

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PHILIP WORKMAN,)
)
TERRY LEE WORKMAN)
)
)
) No.
Plaintiffs,)
) **DEATH PENALTY CASE**
v) **EXECUTION DATE 5/9/07, 1:00 a.m.**
)
DR. BRUCE LEVY, in his official capacities) Jury Demand
as the Chief Medical Examiner for the)
State of Tennessee and Medical)
Examiner for the Metropolitan)
Government of Nashville and)
Davidson County, Tennessee;)
)
FORENSIC MEDICAL and All Employees)
And Agents, Including, But Not)
Limited To:)
Dr. Bruce Levy, President, CEO and)
Chief Medical Examiner;)
Dr. Amy McMaster,)
Deputy Medical Examiner;)
Dr. Feng Li,)
Assistant Medical Examiner;)
Dr. Thomas A. Deering,)
Assistant Medical Examiner;)
Dr. Staci A. Turner,)
Assistant Medical Examiner;)
Adele Lewis, M.D.,)
Assistant Medical Examiner;)
Larry Barker,)
Chief Forensic Technician;)
Denise Overton,)
Director Of Investigations;)
Karen Chancellor, M.D.,)
Chief Medical Examiner;)
Lisa Funte, M.D.,)
Assistant Medical Examiner;)
Miguel Laboy, M.D.,)
Assistant Medical Examiner;)

Sean Lester, Chief Investigator;)
Anthony Bell,)
Chief Forensic Technician)
)
RICKY BELL, in his official capacity as)
Warden, Reverend Maximum)
Security Institution.)
)
JOHN DOES 1-100)

COMPLAINT

INTRODUCTION

This is a case defending basic human dignity against the state's scheme to conduct lethal injection experiments on death row inmates. Should Defendant Ricky Bell execute Philip Workman at 1:00 a.m. on May 9, 2007, rather than immediately releasing the body to Mr. Workman's next-of-kin or personal representative, Defendant Bell would immediately intend to give it to Defendant Bruce Levy and/or other Defendants. Where this Court has already enjoined Defendants from conducting an autopsy on Mr. Workman's body, Defendants would attempt an end run around the letter of this Court's order and the spirit of Mr. Workman's declaration of his closely-held religious beliefs by engaging in innumerable and unknown procedures of puncturing, scraping, draining, and otherwise desecrating Mr. Workman's body, all under the guise of not technically conducting an autopsy. Defendants intend to analyze and investigate Workman's body to research their as yet untested means of killing. They would handle, disrobe, and view Workman disrobed, and then perform invasive procedures on his body, including incisions of his skin; sticking needles into or through his skin to extract fluids; collapsing his eyeballs by sticking needles into them to draw fluids or tissue; touching, dissecting and/or removing his organs, fluids, or other tissue. Performing such actions on Philip Workman would, *inter alia*, violate his sincerely-held religious beliefs, and would

violate his rights to bodily integrity, personal autonomy, human dignity, and privacy, while causing mental anguish to his survivors.

This Court should therefore enter an order providing that, should Mr. Workman be executed on May 9, 2007: (1) Upon Workman being declared dead, Defendant Bell shall immediately release Workman's body to his brother Terry Lee Workman or his authorized representative(s); and (2) All Defendants are enjoined from handling, disrobing, and viewing Mr. Workman disrobed, and all Defendants are enjoined from performing any forensic, pathological, or other action or procedure whatsoever on his body or any part of his body (whether or not considered part of an autopsy or pathological investigation), including, but not limited to, any invasive procedure which in any way would penetrate any orifice, penetrate the skin or any other organ, including any procedure or action whereby any tissue, body fluid, or material from Mr. Workman's body is removed or sampled or tested or examined in any manner whatsoever, including, but not limited to: incision or scraping of his skin; sticking needles into or through his skin to extract fluids or any other tissue; collapsing his eyeballs by sticking needles into them to draw fluids or tissue; touching, dissecting and/or removing his organs, fluids, or other tissue; scientific or histological or chemical or any other type of analysis of any tissue, fluid, or organ. This Court should order that his body be left completely intact as it was upon death. This Court's order should likewise take effect upon the injection of lethal chemicals into Mr. Workman's body at the hands of Defendants.

PARTIES

1. Plaintiff Philip Workman is a condemned inmate residing at Riverbend Maximum Security Institution, 7475 Cockrill Bend Industrial Road, Nashville, Davidson County, Tennessee.
2. Defendant Ricky Bell is the Warden of Reverend Maximum Security Institution. Mr.

Workman sues Warden Bell in his official capacity.

3. Defendant Dr. Bruce Levy is the Chief Medical Examiner for the State of Tennessee and for the Metropolitan Government of Nashville and Davidson County, Tennessee. Mr. Workman sues Dr. Levy in his official capacities.

4. Defendant Forensic Medical is a corporation of whom Dr. Levy is President and CEO and Chief Medical Examiner, and includes all employees or agents of Forensic Medical, including but not limited to, those employees or agents identified in the caption.

5. Defendants John Does 1-100 are any and all other persons (other than Mr. Workman's next-of-kin, personal representative, or their representatives or agents) who in any way would in any way perform any actions identified in this complaint, including, but not limited to: handle, disrobe, view Workman disrobed, or perform any action or procedure whatsoever on Workman's body or any part of his body (before or after death), including any invasive procedure which in any way would penetrate an orifice, penetrate the skin or any other organ, including any procedure whereby any tissue, body fluid, or material from Workman's body is removed or sampled in any manner whatsoever, including, but not limited to: incision or scraping of his skin; sticking needles into or through his skin to extract fluids or any other tissue; collapsing his eyeballs by sticking needles into them to draw fluids or tissue; touching, dissecting and/or removing his organs, fluids, or other tissue; conduct chemical or forensic analysis of any tissues or bodily fluids or organs of Workman; and/or possess Workman's body without immediately releasing Workman to his next-of-kin.

JURISDICTION/VENUE

6. In this action, Mr. Workman seeks a declaratory judgment and injunctive relief pursuant to 28 U.S.C. §§2201 and 2202, and 42 U.S.C. § 1983.

7. Mr. Workman's 1983 claim arises from a federal statute. This Court therefore has jurisdiction over that claim pursuant to 28 U.S.C. § 1331.

8. Venue is proper in Tennessee's Middle District because the injuries Plaintiffs seek to prevent, should they ultimately occur, would occur in the Middle District. 28 U.S.C. § 1391.

FACIS

9. In the absence of a stay of execution which may be entered in this case, the State of Tennessee intends to execute Mr. Workman on May 9, 2007, at 1:00 a.m.

10. After any execution of Mr. Workman, Warden Bell intends to give Mr. Workman's body to Dr. Levy and/or other Defendants who would intend, after receiving access to the body, to conduct examinations and tests on Workman's body and his bodily fluids and tissues.

11. Among other things, Defendants would take his body, remove his clothing, and view his body, including his genitalia, unclothed.

12. Defendants would further touch his body, and perform actions or procedures on Workman's body or any part of his body, including, but not limited to: invasive procedures which would penetrate an orifice, the skin, and other organs; procedures whereby any tissue, body fluid, or material from Workman's body would be removed or sampled; scraping or puncturing his skin by sticking needles into various parts of Mr. Workman's body, including his groin, neck, and eyeballs and removing blood, fluids, and other tissues through such needles; making incisions upon Mr. Workman's body, including cutting through his skull for purposes of examining his brain; touching, cutting, dissecting and/or removing organs, fluids, or other tissue; performing histological, chemical, or other scientific analysis on any tissue, fluid, organ taken from Workman; and conducting other procedures or actions presently unknown to Plaintiffs whereby his body or any part

thereof, including tissue or fluid or organ, would be subjected to any invasive, sampling, removal, or other similar procedure.

13. When doing so, Defendants would withhold Workman's body from his next-of-kin or personal representative, and upon conclusion of their actions upon Workman, Defendants would, after some period of time, place the body in a body bag, unclothed, and ultimately release the body to the next-of-kin or personal representative.

14. Based on sincerely-held religious beliefs, Mr. Workman strongly objects to his body being subjected to any procedure discussed in ¶13, or any like procedure, as it amounts to a desecration of his body. See Declaration of Philip Workman (Attached as Exhibit 1).

15. Philip Workman further objects to any and all procedures or actions undertaken by Defendants upon his body (such as those identified in ¶13) on the grounds that he has the right to bodily integrity, privacy, human dignity, and the right to make personal decisions about his own body. Id.

