

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

TONY ALAMO CHRISTIAN
MINISTRIES, ET AL.

Plaintiff

v.

Case No. 4:09cv-4031 HFB

JOHN SELIG, ET AL.

Defendants

**PLAINTIFF'S ADDITIONAL MEMORANDUM WITH EXHIBIT IN SUPPORT
OF THE COMPLAINT, MOTION FOR PRELIMINARY INJUNCTION AND
MOTION REQUESTING DISCOVERY**

Comes now the Plaintiffs, Tony Alamo Christian Ministries, Albert Ralph Krantz and Gregory Seago, by and through the undersigned attorney of record and respectfully submits this Memorandum Argument as additional argument in support of the Complaint, The Motion for a Preliminary Injunction and The Motion Requesting Discovery prior to an evidentiary hearing on the Motion for Preliminary Injunction.

Attached to this memorandum is an exhibit [Ex. 1] that is respectfully submitted to the Court by separate cover as said exhibit must be filed under seal and in conformity with the Protective Order heretofore entered by the Court.

The exhibit is a true and accurate copy of portions of a probable cause hearing in the Circuit Court of Miller County, Arkansas, No: JV-08-264-2 conducted by the Honorable Jim Hudson on September 26, 2008. Due to the nature of the proceedings, no further identification of said exhibit will be publicly noted. However, page and line

references will be identified in the body of this Memorandum without the public identification of the witness.

[I]

WHAT DID THE DEFENDANTS KNOW AND WHEN DID THEY KNOW IT

Of critical importance and relevancy to the issues before the Court, is the question: What did the Defendants know and when did they know the information concerning the alleged allegations of abuse they employed in order to institute dependency actions in the Circuit Court of Miller County, Arkansas. Were the actions by the Defendant's pretextual and performed to accomplish the impermissible purpose of damaging the Church? Were the dependency actions taken to infringe upon the establishment of religion clause of the First Amendment? If so, then the "bad faith" exception to the "*Younger Doctrine of jurisdictional abstention*" simply does not apply to defeat the subject matter jurisdiction of this Court.

Arkansas Code 9-27-303 (18) allows a State to act in the area of the fundamental liberty interest of family integrity only if it can be shown a child is a "*dependent-neglected child.*" This term has been defined by 9-27-303 (18) as "*one who, as a result of abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness is at substantial risk of serious harm.*" The key term in this definition is "*substantial risk of serious harm.*" This has been defined by the courts of Arkansas to mean the harm must be immediate and substantial so that State intervention into family choice and integrity is required by the exigent circumstances of the situation. Future, speculative or imaginary

harm is not sufficient to constitutionally justify the legitimate exercise of the police action in an area of privacy clearly protected by the First (1st) Amendment and the substantive provisions of the due process clause as made applicable to State action.

Thus, to justify the State dependency actions the Defendants would have to show that the children taken into State custody and who were the subject of the State dependency actions were in some sort of immediate danger. See, Johnson v. Arkansas Department of Human Services, 935 S. W. 2d 589, 55 Ark. App. 392 [1996]

The Defendants have repeatedly advanced the position that they knew nothing about the Tony Alamo Christian Ministries [The Church] until almost immediately before the raid was conducted on the compound of the Church in September 2008. This assertion is simply not true as revealed by the attached, sealed exhibit.

The sealed exhibit reflects that the Tony Alamo Christian Ministries had been under active investigation for a two (2) year period of time before the raid in September 2008 by the FBI and the Arkansas police. The exhibit further reveals that three (3) of the alleged female victims had been interviewed six (6) months before the September 2008 raid. The exhibit reveals that special forensic psychology teams had been established by the Defendants to interview all females of the Church before the September 2008 raid. The exhibit reveals that special people were appointed by the Defendant Selig to take into custody all females of the Church under the age of eighteen at the time of the raid regardless of what conditions were found to exist.

The evidence and testimony in the sealed exhibit to this Memorandum establishes only one of two conclusions. First, the Defendants knew of the alleged abuse for a substantial period of time and did nothing to protect the children for a considerable period of time, or, secondly, the alleged abuse did not rise to the definition of “substantial risk of serious harm” as required by the Arkansas Statute. There can be no other conclusion drawn from this evidence. The Defendants were either derelict in the performance of their duties or the alleged abuse was a pretext they employed to destroy the Church.

The raid on the Church of September 2008 was carefully planned and orchestrated, not for the purpose of protecting children, but as a direct assault on the Church itself.

The following pages and line numbers in the sealed exhibit prove all of the above conclusively and should raise a sufficient concern with the Court to require a full evidentiary hearing on the Plaintiffs constitutional claims with the corresponding discovery rights. The Plaintiff’s can prove “bad faith” on the part of the Defendants if given a reasonable opportunity to do so. The Younger Doctrine is simply not applicable to the facts and circumstances before the court.

Counsel would respectfully refer the Court to the following pages and line numbers in the sealed exhibit attached to this Memorandum filed under separate cover.

- [1] Pg. 31, Line 2-14
- [2] Pg. 32, Line 4-9
- [3] Pg. 34, Line 4-9
- [4] Pg. 36, Line 2-11
- [5] Pg. 43, Line 2-6
- [6] Pg. 43, Line 7-15
- [7] Pg. 54, Line 23-25

- [8] Pg. 55, Line 19-25
- [9] Pg. 57, Line 1-10
- [10] Pg. 62, Line 13-22
- [11] Pg. 100, Line 17-22
- [12] Pg. 102, Line 11-14
- [13] Pg. 102, Line 17-24
- [14] Pg. 103, Line 18-23
- [15] Pg. 104, Line 15-23
- [16] Pg. 105, Line 3-11

[II] **CONCLUSION**

The Plaintiff's respectfully asserts that the attached exhibit clearly shows that the intent and purpose of the Defendants was not to protect children, but to get Tony Alamo and destroy his church. They used the dependency laws of the State of Arkansas to accomplish their purpose. The inherent danger this official attitude expresses toward a religious group is alarming in its scope and consequences. A two (2) year campaign of preparation targeting the Alamo Ministry clearly threatens one of Americas most cherished freedoms: the right to worship as one sees fit and the right to be let alone, secure and protected from governmental interference, even if the prevailing mood of the community is opposed to the religious expression and practices.

Again, the Plaintiffs respectfully move this Honorable Court to grant them an evidentiary hearing on the constitutional claims raised in the complaint and the other motions filed by the Plaintiffs.

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SERVICE LIST

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I, Phillip E. Kuhn, hereby certify that on June 9, 2009, I electronically filed the foregoing Plaintiff's Additional Memorandum with Exhibit in Support of the Complaint, the Motion for Preliminary Injunction and Motion Requesting Discovery with the Clerk of the court using the CM/ECF System which will serve the following individuals:

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