

No. 02-4091

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

BOOKFRIENDS, INC., d/b/a Wilkie News, et al.,

Plaintiffs- Appellees,

v.

BOB TAFT, Governor,

Defendant,

JIM PETRO, Attorney General, et al.,

Defendants-Appellants

Before: MOORE and GIBBONS, Circuit Judges; SCHWARZER, District Judge\*

\*The Honorable William W. Schwarzer, United States District Judge  
for the Northern District of California, sitting by designation.

The defendants appeal a preliminary injunction that finds Ohio Revised Code Sec. 2907.01(E) unconstitutional and enjoins the enforcement of state law prohibiting the distribution to juveniles of material that falls within Sec. 2907.01(E)'s definition of "harmful to juveniles." The Ohio General Assembly has amended Sec. 2907.01(E), effective January 1, 2004. The amended statute substantially alters the definition of "harmful to juveniles." The defendants now move to remand this action to district court, asserting that due to the amendment to Sec. 2907.01(E), it is not necessary for this court to review the preliminary injunction based on the prior definition. Rather, they request that the action be remanded so that the district court may consider the constitutionality of the statute as it has now been amended. The plaintiffs support the motion to remand, but note that the preliminary injunction should remain in effect until the effective date of the amended Sec. 2907.01(!  
E).

The parties are in agreement that review by this court is not required and the action should be remanded to the district court for further proceedings in light of the amendments to Sec. 2907.01(E). Therefore, the defendants' motion to remand is GRANTED, and this action is remanded to the district court. The preliminary injunction shall remain in effect

until further order of the district court.

ENTERED BY ORDER OF THE COURT