

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

July 18, 2011

No. 11-9000

ROBERT W. JACKSON, III

v.

CARL C. DANBERG, Commissioner, Delaware Department of Correction;
THOMAS L. CARROLL, Warden, Delaware Correctional Center;
BUREAU CHIEF PAUL HOWARD, Delaware Bureau of Prisons;
OTHER UNKNOWN STATE ACTORS RESPONSIBLE FOR AND
PARTICIPATING IN THE CARRYING OUT OF PLAINTIFF'S EXECUTION,
Appellants

(D. Del. Civil No. 06-cv-00300)

Present: RENDELL, CHAGARES and HARDIMAN, Circuit Judges.

1. Motion by Appellants to Vacate Preliminary Injunction Granted to Jackson;
2. Exhibits to Motion to Vacate Preliminary Injunction;
3. Response by Appellee in Opposition to Motion to Vacate Stay of Execution, which includes Request for Oral Argument and Request to Remand or, in the alternative, to Hold Appeal in Abeyance;
4. Exhibits to Response in Opposition to Motion to Vacate Stay of Execution;
5. Motion by Appellee for Leave to File Response in Excess of Page Limitation;
6. Motion by Appellants to Accept Noncompliant Filing of Reply to Response to Motion to Vacate Preliminary Injunction;
7. Reply by Appellants to Response to Motion to Vacate Preliminary Injunction.

Respectfully,
Clerk/nmr

ROBERT W. JACKSON, III v. CARL C. DANBERG, No. 11-9000
(D. Del. Civil No. 06-cv-00300)

ORDER

The Court finds that it has jurisdiction under 28 U.S.C. § 1292(a)(1). The orders of the District Court staying the execution of Robert W. Jackson, III are hereby summarily vacated and the matter is remanded. Federal Rule of Civil Procedure 65(d) provides that “every order granting an injunction and every restraining order shall set forth the reasons for its issuance.” Fed. R. Civ. Pro. 65(d). See also E.E.O.C. v. Severn Trent Serv., Inc., 358 F.3d 438, 442 (7th Cir. 2004) (Posner, J.) (“An injunction so poorly buttressed by explanation flunks Fed. R. Civ. Pro. 65(d).”). The orders of the District Court granting a stay of execution are unexplained. We cannot determine whether the District Court’s stay is a proper exercise of discretion, see Rolo v. General Development Corp., 949 F.2d 695, 703 (3d Cir. 1991) (reviewing denial of preliminary injunction for abuse of discretion), without knowing the reasons why the stay was entered, and we decline to speculate about the basis for the court’s decision. Should the District Court reinstate the stay, it must give its reasons for granting a stay of execution, see generally Republic of Philippines v. Westinghouse Elec. Corp., 949 F.2d 653, 658 (3d Cir. 1991) (setting forth traditional requirements for stay), and state when the stay is expected to expire. The motions for leave to file the response and the reply in excess of the page limitations are granted. Because we are vacating the stay of execution, the State’s motion to vacate the injunction is dismissed as moot. The mandate shall issue forthwith.

By the Court,

/s/Marjorie O. Rendell
Circuit Judge

Dated: July 21, 2011

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