

**IN THE CHANCERY COURT FOR THE ELEVENTH JUDICIAL DISTRICT
OF TENNESSEE**

STATE OF TENNESSEE, EX REL.)	
DAVID JONATHAN TULIS,)	
)	
)	NO. 20-0685
VS.)	
)	PART 1
)	
BILL LEE, GOVERNOR, STATE OF)	
TENNESSEE, IN HIS PERSONAL CAPACITY)	
IN HIS OFFICIAL CAPACITY)	
)	
REBEKAH BARNES, ADMINISTRATOR)	
HAMILTON COUNTY HEALTH DEPARTMENT)	
IN HER PERSONAL CAPACITY)	
IN HER OFFICIAL CAPACITY)	

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FILED
HAMILTON CO CLERK & MASTER



ORDER

This cause came on for hearing telephonically on January 11, 2021, pursuant to the Order entered on December 8, 2020, upon “Defendant Governor Lee’s Motion to Dismiss Petition in Equity and for Writ of Mandamus”; “Defendant Governor Lee’s Memorandum of Law in Support of Motion to Dismiss Petition in Equity and for Writ of Mandamus”; and the “Motion to strike motion to dismiss and, in the alternative, motion for misjoinder and transfer, and for other purposes, in the interest of justice” filed by David Jonathan Tulis, Relator.

The Court took the matter under advisement.

**LEGAL STANDARD FOR MOTION TO DISMISS FOR FAILURE TO
STATE A CLAIM**

The Governor filed this motion to dismiss pursuant to T.R.C.P. 12.02(6) for failure to state a claim upon which relief can be granted. A motion to dismiss a complaint for failure to state a claim for which relief may be granted tests the legal sufficiency of the plaintiff’s complaint. *Lind v. Beaman Dodge, Inc.*, 356 S.W.3d 889, 894 (Tenn. 2011).

Dismissal under Tenn. R. Civ. P. 12.02(6) is warranted only when the alleged facts will not entitle the plaintiff to relief, *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011), or when the complaint is totally lacking in clarity and specificity, *Dobbs v. Guenther*, 846 S.W.2d 270, 273 (Tenn. Ct. App. 1992). A Tenn. R. Civ. P. 12.02(6) motion admits the truth of all the relevant and material factual allegations in the complaint but asserts that no cause of action arises from those facts. *Webb*, 346 S.W.3d at 426. In considering a motion to dismiss, court must construe the complaint liberally, giving the plaintiff the benefit of all reasonable inferences. *Id.* However, the Court need not accept as true mere conclusory allegations, *Kincaid v. South Trust Bank*, 221 S.W.3d 32 (Tenn. Ct. App. 2007), nor legal arguments or conclusions couched as facts. *Riggs v. Burson*, 941 S.W.2d 44, 47-48 (Tenn. 1997). A court should only grant a motion to dismiss when it appears that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief. *Webb*, 346 S.W.3d at 426. The undisputed material facts at issue when considering a Rule 12 motion are those stated in the complaint. *Findley v. Hubbard*, M2017-01859-COA-R3-CV, 2018 WL 3217717, at *6 (July 2, 2018)

**LEGAL STANDARD FOR MOTION TO DISMISS FOR LACK OF SUBJECT
MATTER JURISDICTION**

As additional authority, for this motion, the Governor moved to dismiss pursuant to T.R.C.P 12.02(1) for lack of subject matter jurisdiction. A Rule 12.02(1) motion to dismiss for lack of subject matter jurisdiction addresses the power of the court to adjudicate an issue and should be reviewed as a threshold inquiry. *Redwing v. Catholic Bishop for Diocese of Memphis*, 363 S.W.3d 436, 445 (Tenn. 2012). When the court's subject matter jurisdiction is challenged, the burden is on the plaintiff to demonstrate that the court has the requisite jurisdiction to hear and adjudicate plaintiff's claims. *Id.* A challenge to the court's subject matter jurisdiction may be either a facial challenge or a factual challenge. When a facial

challenge is asserted, the factual allegations in the plaintiff's complaint are presumed to be true. *Staats v. McKinnon*, 206 S.W.3d 532 at 543-544 (Tenn. Ct. App. 2006). A factual challenge, however, attacks the facts serving as the basis for jurisdiction. *Schutte v. Johnson*, 337 S.W.3d 767 at 770 (Tenn. Ct. App. 2010). The Governor has made a facial challenge to Relator's petition.

