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# The Jury Is Still Out on Elvis

He might have left the building, but he shows up often in the courts.

By Randy Maniloff  
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TEXT



Elvis Presley in 1972. PHOTO: /ASSOCIATED PRESS

Elvis Aaron Presley would be 85 Wednesday. While he died in 1977, there’s one building he hasn’t left: the courthouse.

In *Gentry v. Carnival Corp.* (2012), U.S. Magistrate Judge Jonathan Goodman of the Southern District of Florida, observed that parties that withhold documents in discovery may lead their adversaries to suspect that they are sitting on a smoking gun. That reminded Judge Goodman of a 1969 Elvis hit: “We can’t go on together / With suspicious minds / And we can’t build our dreams / On suspicious minds.”

Some judges cited Elvis as a legal authority when resolving disputes. In *Patel v. Texas Department of Licensing and Regulation* (2015), the Texas Supreme Court addressed a challenge to the state’s cosmetology rules, which distinguish between cutting hair and shaving a beard.

The court noted that the state’s attorney general sought guidance on the issue from Elvis’s sideburns. He concluded that the sideburns Elvis wore early in his career were part of his hair. But then the question got less clear-cut: “Whether the muttonchops which adorned his face at the time of his death were hair which a cosmetologist might trim, or a partial beard which could be serviced only by a barber, is a question which in the absence of any articulated standard might well present difficulties to a cosmetologist who wished to remain within his or her licensed practice.”

In *Zoe v. Zoe* (2014), a child-custody case, a father alleged that his daughter’s mother abused her parental discretion by taking their 11-year old daughter to a Pink concert. The father got all shook up, arguing that the show was age-inappropriate due to foul language in Pink’s lyrics and sexual themes and dancing in the show. In concluding otherwise, the New Jersey court observed that at one time Elvis was the subject of parental and cultural concern on account of his onstage gyrations.

Elvis Presley Enterprises Inc., which manages the King’s assets, has frequently said “that’s not all right” to the unauthorized use of Elvis’s name and likeness. In *Elvis Presley Enterprises v. Capece* (1988), Judge Carolyn Dineen King (really) of the Fifth U.S. Circuit Court of Appeals enjoined a Houston night club from calling itself The Velvet Elvis. The club’s décor included a painting of Elvis, and the bar’s menu included “Love Me Blenders.”

The day after Christmas last year, the Tennessee Court of Appeals ruled in *Elvis Presley Enterprises v. City of Memphis*, a dispute about the company’s plan to build a 6,200-seat arena on its Graceland campus.

At issue is a 2001 noncompete clause concerning Memphis’s FedExForum, home of the National Basketball Association’s Grizzlies. The clause prohibits Memphis or Shelby County from financing the construction and operation of an arena between 5,000 and 50,000 seats. While EPE’s arena would be a little sister to the FedExForum, perhaps the Grizzlies see a devil in disguise.

So far the courts, upholding the clause, have not shown any burning love for EPE’s plans. Elvis may be long dead, but *viva las leys*.




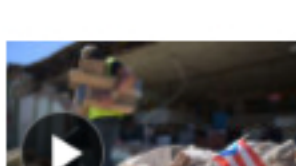
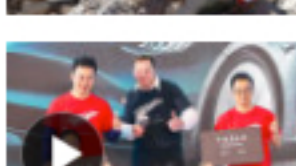
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