

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

TEENA FOY,

Plaintiff,

Case No. 4:24-cv-00140-MW-MAF

v.

RICHARD D. DAVISON, in his Official
Capacity, DAVID A. WYANT, in his
Official Capacity, and MELINDA N.
COONROD, Chairperson and
Commissioner, Florida Commission on
Offender Review, in her Official
Capacity,

Defendants.

**PLAINTIFF'S REPLY TO DEFENDANTS'
AMENDED MEMORANDUM IN OPPOSITION TO PLAINTIFF'S
RENEWED MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff Teena Foy files this Reply to *Defendants' Amended Memorandum in Opposition to Plaintiff's Renewed Motion for Preliminary Injunction* (ECF No. 59-1), addressing new arguments raised by the Defendants therein, as authorized by this Court's Order (ECF No. 60).

Teena Foy wants the freedom to speak with, correspond with, associate with, and worship with her son. She lost this right because, apparently, someone at the

Florida Department of Corrections checked a box on a checklist. *See Exhibit 1, FDOC Recommendations.*¹ That is not due process.

Still trying to shoehorn this case into the framework of wrongful death actions, Defendants cite an out-of-circuit case from 1985 proposing that Plaintiff “must prove that Defendants imposed the no-contact condition of Mr. Graham-Foy’s release with the express intent of interfering with Ms. Foy’s First Amendment right of intimate association with Mr. Graham-Foy.” *See* ECF 59-1, at p. 3, citing *Trujillo v. Bd. of Cty. Comm’rs*, 768 F.2d 1186, 1190 (10th Cir. 1985). That is not the law in this Circuit, and even if were so, it would only apply to a case seeking compensation for wrongful deaths—not one only seeking injunctive relief.

No controlling law requires Foy to prove, nor even allege, that the Defendants acted with specific intent, and this Court should decline to create such a requirement. As Plaintiff previously briefed, the standard for a relative to seek monetary compensation *in a wrongful death case* has always been different than the standard for someone who seeks injunctive relief to stop a deprivation of constitutional rights. *See* ECF No. 55, at 13-18.

The Eleventh Circuit has never applied any specific intent requirement to intimate or familial association claims, nor any other First Amendment or Fourteenth

¹ This document was referenced in the affidavits filed by two of the Defendants but was not attached. ECF Nos. 58-1, 58-2.

Amendment claims. There is no cause to create a new barrier to constitutional claims in this court. Plaintiff asks the Court to follow the time worn and obvious approach: If a plaintiff's First Amendment rights are violated, whether it is speech, religion, or association, then the plaintiff can seek injunctive relief to make the harm stop.²

Even if this court were to adopt *Trujillo*, it would not mean what the government asserts it to be. Plaintiff would not need to show that the Defendants were motivated by a specific intent to violate the Constitution. Even the Tenth Circuit interpreted *Trujillo*'s *intent* requirement to mean the defendant "***directed conduct at the familial relationship 'with knowledge that the statements or conduct will adversely affect that relationship.'***" *Doe v. Woodard*, 912 F.3d 1278, 1301 (10th Cir. 2019), quoting *Lowery v. City of Riley*, 522 F.3d 1086, 1092 (10th Cir. 2008) (emphasis added).

Defendants swear that they were not "motivated by an intent to interfere with any relationships between Mr. Graham-Foy and Plaintiff." ECF 58-1, ¶ 7; ECF 58-2, ¶ 7. Their motivations are not relevant. It is uncontroverted that prior to making their decision to implement the no-contact provision at issue, the Defendants had full knowledge that doing so would adversely affect the relationship between Plaintiff and her son because not only did Plaintiff send letters informing Defendants

² Having to pay damages for a violation is another story, which is why the cases the government relies on are about plaintiffs seeking damages for deprivation of companionship by a family member. Foy does not seek damages here.

of this fact, but Plaintiff also personally appeared at a hearing before the Defendants and put them on notice of the imminent adverse effect. *See* ECF No. 30-6, Plaintiff's Letters to FCOR; ECF No. 42-3, Recording of FCOR Hearing.

In other words, even if *Trujillo* did apply, the standard, as clarified by *Woodard*, would be satisfied because Plaintiff alleges that Defendants imposed the no-contact condition which infringed upon Plaintiff's right of association with knowledge that imposing the condition would infringe upon her rights.

In light of the foregoing, Plaintiff respectfully requests this Court to grant the injunction sought and allow her to be with her son, given her urgent circumstances.

Dated: June 20, 2024.

Respectfully submitted,

/s/ Marc J. Randazza

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 20, 2024, a true and correct copy of the foregoing document was filed electronically with the Clerk of Court and has been served on all parties of record through the CM/ECF system.

/s/ Marc J. Randazza

MARC J. RANDAZZA