LEGAL ANALYSIS

As grounds for his motion, the Governor asserts the Relator lacks standing to bring this action, seeks to enforce a statute that is not applicable to the Governor, and seeks to enforce purely discretionary duties of the Governor.

I. MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM FOR MANDAMUS

Relator seeks a peremptory writ of mandamus for the Governor to act in accordance with T.C.A. 68-5-104. (P. 4, 8, 35, 107) or face contempt. (P. 205).

Initially, this Court determines that a petition for mandamus does not lie for this Court to compel the Governor to do any act, no matter how ministerial, as this Court does not have contempt power to enforce the judgment by his imprisonment. *State ex rel. Latture v. Governor Frazier*, 86 S.W. 319, 320 (Tenn. 1905). The Governor "is not subject of the mandate of any court," "whether the act to be performed is ministerial, executive, or political". *Id.* Therefore, this Court concludes as a matter of law that the Governor's motion to dismiss for failure to state a claim is well-taken.

Further, in general, a court may issue a writ of mandamus but only where (1) the plaintiff's right to the relief sought is clearly established; (2) the defendant has a clear duty to perform the act at issue; and (3) no other plain, adequate, and complete method of obtaining the relief exists. *Cherokee Country Club v. City of Knoxville*, 152 S.W.3d 466,

479 (Tenn. 2004). Further, where a public official has any discretion concerning doing of an act, the issuance of a mandamus is not available. *Tusant v. City of Memphis*, 56 S.W.3d 10, 18 (Tenn. Ct. App. 2001). Additionally, where an official has the duty to do an act only after making determinations, evaluations or judgments, a writ of mandamus will not lie to do the act in any particular way. *Id.* A court will not substitute its judgment for that of an official vested with discretion unless the official has clearly acted arbitrarily and without regard to his duty in the exercise of that discretion. *Id.* In determining whether an act is ministerial, Tennessee courts look to whether the law defines the duties to be performed with such precision and certainty as to leave nothing to the exercise of judgment. *Id.*

Relator alleges that the Governor has the burden of proof to demonstrate the compelling interest for his official acts. (P. 54) However, as now-Justice Kirby explained in *Manhattan, Inc. v. Shelby County*, because a relator seeks the writ, the relator has the burden of establishing that he is entitled to the writ. *Manhattan*, W2006-02017-COA-R3-CV, 2008 WL 639791 at *7 (March 11, 2008).

Relator claims that this ministerial act that the Governor clearly has a duty to perform is found in T.C.A. 68-5-104. (P. 24, 30-35-41, 48, 130, 205, 206).

T.C.A. 68-5-104 is entitled “Quarantine—Penalty for Escape” and provides:

(a)(1) It is the **duty of the local health authorities**, on receipt of a report of a case, or suspected case, of disease declared to be a communicable, contagious, or one which has been declared by the commission of health to be subject to isolation or quarantine, to confirm or establish the diagnosis, to determine the source or cause of the disease and to take such steps as may be necessary to isolate or quarantine the case or premise upon which the case, cause or source may be found, as may be required by the rules and regulations of the state department of health.

(2) The **commissioner** is authorized and directed to promulgate and publish such rules and regulations as may be necessary to prevent the spread of contagious or communicable diseases in order to protect the public health and welfare.

(b) Any person isolated or quarantined in accordance with any statute or rule or regulation promulgated and published in accordance with statutes relating

to isolation and quarantine, who willfully escapes from such isolation or quarantine commits a Class B misdemeanor.

(c) Whenever any one of the **local health authorities, either municipal or county** as the case may be, isolates, quarantines or placards any person or house for communicable diseases, it is the duty of the health official to deliver or cause to be delivered to the head of the household a copy of this law or such portion of this law as may pertain to the particular case under construction.

