

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

DEATH ROW PRISONERS OF PENNSYLVANIA, et al.	:	CIVIL ACTION
	:	
v.	:	NO. 96-5304
	:	
THOMAS RIDGE, et al.	:	
	:	

MEMORANDUM

R.F. KELLY, J.

AUGUST , 1997

Plaintiffs Al Albrecht, Richard Young, John Wayne, Mark Spotz and Harvey Robinson, are death row inmates who are presently incarcerated at the Pennsylvania State Correctional Institution at Graterford ("Graterford") and have filed this § 1983 action challenging the constitutionality of the Capital Unitary Review Act, 42 Pa.C.S.A. §§ 9570 et seq. ("CURA"), which amended the Post Conviction Relief Act, 42 Pa.C.S.A. §§ 9541, et seq. ("PCRA").¹ Presently before the Court is a motion to dismiss filed by Governor Thomas Ridge and former Pennsylvania Attorney General Thomas Corbett.² For the reasons that follow,

¹ CURA, which went into effect on January 16, 1996, applies only to capital cases in which the death penalty was imposed and establishes the sole means of challenging proceedings that resulted in a sentence of death. 42 Pa.C.S.A. § 9571(e). Under CURA, a person sentenced to death is entitled to new counsel for purposes of collateral review, which occurs in the trial court after the imposition of sentence and before a direct appeal. 42 Pa.C.S.A. § 9571(b). Collateral appeal then occurs simultaneously with the direct appeal. 42 Pa.C.S.A. § 9571(c). CURA only applies to state court review and death row inmates will still have access to the federal courts through petitions for writs of habeas corpus.

² On January 23, 1997, this Court dismissed all claims against Defendant Robert N.C. Nix, Jr., Chief Justice of the Pennsylvania Supreme Court and Nancy M. Sobolevitch, Court

Defendants' Motion will be granted.

Article III of the United States Constitution gives federal courts jurisdiction only over "cases or controversies." Whitmore v. Arkansas, 495 U.S. 149, 154-55 (1990) (citing Valley Forge Christian College v. Americans United for Separation of Church & State, Inc., 454 U.S. 464, 471-76 (1982)). On August 11, 1997 the Pennsylvania Supreme Court issued an Order which permanently suspended the CURA in its entirety. As a result, there is no case or controversy before the Court at this time. See e.g., Cox v. Stanton, 529 F.2d 47, 49 (4th Cir. 1975)(holding revision of statute at issue rendered action for declaratory judgment moot); Oklahoma City v. Dulick, 318 F.2d 830, 831 (10 Cir. 1963)(holding repeal of ordinance at issue eliminated justiciable controversy from case); McLarty v. Borough of Ramsey, 270 F.2d 232, 234 (3rd Cir. 1959)(holding amendment to ordinance at issue rendered appeal moot). Accordingly, the case is moot and Defendant's Motion to Dismiss will be granted. I shall enter the following Order:

Administrator of the Pennsylvania Courts.

