

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PHILIP RAY WORKMAN)
)
v.) NO. 3:01-0296
) JUDGE CAMPBELL
DR. BRUCE LEVY, et al.) CAPITAL CASE
)

ORDER

Pending before the Court are Defendants' Motion To Vacate Orders Granting Preliminary Injunction And Closing Case And/Or Motion to Terminate Preliminary Injunction Order (Docket No. 10); Defendants' Motion To Dismiss Complaint (Docket No. 13); and Plaintiff's Motion To Strike (Docket No. 19).

Through the Motion To Vacate Orders, the Defendants request that the Court vacate the orders it entered in this case approximately six years ago granting the Plaintiff's motion for preliminary injunction and subsequently closing the case administratively (Docket Nos. 8 and 9).

This case was originally filed on March 29, 2001, at which time the Plaintiff filed a Complaint and Motion for Preliminary Injunction, seeking to enjoin Defendants from performing an autopsy on his body after his execution scheduled for the next day. (Docket Nos. 1, 3 and 4). The Court granted Plaintiff's Motion for Preliminary Injunction on March 29, 2001. (Docket No. 8). That Order was immediately appealable pursuant to 28 U.S.C. § 1292(a)(1), and no appeal was taken.

On March 30, 2001, this Court entered an Order which stated: "The Supreme Court of Tennessee having granted a stay of the execution scheduled for March 30, 2001, the Clerk is directed to close the file." (Docket No. 9). No further pleadings were filed in this case until the

pending Motion, and no party filed a Motion to Reopen the case.

On January 17, 2007, the Tennessee Supreme Court set the currently pending execution date of May 9, 2007. On April 11, 2007, more than sixty days later, Defendants filed the pending Motion To Vacate Orders.

Defendants argue that the Court's order closing the file administratively should be vacated so that they now can be permitted to relitigate the merits of the preliminary injunction. Plaintiff argues that Defendants are barred from re-opening this case because they failed to appeal the Court's preliminary injunction order or otherwise seek to reconsider the merits in the six years since the order was issued.

Defendants' filings fail to explain their reason for their six-year delay in seeking to reconsider the merits of the preliminary injunction. Nevertheless, the Court concludes that Defendants should be permitted to re-open this case in order to reconsider the merits of the Court's preliminary injunction order. Thus, the Court grants the Defendants' request to vacate its prior order closing this case administratively (Docket No. 9).

In challenging the Court's preliminary injunction order, the Defendants argue that the Court applied the wrong standard in considering Plaintiff's constitutional challenge.¹ In the Preliminary Injunction Order (Docket No. 8) previously issued by the Court, the Court found that the Defendants had not shown a compelling state interest sufficient to outweigh the Plaintiff's religious rights. The Court further found that irreparable harm would result if the

¹ Defendants argue that the Court applied the standard contained in the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb, et seq., which was struck down in City of Boerne v. Flores, 521 U.S. 507, 117 S.Ct. 2157, 138 L.Ed.2d 624 (1997). Defendants fail to address the applicability of Congress' response to the City of Boerne holding, however, the enactment of the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc-1. See Cutter v. Wilkinson, 544 U.S. 709, 125 S.Ct. 2113, 161 L.Ed.2d 1020 (2005).

injunction were not granted, that issuance of the injunction would not result in substantial hard to others and that the public interest would be advanced by the protection and respect of religious beliefs covered by the First Amendment.

Since the Court issued its Order, District Judge Aleta Trauger, also of this Court, reached a similar conclusion on June 28, 2006, in Alley v. Levy, et al, 3:06-00645 (Docket No. 7).

Nothing in the filings presented by the Defendants persuades the Court that its prior decision was in error. Thus, the Court denies the Defendants' request to vacate its preliminary injunction order. The Court also DENIES Defendants' Motion To Dismiss Complaint (Docket No. 13), as without merit. The Complaint adequately states a claim as a matter of law for the reasons stated above. Plaintiff's Motion To Strike (Docket No. 19) is DENIED as moot.

It is so ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE