

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

ESTATE OF MARQUIS ANTHONY : CIVIL ACTION
EDWARDS :
 :
v. :
 :
CITY OF PHILADELPHIA, et al. : NO. 97-CV-7876

CAPRICE SHANTE EDWARDS, et al. : CIVIL ACTION
 :
v. :
 :
CITY OF PHILADELPHIA, et al. : NO. 98-CV-3347

MEMORANDUM AND ORDER

J. M. KELLY, J.

FEBRUARY 1, 1999

Presently before the Court is Caprice and Shakena Edwards' Motion for Reconsideration (Document No. 15) of the Court's December 16, 1998, Order. In that Order, the Court dismissed Caprice and Shakena Edwards' action because they lacked standing to bring the suit under Pennsylvania's Wrongful Death Statute. Caprice and Shakena Edwards' motion for reconsideration raises no new issues of fact or law, and the Court's discussion of its ruling on this motion accordingly will be brief. For the reasons that follow, and those set forth in the Court's December 16, 1998, Order, the motion for reconsideration is denied.

Caprice and Shakena Edwards continue to insist that they have an entirely separate right from the Estate of Marquis Anthony Edwards to bring an action under 42 U.S.C. § 1983. "It must be understood that there is a distinction between § 1983 actions brought on behalf of the Estate which includes the parties who are to take under the estate and § 1983 actions brought on

behalf of persons who are to take independent of the Estate.” (Pls.’ Pet. Reconsid. at 4.) This statement is the sum of their argument, and it fails primarily for one reason: they have failed to answer the Court’s conclusion that a plaintiff can maintain a § 1983 action separate from an estate’s only when the wrongful death statute interferes with the estate’s ability to vindicate those federal rights. See Mem. & Opinion, dated 12/16/98, at 3. In this case, the wrongful death statute does not interfere in any way with the right to bring a § 1983 action, as evidenced by the fact that the Estate, as it turns out, has sued on behalf of Caprice and Shakena Edwards under § 1983. Because Pennsylvania’s Wrongful Death Statute preserves, and does not interfere with, Caprice and Shakena Edwards’ federal rights, the wrongful death statute operates validly here, and its standing requirement will be enforced. Accordingly, the Court properly dismissed Caprice and Shakena Edwards’ action, and their motion for reconsideration is denied.

An Order follows.

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ORDER

AND NOW this 1st day of February, 1999, upon consideration of Caprice and Shakena Edwards' motion for reconsideration (Document No. 15), and the Estate of Marquis Anthony Edwards' response thereto, it is hereby **ORDERED** the motion is **DENIED**.

BY THE COURT:

JAMES MCGIRR KELLY, J.