

In the supreme court of Tennessee

State of Tennessee, ex rel. David Jonathan Tulis)	
Appellant)	
)	Case No.
V.)	E2021-00436-SC-R11-CV
)	
Bill Lee)	
Governor, State of Tennessee)	
Respondent, in personal and official capacity)	
)	
Rebekah Barnes)	
Administrator, Hamilton County Health Department)	
Respondent, in personal and official capacity)	

Motion for recusal & disqualification

Comes now state of Tennessee, on relation, in its petition for equity and writ of mandamus, demanding recusal of four honorable justices of this court who have an interest in this case or a personal connection with relator.

This motion is pursuant to Tenn. Supreme Court Rule 10B §1.01 and asserts the rights of the state, on relation, to have its petition heard by justices who have no bias against its cause or against his person. Petitioner has three grounds for recusal by the chief justice, Roger Page, two grounds against Justice Jeff Bivins, and one each against Justice Holly Kirby and Justice Sharon Lee.

This motion is filed in writing, timely in advance, supported by affidavit under oath, and states specific factual and legal grounds supporting disqualification. The motion seeking disqualification or recusal of the aforementioned justices is not being presented for any improper purpose whatsoever, nor is this motion presented to harass or cause unnecessary delay, or needlessly increase the cost of litigation. As has been true throughout all of the underlying proceedings, petitioner desires to have his constitutionally guaranteed rights of due process upheld and adhered to, and to be fairly heard, and to have his case ruled upon based upon facts and evidence, and according to constitutional provisions, statutory law, supporting authority, and by a fair and impartial tribunal.

Authorities

The authorities that regulate this motion start with the state and federal constitutions, to which the justices have sworn obedience.

In the Tennessee constitution, the applicable provisions are art. 1, sect. 17. “That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay,” and art. 6, sect. 7, that judges “shall not be allowed any fees or perquisites of office nor hold any other office of trust.”

Also in art. 6, sect. 11, regarding when judges must agree to step aside in any case in which they have an interest or partiality, or in which they are shown to be “incompetent” for cause or reason.

No judge of the Supreme or Inferior Courts shall preside on the trial of any cause in the event of which he *may be interested*, or where either of the parties shall be *connected with him* by affinity of consanguinity, within such degrees as may be prescribed by law, or in which he may have been of counsel, or in which he may have presided in any Inferior Court, except by

consent of all the parties. In case all or any of the judges of the Supreme Court shall *thus be disqualified* from presiding on the trial of any cause or causes, the court or the judges thereof, shall certify the same to the governor of the state, and he *shall forthwith specially commission the requisite number of men, of law knowledge*, for the trial and determination thereof. The Legislature may by general laws make provision that special judges may be appointed, to hold any courts the judge of which shall be unable or fail to attend or sit; or to hear any cause in which the judge may be *incompetent*. [Emphasis added]

The meaning of “he may be interested” is intended to be read broadly. The 1796 constitution provides this wording, albeit the provision originally is shorter. It says, “No Judge shall sit on the trial of any cause, where the parties shall be connected with him by affinity or consanguinity except by consent of parties.” The word “interested” is added in 1834. The provision says, “No Judge of the supreme or inferior courts, shall preside on the trial of any cause, in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity within such degrees *** [etc.]”

Art. 10 Sect. 1 requires a swearing under oath to obey the law. “Every person who shall be chosen or appointed to any office of trust or profit under this Constitution, or any law made in pursuance thereof, shall, before entering on the duties thereof, take an oath to support the Constitution of this state, and of the United States, and an oath of office.”

As stated in supreme court rule 10, code of judicial conduct, “A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety,” Canon 1, and “shall comply with the law, including the Code of Judicial Conduct,” Rule 1.1, and “shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety” Rule 1.2. The rule cites impropriety and the “appearance” of it. “A judge shall perform the duties of judicial office *impartially, competently, and diligently*,” Canon 2, and “shall uphold

and apply the law, and shall perform all duties of judicial office fairly and impartially,” Rule 2.2.

The rules prohibit a range of biases, prejudices and harassment, saying a judge “shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment,” which comment is followed by a long list of categories: “race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation,” Rule 2.3.

Other ethics commands focus on the process of self-removal or ouster of a judge. Rule 2.11, disqualification, says “(A) A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of facts that are in dispute in the proceeding.”

