

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

PHILIP R. WORKMAN,	)	
	)	
Plaintiff,	)	
	)	
v	)	No.
	)	
	)	<b>CAPITAL CASE</b>
DR. BRUCE LEVY, in his official capacities	)	<b>EXECUTION DATE</b>
as the Chief Medical Examiner for the	)	<b>1 A.M., MARCH 30, 2001</b>
State of Tennessee and Medical	)	
Examiner for the Metropolitan	)	
Government of Nashville and	)	
Davidson County, Tennessee; and	)	
	)	
Ricky BELL, in his official capacity as	)	
Warden, Reverend Maximum	)	
Security Institution.	)	

MEMORANDUM IN SUPPORT OF PRELIMINARY INJUNCTION

When ruling on a motion for a preliminary injunction, a district court must consider and balance four factors: (1) whether the movant has a strong likelihood of success on the merits; (2) whether the movant would suffer irreparable injury without the injunction; (3) whether issuance of the injunction would cause substantial harm to others; and (4) how the public interest would be affected by issuance of the injunction. Blue Cross & Blue Shield Mutual of Ohio v. Blue Cross and Blue Shield Association, 110 F.3d 318, 322 (6th Cir. 1997). Because each of these factors counsel that this Court enjoin Defendant Dr. Bruce Levy from performing an autopsy on Philip Workman's body, this Court should enjoin him from doing so.

I STRONG LIKELIHOOD OF SUCCESS ON THE MERITS

The free exercise clause of the First Amendment prohibits the government from placing a

substantial burden on a sincerely held religious belief without having a compelling interest justifying the burden. Wilson v. National Labor Relations Board, 920 F.2d 1282, 1289-90 (6th Cir. 1990).

Mr. Workman has a sincerely held religious belief that performing an autopsy on his body would amount to the desecration of a Temple of God. See 1/29/01 Declaration of Philip Workman, attached to Mr. Workman's Complaint as Exhibit 1.

There will be no question what caused Mr. Workman's death. The State of Tennessee has established a protocol for killing Mr. Workman. This protocol was developed with the help of a physician who has determined what chemicals and what quantity of those chemicals is necessary to accomplish the homicide of Mr. Workman. Therefore, Defendant Dr. Levy will know why Mr. Workman will be dead - the State of Tennessee killed him by injecting his body with lethal chemicals. Moreover, Dr. Levy's curiosity as to the manner in which said protocol causes death was satisfied by his autopsy of Robert Coe on April 19, 2000. Therefore there is no state interest whatsoever, let alone a compelling state interest in performing an autopsy on Mr. Workman's body.

Because Mr. Workman's sincerely held religious belief far outweighs any state interest in performing an autopsy on his body, Mr. Workman makes a strong showing that he will likely succeed on the merits of his lawsuit. See United States v. Hammer, 121 F.Supp.2d 794, 802 (M.D. Pa. 2000)(attached).

## II IRREPARABLE HARM

If this Court does not enjoin Dr. Levy from performing an autopsy on Mr. Workman's body, he will do so, and a violation of Mr. Workman's sincerely held religious belief will occur.

Nothing could thereafter be done to rectify that violation. Thus, Mr. Workman would suffer irreparable harm if this Court did not enjoin Dr. Levy from performing an autopsy on his body.

### III HARM TO OTHERS/PUBLIC INTEREST

Preventing Dr. Levy from performing an autopsy on Mr. Workman's body harms no one. There is no public interest in having the autopsy performed.

### IV CONCLUSION

Each factor this Court considers in determining whether to enjoin Dr. Levy from performing an autopsy on Mr. Workman's body counsels that this Court enjoin Dr. Levy from doing so. This Court should therefore enter a preliminary injunction precluding Dr. Levy from performing an autopsy on Mr. Workman's body.

Respectfully submitted,

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Post-Conviction Defender

Marjorie A. Bristol  
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CERTIFICATE OF SERVICE

I certify that on March 29, 2001, I hand-delivered a copy of the foregoing to:

Paul Summers  
ATTORNEY GENERAL AND REPORTER  
500 Charlotte Avenue  
Nashville, Tennessee 37243; and

Karl F. Dean  
Director of Law  
Law Department for the Metropolitan Government of  
Nashville and Davidson County, Tennessee  
204 Metro Courthouse  
Nashville, Tennessee 37201

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Donald E. Dawson