(Emphasis added)

It is a well-established rule of statutory construction that we must assume that every word in the statute has meaning and purpose. *Lind v. Beaman Dodge, Inc.*, 356 S.W.3d 889, 895. Moreover, the purpose of statutory interpretation is to carry out the legislative intent without broadening or restricting a statute beyond its intended scope. *Houghton v. Aramark Educ. Res., Inc.* 90 S.W.3d 676, 678 (Tenn. 2002). Finally when a statute is clear, courts apply the plain meaning without complicating the task. *Eastman Chemical Co. v. Johnson*, 151 S.W.3d 503, 507 (Tenn. 2004)

Thus applying the plain meaning of the statute without broadening it, T.C.A. 68-5-104 addresses the duty of **local health authorities** and **the commissioner**--not the Governor. Nowhere in the statute is the Governor even mentioned. Thus Relator has failed to allege any precise ministerial duty set forth in T.C.A. 68-5-104 which the Governor is clearly required to perform. As such, the Court concludes as a matter of law that the motion to dismiss the mandamus for failure to state a claim against the Governor in his official capacity is well-taken.

Relator also complains of acts of the judiciary, the W.H.O. and the C.D.C. (P. 85, 86). Those allegations also fail to state a claim for relief against the Governor.

In addition to the aforementioned substantive grounds supporting the Governor's motion to dismiss, the Court also finds that Relator's mandamus action is procedurally deficient.

Relator demanded a peremptory writ to benefit the public at large. (P. 8)

T.C.A. 29-25-102 entitled, "Alternative and peremptory writs" provides:

- (a) The writ is either alternative or peremptory.
- (b) The alternative writ commands the defendant to do the act required to be performed or show cause before the court forthwith, or at a specified time and place, why the defendant has not done so, and that the defendant then and there return the writ.
- (c) The peremptory writ commands the defendant to do the act and return the writ accordingly.

Thus while Relator demanded a peremptory writ, a peremptory writ is not issued before an alternative writ. *State ex rel. Brumit v. Grindstaff*, 234 S.W. 510 at 513 (Tenn. 1921). This is so the opposing party has notice and an opportunity for a hearing. *Id.*

Further Relator failed to file an alternative writ and failed to plead with specificity what the alternative writ should contain. While a court must give some leeway to a pro se litigant, courts must not excuse pro se litigants from complying with the same substantive and procedural rules that represented parties are expected to observe. *Young v. Barrow*, 130 S.W.3d 59, 63 (Tenn. Ct. App. 2003).

Thus because Relator failed to submit an alternative writ, the Court had no writ to issue to the Governor. It is not the duty of the Court to prosecute the case for the Relator. *Young*, 130 S.W.3d at 63. Nor is it the duty of the Court to guess which ministerial act Relator seeks the Governor to perform, as courts cannot create claims or defenses for litigants where none exist. *Id.*

The Relator continues to argue that the Governor is in default. However, unless a prima facie case of mandamus be stated, the defendant need not answer. *Jellicorse v. Russell*, 1 S.W.2d 1011 (Tenn. 1928). *Gentry v. Casada*, M2019-02230-COA-R3-CV, 2020 WL 5587720 at *5. (September 17, 2020). As Relator failed to state a prima facie case against the Governor under T.C.A. 68-5-104, and no writ was issued, the Governor was not

required to answer a writ. Further, even had Relator stated a clear legal right, the issuance of a writ of mandamus is still within the discretion of the trial court. *Harris v. State*, 34 S.W. 1017 (Tenn. 1896).

Thus the Governor was not in default. Rather the Governor had thirty days from service in which to answer or otherwise file a responsive pleading, which he did, by filing this motion to dismiss on November 25, 2020.

Accordingly, the Court concludes that the mandamus action is procedurally deficient and, for that reason also, fails to state a claim against Governor Lee in his official capacity.

II. MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM AGAINST BILL LEE IN HIS PERSONAL CAPACITY

Although the Relator styles the suit as one against Bill Lee in his personal capacity and in his official capacity, the Relator only makes claims against Mr. Bill Lee as the Governor of the State of Tennessee. As there are no allegations against Mr. Lee in his personal capacity, the Court concludes the motion to dismiss for failure to state a claim against Bill Lee in his personal capacity is also well-taken.

III. MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION

While demanding a peremptory writ for alleged violations of T.C.A. 68-5-104, the Relator intermingles additional claims in his petition for mandamus. Relator has cited no authority that provides that, in a mandamus action, a relator can obtain additional relief other than the writ ordering the official to perform some clear ministerial duty. Rather case law provides that the purpose of mandamus is to execute, not to adjudicate. *State ex rel. Metro Government of Nashville and Davidson County v. State of Tennessee*, 534 S.W.3d 928, 930 (Tenn. 2017). Further mandamus does not ascertain or adjust claims between parties, nor is it used to establish a claim of uncertain merit. *Peerless Construction Co. v.*

Bass, 14 S.W.2d. 732 (Tenn. 1929). Moreover, if Relator has an adequate remedy otherwise, then Relator is not entitled to a mandamus. *Mobile & O.R. Co. v. Wisdom*, 52 Tenn. 125 (1871). The writ of mandamus is not a writ of right, and is not granted as a matter of course. *Id.* It only lies where the law has established no specific remedy. *Id.*

Relator alleges that “the Constitution and laws of the state of Tennessee . . . have been and are being contravened, and rights granted or secured thereby are being infringed, unwarranted power exercised in an arbitrary and oppressive manner by the respondents such as to justify the interference of this honorable court to prevent wrong and oppression.” (P. 201). Relator requests that this Court quash all orders relative to Covid, (P. 204) and requests that this Court “maintain oversight over this government-caused, pseudo-crisis” (P. 208), because Relator “knows of no one experiencing the symptoms”. (P. 171). Relator demands that this Court declare that the Governor is acting outside the scope of his lawful authority, (P. 203), and demands this Court to do anything it deems serves the ends of justice to relieve Relator and fellow Tennesseans of ongoing wrongs and oppression. (P. 5) Relator also “demands the respondents’ wrongful acts done under color of authority be halted, emptied of all force and effect and be declared void ab initio.” (P. 5).

The Governor argues that Relator lacks standing to raise these additional claims, because standing cannot be based on an alleged injury that a plaintiff has in common with all other citizens.

Tennessee law provides that in determining whether the plaintiff has a personal stake sufficient to confer standing, the focus is on whether the complaining party has alleged an injury in fact, economic or otherwise, which distinguishes that party, in relation to the alleged violations, from the undifferentiated mass of the public. *Mayhew v. Wilder*, 46 S.W.3d 760 (Tenn. Ct. App. 2001). Additionally a plaintiff must demonstrate a causal

connection between the plaintiff's injury and the challenged conduct. *City of Memphis v. Hargett*, 414 S.W.3d 88 (Tenn. 2013). Lastly, the plaintiff must show that the alleged injury can be redressed by a favorable decision of the court. *Id.*

Further in *American Civil Liberties Union of Tennessee v. Darnell*, 195 S.W.3d 612, 620 (Tenn. 2006) the Tennessee Supreme Court held that standing may not be predicated upon an injury to an interest that the plaintiff shares in common with all other citizens. "Were such injuries sufficient to confer standing, the State would be required to defend against a "profusion of lawsuits" from taxpayers, and a purpose of the standing doctrine would be frustrated." *Id.*

During the hearing Relator argued that *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540 (2016) supports his standing to file this action. Accordingly this Court will review the *Spokeo* opinion.

In *Spokeo* Mr. Robins filed a federal class action against Spokeo, a consumer reporting agency, alleging that the company willfully failed to comply with the Federal Credit Reporting Act. The Ninth Circuit had determined that Mr. Robins had standing to sue. However, the USSCt vacated the Ninth Circuit's standing decision and remanded. Thus *Spokeo* does not support Relator's claim of standing. However, the *Spokeo* opinion does provide much insight into the doctrine of standing generally.

In *Spokeo*, Judge Alito noted that standing to sue is a doctrine rooted in the traditional understanding that courts should only hear actual cases or controversies. *Id.* at 1547. The standing doctrine developed to ensure that courts do not exceed their authority, and the requirement of standing prevents the judicial process from being used to usurp the powers of political branches. *Id.*

Further the irreducible constitutional minimum of standing consists of three

elements: (1) the plaintiff must have suffered an injury in fact (2) the injury is fairly traceable to the challenged conduct of the defendant and (3) the injury is likely to be redressed by a favorable judicial decision. *Id.* To establish injury in fact, a plaintiff must show that he or she suffered an invasion of a legally protected interest that is concrete and particularized and actual or imminent, not conjectural or hypothetical. *Id.* at 1548. For an injury to be particularized it must affect the plaintiff in a personal and individual way. *Id.*