“[T]he underlying intent of the recusal rules is ‘to guard against the prejudgment of the rights of litigants and to avoid situations in which the litigants might have cause to conclude that the court had reached a prejudged conclusion because of interest, partiality, or favor’” *Cain-Swope v. Swope*, 523 S.W.3d 79, 87 (Term. Ct. App. 2016) (citing *Groves v. Ernst-W. Corp.*, No. M2016-01529-COA-T10B-CV, 2016 WL 5181687, at *4-6 (Tenn. Ct. App. Sept. 16, 2016) (quoting *State v. Austin*, 87 S.W.3d 447, 470 (Tenn. 2002)). In Tennessee recusal is always in order when a judge has any doubts about his or her actual ability to preside impartially. *Alley v. State*, 882 S.W.2d 810, 820 (citing *Lackey v. State*, 578 S.W.2d 101, 104 (Tenn. Crim. App. 1978). Recusal is warranted “when a person of ordinary prudence in the judge’s position, aware of all the facts known to the judge, would find a reasonable basis for questioning the judge’s impartiality.” *Alley*, 882 S.W.2d at 820 (citing *State v. Cash*, 867 S.W.2d 741 (Tenn. Crim. App. 1993)). Applying these standards, a court must first ask whether, subjectively, it can be fair and impartial in the

case, and if not, the court must recuse. *Camp*, 361 S.W.3d at 548. Once a court has determined that it can be impartial, the court should then examine the facts alleged by the movant and determine whether a reasonable person of ordinary prudence, knowing all of the facts known by the judge, would conclude that the judge is biased or prejudiced against a party. *Alley*, 882 S.W.2d at 820.

Background of the motion

The four justices in view in this motion have joined the fraud ¹ complained of in this lawsuit, that of declaring an emergency without there being a warrant, cause or nonfraudulent exigency before invoking police power and other prejudicial acts or omissions of the court, the petition taken true as equity principles require. The state, on relation, files a petition to review for injustice in this matter of the unusual and extraordinary cause of official fraud causing irreparable injuries and harms, without remedy to date, despite every equity principles or law to the contrary.

The four justices participate in the failure to meet police power prerequisites for demonstrating a nonfraudulent exigency, in violation of T.C.A. § 68-5-104 in which health officials, overseen by respondent governor whose duty at Tenn. const. art. 3, sect. 10, is to “take care that the laws be faithfully executed,” including T.C.A. § 68-5-104

¹ "FRAUD. An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Any kind of artifice employed by one person to deceive another. A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated."
Black's Law Dictionary. Citations omitted

"Loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."

Elrod v. Burns, 427 U.S. 347, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976)

requiring him or his agents to make a determination as to the origin, cause and source of a local illness or sickness spreading beyond outbreak in a county as a seeming epidemic within the state of Tennessee. The following are grounds for “which the judge’s impartiality might reasonably be questioned.”

The four justices’ partiality is anticipated in the state of Tennessee’s petition, on relation, for equity and writ of mandamus Oct. 2, 2020 (paragraph numbers omitted).

As many astute commentators have observed, as this court should today, since the beginning of this national self-inflicted disaster and embarrassment all along, COVID-19 has never been about a health crisis.

While it claims no such power by separation of powers evasion, the judicial branch of this state, on its own motion, failed in its inherent power and duty to check that a co-equal branch of the government had followed the law, the conduct or omission of which created the disaster and irreparable harms to the state of Tennessee and its people, wrought by respondents under color of a pandemic without warrant.

The judicial branch has taken part in the panic and mass illegality. Chief Justice Jeff Bivins’ July 9 “executive order” about face masks in governmental buildings that happen to contain courts creates an unprecedented and arbitrary power that is not judicial and not internally administrative to that branch, a power imposing an command on parties such as county commissions and clerks in a shared building who are not involved in any judicial case and whose offices are not within the judicial branch, further infringing political or other fundamental rights of the general public accessing their government instrumentalities.

The judicial branch failed to identify the dereliction of the executive branch to obey legislative enactments, such as the duty imposed by 68-5-104.

Because of these governmental trust breaches, nothing from any government official can be trusted.

The four justices breach Rule 2.11 because they have personal knowledge concerning respondent Lee, having taken up an alliance with him in breach of the constitution. The rule says recusal is required when “[t]he judge has a personal bias or prejudice

concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.”

Tennessee justices compromised

Chief Justice Roger Page

Facts regarding justice's activities.

