

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT  
OF INDIANA**

Jane <b>GRAHAM</b> , and	§	
V. Z. <b>LAWTON</b>	§	
Citizens of the State of Oklahoma,	§	
Plaintiffs	§	
	§	
v.	§	
	§	Cause No. _____
Harley <b>LAPPIN</b> , Warden	§	
United States Penitentiary	§	
Terre Haute, Indiana,	§	
Defendant	§	Oral Argument is Requested
	§	
The Honorable Steve <b>CARTER</b> ,	§	
Attorney General, State of Indiana,	§	
a necessary party for matters involving	§	
public charitable trusts doing business	§	
in Indiana,	§	
Necessary Party	§	

**PLAINTIFFS MOTION FOR  
TEMPORARY INJUNCTION**

**Plaintiffs Motion**

Plaintiffs move that this court issue a temporary injunction. Specifically, Plaintiffs move that the court order the Warden to wait until this matter is completed before doing anything else regarding the execution of Timothy McVeigh.

**The Basis**

1. Relief in equity is appropriate when there is no adequate remedy at law. There is no remedy at law that will stay an execution.
2. The purpose of a temporary injunction is to maintain the status quo pending the outcome of the litigation, or such other time as the court may designate.
3. The relative losses on each side for that time period weigh out this way.

- A. If there is a valid basis for the execution, then, upon review of the facts and law raised here, that execution can proceed at a future date, and that governmental interest is fully maintained. Nothing is lost.
- B. However, if there is no valid basis for the execution, or should it be established that the Plaintiffs' interest in the evidence in the near future outweighs the government's interest in carrying out the sentence so promptly, then, without preserving the status quo, the Plaintiffs' interest is permanently and irretrievably lost.
- C. This balancing of the equities leans strongly in favor of granting the relief here requested.
4. The transferee (Colorado) trial court issuing the death penalty sentence lacked subject matter jurisdiction over all matters that arose in Oklahoma. Thus, such sentencing order is simply void and unenforceable. To proceed is to get dangerously close to acting, without justification or excuse, with the intent of taking another's life, which act might also qualify as knowingly destroying evidence.
5. The language in the indictment alleging murder is not admissible evidence of Law for any matter arising from the collapse of the Murrah Federal Building. Therefore, that pleading does not activate Article III subject matter jurisdiction, and those charges in the indictment are void on their face. Thus, the United States District Court had no authority to try the murder charges, and the adjudication of guilt and the order issuing the death penalty are void and unenforceable.
6. Since McVeigh is allowing representatives to speak, to a national, and perhaps, international, audience, on his behalf about matters that would otherwise be privileged, it follows that McVeigh is now in a position to testify as to these matters, himself. Plaintiffs currently have pending a civil action in Oklahoma arising from the deaths and damages

caused by the collapse of the Murrah Federal Building. The information possible to obtain from McVeigh, in the trial setting, where the information is fully subject to cross examination, is perhaps the most relevant evidence that Plaintiffs could hope to access. To execute McVeigh is to destroy that evidence. Again, the equities, when weighed, lean heavily in favor of preservation of that evidence, in order that the truth, the whole truth, and nothing but the truth, be obtained in the matter currently pending in Oklahoma, among other matters still pending and arising from the same facts and circumstances as Plaintiffs civil suit.

7. It is likely that Plaintiffs will prevail on the merits of this cause.

**Prayer for Relief**

For these reasons, Plaintiffs respectfully request that this court, upon hearing, issue a Temporary Injunction to have the Warden stand down from the currently scheduled execution of Timothy McVeigh, and proceed no further with that without further instructions from this court.

Respectfully submitted,

Harmon L. Taylor  
Texas State Bar No. 19693800

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Lawyer for Plaintiffs

## CERTIFICATE OF SERVICE

On this the 10<sup>th</sup> day of May, 2001, I certify that I have served upon the following parties, by process server, the foregoing Plaintiffs Motion Temporary Injunction, along with the proposed Order:

Warden Lappin  
United States Penitentiary  
4200 Bureau Rd N  
Terre Haute, Indiana 47808

Attorney General Carter  
Indiana Government Center South, 5th Floor  
402 West Washington Street  
Indianapolis, Indiana 46204

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Harmon L. Taylor