

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KAREN SHEEDY : CIVIL ACTION  
: :  
v. : :  
: :  
CITY OF PHILADELPHIA, POLICE : :  
COMMISSIONERS JOHN TIMONEY and : :  
SYLVESTER JOHNSON, POLICE : :  
OFFICER WILLIAM HOLMES, and : :  
RICHARD P. GILLY : NO. 03-06394-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

April 26, 2005

The sole remaining defendant, Richard P. Gilly, was found by a jury to be liable to plaintiff for \$500,3075. On his post-trial motion, this Court reduced the award to a total of \$300,000, and entered judgment in that amount. Mr. Gilly has appealed to the Third Circuit Court of Appeals, and is now seeking to obtain a stay of execution of the judgment without being required to post a bond. He alleges that he is financially unable to secure a bond or to provide other security.

By Memorandum and Order dated April 1, 2005, I noted that it would be necessary for the defendant to provide evidence on that subject, and scheduled a hearing for April 7, 2005. Mr. Gilly did not appear at the hearing, but his counsel continued to press the argument that Mr. Gilly was unable to obtain a bond, and that his appeal of the judgment was obviously meritorious. Plaintiff's counsel stated that he had requested financial

information which had not yet been provided, and that, although he was recently shown a copy of Mr. Gilly's 2003 income tax return, so that he could read it, he was not afforded a copy of that document.

At the conclusion of the hearing, I stated:  
"Here's what we're going to do. I will stay the execution for a period of two weeks. In the interim, Mr. Gilly had better make himself available for cross-examination and proof of what his assets are. If you haven't worked it out within two weeks, we'll hold another hearing."

Plaintiff's counsel asked, "Will that include introducing documents about his financial situation?" and I answered, "absolutely."

By letter dated April 19, 2005, Mr. Gilly's counsel stated he and his client had decided not to present any further evidence, and requested a ruling on the motion for stay without a further hearing. The next day, plaintiff's counsel wrote a letter outlining his unsuccessful attempts to obtain Mr. Gilly's deposition, and suggesting that sanctions should be imposed upon Mr. Gilly for filing a frivolous motion for a stay.

Under date of April 20, 2005, Mr. Gilly's counsel wrote to this Court, enclosing what was stated to be Mr. Gilly's "Personal Finance Statements" which had been submitted to bonding companies, and a letter from a bonding company declining to furnish a \$300,000 bond.

At the scheduled continued hearing on April 26, 2005, Mr. Gilly again failed to appear. From the statements of counsel on both sides, it is very clear that Mr. Gilly is unwilling to be cross-examined concerning his assets, income, and finances in general. The record therefore continues to be devoid of any actual evidence which might support a finding that Mr. Gilly is unable to post a bond in any amount. His counsel's studied decision not to present evidence thus precludes a rational balancing of the equities.

Defendant's motion for a stay of execution of the judgment will therefore be denied.

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ORDER

AND NOW, this 26th day of April 2005, upon  
consideration of the motion of defendant, Richard P. Gilly, for a  
stay of execution of the judgment pending appeal, IT IS ORDERED:

That the motion is DENIED.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.