In his concurrence in *Spokeo*, Justice Thomas noted that common law courts more readily entertain suits from private plaintiffs who allege a violation of their own rights in contrast to actions, such as the instant case, where private plaintiffs assert claims vindicating public rights. *Id.* at 1550. Further, standing imposes limits on the judiciary to preserve separation of powers by preventing the judiciary's entanglement in disputes that are primarily political in nature. *Id.* Justice Thomas noted that for public rights that involve duties owed to the whole community, a plaintiff has to allege that the violation caused him some **extraordinary** damage beyond the rest of the community. *Spokeo*, 136 at 1551. The standing doctrine keeps courts out of political disputes by denying private litigants the right to test the abstract legality of government action. *Id.*

In footnote 7 of *Spokeo*, upon which Relator relies, the court noted that the fact that an injury may be suffered by a large number of people does not, of itself, make that injury a nonjusticiable generalized grievance. However, footnote 7 refers specifically to victims' injuries from a mass tort, and notes that, in such a case, each individual suffers a particularized harm.

Footnote 7 also refers to the case of *Public Citizen, Inc. v. National Highway Traffic Safety Administration*, 489 F.3d 1279 (C.C.D.C. 2007), an opinion written by then-Judge Kavanaugh. In *Public Citizen*, Judge Kavanaugh opined that while it does not matter how

many persons have been injured by the challenged action, the party bringing suit **must** still show that the action injures him in a concrete and personal way, because a generalized grievance is not justiciable. *Id.* at 1292-1293.

Turning to the Relator's petition, Relator sues so that dignity be "restored **to the people**" (P. 21), not to Relator. Relator alleges harms to "commerce, travel and constitutionally guaranteed rights." (P. 21). This Court determines that Relator only alleges generalized grievances. As now-Justice Kavanaugh explained, generalized grievances are not justiciable.

Relator also alleges wrongful acts done under color of authority and asserts that this Court should order the Governor to faithfully follow the law and to keep accurate records. (P. 205). However, standing doctrines reflect the rule that citizens cannot appear in court simply to insist that the government and its officials adhere to the requirements of law. 13B Charles Alan Wright & Arthur R. Miller, "Federal Practice and Procedure" Section 3531.10 (3d ed. 2016).

Further Relator asks this Court to "deal with him *as one of the people of Tennessee, not as a person or an individual*" (P. 14); demands "remedy for the extraordinary irreparable harm done to him *and the state of Tennessee*" (P. 14); and alleges "that he *and the state of Tennessee* are being irreparably injured by respondents" (P. 21). In fact the "*entire injury is to the state of Tennessee*" (P. 23), and "*jeopardizes everyone in the state of Tennessee*" (P. 52), so Relator sues so that dignity be restored *to the people* (P. 21), and demanded a peremptory writ *to benefit the public at large*. (P. 8).

The above allegations demonstrate that Relator seeks relief that no more benefits the Relator than it does the public at large. Relator failed to allege how the Governor's actions injured Relator in a concrete and personal way. Nor has Relator alleged some extraordinary

damage to him personally, beyond that of the rest of the community. However, standing may not be predicated upon an injury to an interest that the Relator shares in common with all other citizens. *Darnell*, 195 S.W.3d at 620, *supra*.

Thus the Relator failed to meet the first element of the irreducible constitutional minimum of standing, as Relator failed to allege that he suffered a particularized concrete injury in fact. Further since Relator failed to allege he suffered a personal, concrete injury, then Relator has no act of the Governor to challenge, nor is there any injury for this Court to address. The Court concludes as a matter of law that the motion to dismiss is well-taken as the Relator lacks standing to bring this action.

Relator also alleges that the Governor's acts breached the established separation of powers principle. (P. 53).

However, T.C.A. 58-2-107(a)(1) provides in pertinent part, "The governor is responsible for addressing the dangers presented to the state and its people by emergencies. In the event of an emergency beyond local control, the governor . . . **may** assume direct operational control **over all or any part** of the emergency management functions within this state" Where an official has discretion to do any act after making evaluations and judgments, a writ of mandamus will not lie. *Tusant*, 56 S.W.3d 18, *supra*. Thus since, in the event of an emergency, the Governor, has discretion, after making an evaluation to assume control over some or all of the emergency management functions, then a mandamus will not lie. Nor will this Court substitute its judgment for that of an official vested with discretion. *Tusant*, *supra*.