1. Arrest of relator as member of the press

Chief Justice Page on Nov. 6, 2021, oversees the fraudulent unlawful arrest of relator, a press reporter covering the Tennessee judicial conference in Franklin, aiding and abetting through omission the abuse to an unlawful prosecution of relator, whereupon the Williamson County general sessions judge M.T. Taylor dismisses the criminal trespass charge Dec. 14, 2021, as lacking probable cause. The case is expunged. **EXHIBITS No. 1 and 2.**

2 . Signing fraudulent orders

Justice Page's signature is on Order suspending in-person court proceedings, No. ADM2020-00428, filed March 13, 2020, based on a facially fraudulent emergency order of respondent Lee, the subject matter of the petition and proceedings justice requires review of presently, or without independently demonstrating a nonfraudulent exigency supporting the judicial branch order. In it, “the Chief Justice of the Tennessee Supreme Court hereby declares a state of emergency for the Judicial Branch of Tennessee government and activates the following Continuity of Operations Plan for the courts of Tennessee.” The order follows the facially fraudulent executive order No. 14, from respondent Lee on March 12, 2020, declaring a state of emergency while fraudulently and wickedly disobeying, breaching the controlling infectious disease statute of the legislative

branch, at T.C.A. § 68-5-104 that requires demonstrating a nonfraudulent exigency. The chief justice approves of denials of petitions of maladministration of justice in an extraordinary emergency case seeking judicial, administrative, managerial and employer authority exercise to stop trial court illegal acts and abuses, which cover up these official misconducts, not acting independent from them, which certiorari denial to cure is sealed away by mandate to which relator filed timely objection to preserve that evidence here.

The state, on relation, is denied justice, covering with these judicial orders complicit with the respondents-in-fraud acts and omissions, notwithstanding the requirement of judicial independence, or the constitutional common law reservation of original jurisdiction to the court of last resort in these unique and extraordinary matters, without remedy, to do justice and despite all court officers agreeing of record that there is no adequate remedy despite every equity principle to the contrary, or that mandamus is the only remedy in effect by their own deceptive word in the court of last resort.

3. Office of trust

Justice Page is a member of Tennessee code commission. The commission is established at T.C.A. § 1-1-101. The law names the chief justice as chairman § 1-1-102. The constitution at art. 6, sect. 7, says judges “shall not be allowed any fees or perquisites of office nor hold any other office of trust or profit under this state or the United States.” Justice Page is employed by state of Tennessee as chief justice, in an office of trust. He is named by a statute to a second office of trust that he fills without objection. He is silent as to this apparent constitutional violation in a second office of trust.

THEREFORE, Justice Page has three grounds on which to recuse himself.

1. **Arrest of relator.** Justice Page should recuse himself because he has a personal relationship with relator that may create a bias or prejudice in his mind, inclining him to vote one way or another or to influence others in relator's regard. It is now judicially confirmed in dismissal, Justice Page will not defend the innocent nor protect their rights. The criminal trespass case against relator, and relator's rights to redress the harm civilly or criminally, touch on a gain or loss to his person and position, and make this case one in which the chief justice is "interested." No observer or neutral outsider could believe that Justice Page is able to give a just and fair ruling after he partially, incompetently, and without due diligence arranges to violate the law Nov. 6, 2021, through agents and oppress a reporter doing his job by right under federal and state constitutions and under the open meetings act, his right to do so settled as a matter of law. The breach tells relator the honorable justice will not uphold and apply the law at issue in this case, defending T.C.A. § 68-5-104, and the procedural due process protections in law and rule that relator has every right to claim as his property and equity in this action to uphold the rule of law. The interest Justice Page has in his abusive relationship with relator would be an impropriety to overlook. It would also give the appearance of impropriety, and would not promote public confidence in the independence, integrity, and impartiality of the courts. Rule 2.1 says "personal bias or prejudice concerning a party" are ground for recusal. A prejudice necessary to require recusal is —

[T]he attitude of personal enmity towards the party or in favor of the adverse party to the other's detriment. It is not the mere possession of views regarding the law or the conduct of a party or of his counsel. Prejudice is in the personal sense rather than in the judicial sense. Prejudice refers to a mental attitude or a disposition of the judge towards a party: either a hostile feeling or spirit of ill-will against one of the litigants, or a favoritism toward one of them.

Alley, Id., at 821 (Tenn. Crim. App. 1994), citing *State ex rel. Wesolich v. Goeke*, 794 S.W.2d 692, 697 (Mo.App.1990)

2. **Signing fraudulent orders and knowledge of facts outside of case.** Chief Justice Page is in league with respondents in fraud in the state of emergency lacking a nonfraudulent exigency. Confirmation of the alliance is evidenced in his denying without stated reason repeated efforts to lift the unlawfully trapped case out of the lower court into the supreme court for review, or to order correctives upon the trial court over case management.

