

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

JANE GRAHAM, V. Z. LAWTON,)	
)	
Plaintiffs,)	No. TH 01-104
)	
vs.)	
)	
HARLEY LAPPIN, STEVE CARTER,)	
)	
Defendants.)	

RESPONSE TO ORDER OF MAY 17, 2001

Defendant, Steve Carter, the Attorney General of the State of Indiana, by counsel, hereby responds to this Court's order of May 17, 2001, concerning the lack of jurisdiction and the propriety of an injunction. With respect to Defendant Carter, as discussed below, this Court should dismiss the case for want of jurisdiction and deny the request for injunctive relief.

Jurisdiction

Defendant Harley Lappin, as warden of the United States Penitentiary in Terre Haute, Indiana, has filed a responsive pleading discussing the jurisdictional obstacles in this case. Defendant Carter hereby adopts and incorporates by reference the argument contained in that pleading. Based upon that analysis and reasoning, this Court should dismiss this case in its entirety.

The Claims

With respect to Defendant Carter, this Court should refuse to grant relief because Plaintiffs have failed to state a proper claim as to Defendant Carter. The apparent subject of this litigation, inmate Timothy McVeigh, is incarcerated in a federal penitentiary after convictions for federal crimes. *See United States v. McVeigh*, 153 F. 3d 1166, 1176-79 (10th Cir. 1998). The

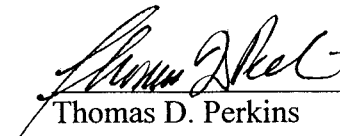
requests for relief refer only to Defendant Lappin in his role as warden of the federal penitentiary where inmate McVeigh is currently incarcerated. Defendant Carter has no role, no influence, and no control over the events involving inmate McVeigh during his incarceration in the federal facility. *See* Ind. Code § 4-6-1-1 *et seq.* In fact, other than identifying Defendant Carter as a “necessary party for matters involving public charitable trust entities doing business in Indiana” in paragraph 6 of the Original Complaint, Plaintiffs make no claims concerning the State of Indiana or Defendant Carter. Furthermore, assuming that allegation to be true, without conceding that it is, Plaintiffs make no claims concerning any “public charitable trust” whatsoever. So, even assuming for the sake of argument that Defendant Carter would be a necessary party for litigation over “public charitable trusts,” Plaintiffs make no claims that require such litigation.

As to Defendant Carter, Plaintiffs, on the face of their pleadings, have failed to state a claim upon which relief can be granted and the claims should be dismissed. Fed. R. Civ. P. 12(b)(6).

WHEREFORE, Defendant Steve Carter respectfully requests that this Court dismiss this case in its entirety, or alternatively, dismiss the claims with respect to Defendant Steve Carter, Attorney General of the State of Indiana, and for all other appropriate relief.

Respectfully submitted,

STEVE CARTER
Attorney General of Indiana




Thomas D. Perkins
Deputy Attorney General
Atty. No. 18428-29

CERTIFICATE OF SERVICE

I, Thomas D. Perkins, certify that I served a copy of this Appearance by first class mail, postage prepaid, on the following this 30th day of May, 2001.

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