16. For the same reasons identified in ¶16, Mr. Workman also objects to Defendants handling or touching his body, disrobing him and/or viewing him naked.

17. The state statutes that authorize Defendant Levy to conduct autopsies and investigative procedures that violate the physical integrity of a body do not mandate that such procedures be conducted.

18. The state statutes authorizing autopsies and investigative procedures by Defendant Levy that violate the physical integrity of a body are discretionary.

19. Because the statutes do not mandate autopsies and investigative procedures by Defendant Levy that violate the physical integrity of a body, they are not blanket prescriptions of

state conduct that are universally applicable.

20. If the State executes Mr. Workman, it will know why Mr. Workman is dead. Defendants know full well the manner in which Mr. Workman's death would have been caused.

21. To determine the cause of death, Defendants have no need to perform any actions upon Mr. Workman's body, including any and all of the procedures identified in ¶13 and/or any other procedures unknown at this time.

22. Philip Workman may not be used by Defendants as a science experiment to test the efficacy of Tennessee's lethal injection protocol and procedures.

CLAIM FOR RELIEF

A.

42 U.S.C. § 1983: U.S. Const. Amendment I

23. Plaintiffs incorporate all preceding paragraphs.

24. Mr. Workman's sincerely held religious belief outweighs any interest Defendants may assert in performing any action or procedure whatsoever on Workman's body, or any part of his body, or removing any tissue from his body.

25. Defendants cannot prove that performing any of the actions described in this complaint is in furtherance of any compelling governmental interest and is the least restrictive means of furthering any interest.

26. Defendants have no interest in maintaining custody of Mr. Workman's body after he is pronounced dead at any execution that might occur.

B.

42 U.S.C. § 1983: U.S. Const. Amendment XIV

27. Plaintiffs incorporate all preceding paragraphs.

28. Philip Workman has fundamental and traditional rights to personal autonomy, bodily integrity, freedom from unwanted touching and viewing by others, personal human dignity, privacy, and to make decisions about his own body, including its handling upon death, and to prevent unnecessary mental suffering and anguish for his next-of-kin.

29. Those rights are protected by the due process clause of the Fourteenth Amendment.

30. Defendants proposed actions violate Philip Workman's rights under the Fourteenth Amendment, including substantive due process.

C.

42 U.S.C. § 1983: U.S.Const. Amendment IX

31. Plaintiffs incorporate all preceding paragraphs.

32. Philip Workman has fundamental and traditional rights to personal autonomy, bodily integrity, freedom from unwanted touching and viewing by others, personal human dignity, and to make decisions about his own body, including its handling upon death, and to prevent unnecessary mental suffering and anguish for his next-of-kin.

33. Those rights are protected by the Ninth Amendment.

34. Defendants proposed actions violate Philip Workman's rights under the Ninth Amendment.

WHEREFORE, Mr. Workman respectfully requests that this Court:

1. Enjoin Warden Bell from giving Mr. Workman's body to Dr. Levy and/or any other Defendants;

2. Enter an order requiring Warden Bell, immediately upon Mr. Workman being pronounced dead, to release Mr. Workman's body to his next-of-kin, personal representative, or their agent(s) or representative(s).

3. Enjoin Defendants from performing any type of action identified in this complaint, including handling, disrobing, and viewing Workman disrobed, and enjoining all Defendants from performing any action or procedure whatsoever on his body or any part of his body (whether or not considered part of an autopsy or pathological investigation), including, but not limited to, any invasive procedure which in any way would penetrate an orifice, penetrate the skin or any other organ, including any procedure or action whereby any tissue, body fluid, or material from Workman's body is removed or sampled or tested or examined in any manner whatsoever, including, but not limited to: incision or scraping of his skin; cutting through his skull and handling his brain; sticking needles into or through his skin to extract fluids or any other tissue; collapsing his eyeballs by sticking needles into them to draw fluids or tissue; touching, dissecting and/or removing his organs, fluids, or other tissue; scientific or histological or chemical or any other type of analysis of any tissue, fluid, or organ. This Court should order that his body be left completely intact as it was upon death. This order should likewise cover any time period starting from the beginning of any execution procedures.

4. Order such other relief as this Court deems just.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "K. Hodde", written over a horizontal line.

Kimberly S. Hodde, Esq.
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Nashville, Tennessee 37203
(615) 242-4200
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on Defendants and their counsel via facsimile on 5/8/07.

