the name of Joseph Corcoran, who was sentenced to death and incarcerated at Indiana State Prison at the time, by his wife as his next friend. That case accordingly did not involve Plaintiffs or witnesses located in the Southern District, as is the case here.

Finally, transfer is not in the interest of justice if it would result in delay. *See Grant v. Homier Distrib. Co.*, No. 3:07-CV-116 RL, 2007 WL 1395578, at \*1 (N.D. Ind. May 10, 2007) (“[E]ven a minimal delay is not in the interests of justice.”). Plaintiffs’ Motion for Preliminary Injunction, ECF 19, is time sensitive in light of the State’s scheduled execution of Benjamin Ritchie on May 20, 2025. Plaintiffs have requested an expedited oral argument in this matter before then. ECF 21. Transfer would risk delaying resolution of Plaintiffs’ Motion until after the execution has already taken place.

For the foregoing reasons, the Court should not transfer this case to the Northern District.

Dated: May 12, 2025

/s/ Kristopher L. Cundiff

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