

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

STEPHANIE BOWENS, JAMES CORBIN,)	
LARRY GREEN, ERNEST JONES,)	
KEVIN LITTLE, ROBERT LOZANO,)	
ALBERT PULIDO, DENISE SMITH, and)	
CHARLES THOMAS,)	No. 06 C 4915
)	
Plaintiffs,)	Judge Gottschall
)	
v.)	Magistrate Judge Denlow
)	
GOVERNOR ROD BLAGOJEVICH,)	
)	
Defendant.)	

MOTION TO DISMISS

NOW COMES Defendant Governor Rod Blagojevich, by and through his attorney, Lisa Madigan, Illinois Attorney General, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure moves this Court to dismiss Plaintiffs’ Complaint. In support of this Motion, Defendant states as follows:

1. Plaintiffs filed their Complaint on September 11, 2006.
2. The Complaint claims that the Governor has violated Plaintiffs’ right to due process of law under the Fifth and Fourteenth Amendments to the U.S. Constitution and under the Illinois Constitution and Illinois statutes as a result of the Governor’s not having made a decision on their petitions for clemency. Plaintiffs seek injunctive relief in the form of an order requiring the Governor to act on Plaintiffs’ clemency petitions “within a reasonable period of time.”
3. Because the Illinois Constitution vests the Governor with full discretion to grant or deny clemency, Plaintiffs cannot state a claim for violation of due process.

4. The Governor submits and incorporates herein by reference his supporting Memorandum of Law.

WHEREFORE, Governor Rod Blagojevich respectfully requests that this Honorable Court grant his Motion and dismiss with prejudice Plaintiffs' Complaint.

LISA MADIGAN
Attorney General of Illinois

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned, an attorney of record, states that a copy of the attached motion to dismiss was served November 1, 2006 by electronic filing pursuant to Rule XI of this Court's General Order on Electronic Case Filing.

/s/ Peter C. Koch

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