The interest that relates to his personal and professional stature is touched personally by relator, who accuses him of grave prejudices before the court, and in his arrest, as well federal the deprivation of rights by a state official under color of state law. Judicial prejudice as to the substance and merits of his claim that are possibly a source of grave personal offense caused to relator. Relator's claims go to the quick of Justice Page, to the center of the man, the person who is the judge, the "mental attitude or *** disposition." The injury of these allegations makes it more than likely that Justice Page will be unable to avoid prejudice and bias in hearing his petition. Indignation and frustration at relator deny the justice a neutral mind, open to both sides of the case. That would be a due process violation against state of Tennessee, on relation.

Even where the court has authority to make rules, neither fraud nor case law extend to the court the communicable disease due process that the general assembly vests in an agency of the county or the governor's health department in Nashville requiring both or either to demonstrate a nonfraudulent communicable disease determination for an infectious agent. All the "broad conference of full, plenary and discretionary power," T.C.A. § 16-3-504, and all the case law in the world cannot invent a judicial power the general assembly has expressly vested in an executive agency requiring it to demonstrate the nonfraudulent communicable

disease determination for an infectious agent; fraud or branch breach do not meet that demonstration determination requirement.²

3. **Office of trust in breach of constitution.** The constitution at art. 6, sect. 7, says judges “shall not be allowed any fees or perquisites of office nor hold any other office of trust or profit under this state or the United States.” Chief Justice Page holds a second office of trust in contravention of the constitution, in determining that statute is superior to the constitution, that a command at T.C.A. § 1-1-102 supersedes a prohibition of that act in the constitution. That he swore an oath of office before God as his witness to uphold the constitution, then agrees to violate its terms in furthering his judicial and legal career on the Tennessee judicial commission, strongly suggests he cannot be trusted in handling this case that enforces constitutional and police power common law requirements upon two holders of office who, like the chief justice, claim exemption from law.

Former Chief Justice Jeffrey Bivins

Facts regarding Justice Bivins

1. Signing fraudulent orders

Justice Bivins is in charge of the Tennessee supreme court when he and four other justices issue their Order suspending in-person court proceedings, No. ADM2020-00428, filed with the clerk March 13, 2020, as a *sua sponte* act. This is one day after respondent-in-fraud Bill Lee declares a facially fraudulent state of

² "Where rights secured by Constitution are involved, there can be no rule making or legislation which would abrogate them."

Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)

emergency with executive order No. 14, An order suspending provisions of certain statutes and rules in order to facilitate the treatment and containment of COVID-19, March 12, 2020, an order amended fraudulently April 2, 2020, beyond the law, upon the mere presumption of a health emergency, foreign to the state, and without demonstrating any nonfraudulent exigency for any emergency, failing also to faithfully execute the law at T.C.A. § 68-5-104, the legislature's mandates or due process regarding communicable disease, if this subject matter is the actual nonfraudulent emergency.

Justice Bivins, no evidence to the contrary, agrees to the court's mandate denying relator's petition for maladministration of illegal acts in the trial court. This case of fraud and breaches of duty, agreed by this court an emergency, meets the standard of extraordinary in certiorari jurisprudence, constitutionally preserved at common law.

2. Holding office of trust

Justice Bivins is a member of the Tennessee code commission, an assignment he holds as a second office of trust in addition to being a supreme court justice, his first office of trust. The code commission is a creature of statute that names the chief justice as head. Such office is barred. Says Tenn. const. Art. 6, sect. 7, "They shall not be allowed any fees or perquisites of office nor hold any other office of trust or profit under this state or the United States."

THEREFORE, Justice Bivins has two grounds on which to disqualify himself.

1. **Signing fraudulent orders and knowledge of facts outside of case.** He committed himself and the court to the respondents' fraud and breach of trust, and mirrors their illicit and harmful acts against relator and those in like situation, without independent support in and consistent with law. If Justice Bivins is going to declare an emergency, he has to have a lawful, nonfraudulent legal basis upon which to declare one, and the power to so. Or he has to make sure respondent Lee has one. He fails to do this duty. He implicates himself as ally and co-conspirator in Lee's fraud. Recusal is in order when Justice Bivins is unable to perform duties impartially, competently and diligently in a case in which he is an actor on side of respondents.