Relator also requests that this Court quash all emergency Covid orders, (P. 204) and maintain oversight over the crisis. (P. 208). However, the legislature, at T.C.A. 58-2-107, established that the Governor is responsible for addressing emergencies, not the courts. The

Court discerns it is Relator who seeks to have this Court usurp the powers of the political branches. As Justice Thomas noted in *Spokeo*, such action would have a court violate the constitutional separation of powers.

Accordingly, from all of the above, the Court concludes as a matter of law that Relator lacks standing to sue as he only alleged nonjusticiable generalized grievances. For this reason, the Governor's motion to dismiss for lack of subject matter jurisdiction is well-taken.

IV. MOTION TO DISMISS RELATOR'S CLAIMS FOR COMPENSATION

In his petition, Relator sues Governor Lee in his official capacity and requests equitable compensation (P. 209), reimbursement, indemnification or reparation. (P. 210).

However, a writ of mandamus does not award damages as compensation for an injury. *Mobile & O.R. Co., v. Wisdom* 52 Tenn. 125 (1871). Rather it seeks to give the thing itself that the Relator claims is withheld. *Id.* Moreover damages for delay in doing the thing that the mandamus petition seeks to command, cannot be sought in the mandamus action. *Id.* Thus Relator fails to state a claim for damages in this mandamus action.

Moreover, a suit against a state official in his official capacity is a suit against the State. *Cox v. State*, 399 S.W.2d 776. (Tenn. 1965). However, the doctrine of sovereign immunity prevents suits against the State except in such manner as the Legislature may by law direct. Tennessee Constitution. Article 1, section 17. Relator alleges no statute that allows him to bring this claim.

Further T.C.A. 20-13-102 entitled, "Actions against state prohibited" provides:

- (a) No court in the state shall have any power, jurisdiction or authority to entertain any suit against the state, or against any officer of the state acting by authority of the state, with a view to reach the state, its treasury, funds or property, and all such suits shall be dismissed as to the state or such officers, on motion, plea or demurrer of the law officer of the state, or counsel employed for the state.

Thus T.C.A. 29-13-102(a) provides that this Court lacks jurisdiction to entertain any suit against any officer of the state, with a view to reach into the State's treasury. Further T.C.A. 29-13-102(a) demands that such suit **shall** be dismissed. Accordingly, the Court concludes that motion to dismiss Relator's claims against the Governor seeking compensation is well-taken as damages cannot be sought in a mandamus action and Relator's claim for damages violates the doctrine of sovereign immunity.

V. MOTION TO DISMISS FOR FAILURE TO FILE IN DAVIDSON COUNTY

As additional grounds, the Governor argues that this Court lacks subject matter jurisdiction, because the Governor must be sued in Davidson County, as suits against state officials in their official capacity must be litigated in an appropriate court in Davidson County. In response, the Relator argues that this Court could simply transfer the action to Davidson County rather than dismiss it. However, the case of *Southwest Williams County Community Association v. Saltsman*, 66 S.W.3d 872, 882 (Tenn. Ct. App. 2001) provides that this issue is one of subject matter jurisdiction not of venue. Thus this Court will not transfer the case to Davidson County as this Court concludes it lacks subject matter jurisdiction to take any action. The Parties can neither waive nor confer subject matter jurisdiction and any order, other than a dismissal, taken by a court that lacks subject matter jurisdiction to hear the action, is null and void. *Gillespie v. State*, 619 S.W.2d 128 (Tenn. Ct. App. 1981). More importantly as the Court concluded, *supra*, Relator failed to state a justiciable action against the Governor. Thus there is no action for this Court to transfer to Davidson County. Therefore the Court concludes as a matter of law, that the Governor's motion to dismiss on grounds that Relator failed to file in Davidson County is also well-taken.

WHEREFORE it is hereby,


ORDERED that the motion to dismiss for failure to state a claim against Governor Lee in his official capacity is GRANTED; it is further

ORDERED that the motion to dismiss for failure to state a claim against Bill Lee in his personal capacity is GRANTED; it is further

ORDERED that the motion to dismiss for lack of subject matter jurisdiction is GRANTED.

Costs taxed to Relator.

ENTER:


PAMELA A. FLEENOR
Chancellor - Part I

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this Order has been placed in the United States Mail addressed to the following person (s):

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This the 21ST day of January 2021.

Robin L. Miller, Clerk and Master

By: VAN 4N
Deputy Clerk and Master