The honorable Justice Bivins is interested in the issues in the case, and so should recuse. His personal interest, status, money, calling and reputation are enmixed in the interests of one of the respondents. Disqualification is mandatory if Justice Bivins cannot apply and uphold the law, which sworn lawful duty he has not done, but review of the petition of the state, on relation, requires. Instead of standing on principle of constitution and law, or equity constitutionally preserved to the court of last resort, the honorable justice refuses to uphold and promote the independence, integrity, and impartiality of the judiciary and to have it comply with the law, even if a co-equal branch of government refuses to so. Ignoring wrong by respondents, the justice has a duty to avoid impropriety and the appearance of impropriety and to perform all duties of judicial office fairly and impartially.

Recusal is mandatory when Justice Bivins is unable to perform duties impartially, competently and diligently. The Justice Bivins is interested in the issues in the case.

2. **Office of trust in breach of constitution.** Justice Bivins is constitutionally incompetent and must disqualify himself for violating the ban in the constitution of judges' holding a second office of trust. This case is about upholding government under the supreme law of the constitution, which authority respondents assault with an oppressive biosecurity police state premised on fraud admitted in the record and accepted by the court in its March 17, 2021, mandate dismissing relator's grievances for maladministration of Hamilton County chancery.

It is unreasonable to believe Justice Bivins, appointed to his post by the chief justice, will give careful regard to the constitution and to black-letter law that state of Tennessee is defending, on relation, as Justice Bivins openly avers, by being on the code commission, that a law supersedes the constitution, that T.C.A. § 1-1-101 trumps Tenn. const. Art. 6, sect. 7. A judge who lives out such an idea with a role on the code commission is not qualified to judge the constitutional case at hand.

Justice Holly Kirby and Justice Sharon Lee

Facts regarding Justice Holly Kirby and Justice Sharon Lee

Justice Holly Kirby and Justice Sharon Lee must disqualify themselves from hearing this case because they signed the March 13, 2020, order closing the courts without ascertaining a nonfraudulent exigency for the respondent governor's actions nor the judicial department's, and they did not evidence dissent from the March 17, 2021, mandate against relator's appeal for correction of maladministration in chancery in a cause unprecedented and extraordinary in gravity and consequence.

THEREFORE, signing fraudulent orders and having knowledge of facts outside the case make these two honorable two justices, like the others, subject to recusal to avoid obstruction of constitutional law. Recusal is due when “the judge’s impartiality might reasonably be questioned,” touching also on the justices’ independence, bias, or the appearance of impropriety, etc., in the prejudicial handling of this matter to date, upon an administrative complaint mistreated as an appeal without a lower court order. The court’s mandate denies administrative relief and deprives state on relation a remedy without explanation and denies a power known to the justices when relator files his first of three grievances Nov. 3, 2020, demanding intervention administrative and judicial “when, in the judgment of the court, there is no other plain, speedy, or adequate remedy” Tenn. Code Ann. § 27-8-101.

That power is the supreme court’s actual common law original jurisdiction, and the power of certiorari to remove a case from a trial court for abuse. The court knows or should know its original jurisdiction survives the updating of the 1796 constitution in 1834, when the phrase is added to art. 6, sect. 2, that the court’s jurisdiction is appellate only, and exists in a saving clause in the constitution consistent with plenary equity powers.

The first constitution envisions certiorari on a two-way street. The superior court can “issue writs of Certiorari to remove any cause into the superior court on sufficient cause,” and a lower court “shall have power in all civil cases to issue writs of Certiorari to remove any cause *** into their Court on sufficient Cause supported by oath or affirmation.”

The 1796 constitution gives the high court power to assume original jurisdiction of a lower court case, by an oath of the party. And it gives the lower court, by oath or

affirmation, power to send a case such as *State ex rel Tulis* under affliction in chancery straight to the supreme court.

Art. 5, Sect. 6th The Judges of the Superior Courts shall have power in all civil cases, to issue writs of Certiorari to remove any cause or a transcript thereof from any inferior Court of Record into the Superior on sufficient Cause supported by oath or affirmation.

Sect. 7th The Judges or Justices of the inferior Courts of law shall have power in all civil cases to issue writs of Certiorari to remove any cause or a transcript thereof from any inferior Jurisdiction into their Court on sufficient Cause supported by oath or affirmation.

Tennessee constitution, 1796

In 1834 the people limit extraordinary intervention by this phrase, “The jurisdiction of this Court shall be appellate only,” art. 6, sect. 2.

The savings clause in today’s constitution recognizing its inherent original jurisdiction is in italics: “The jurisdiction of this court shall be appellate only, under such restrictions and regulations as may from time to time be prescribed by law; but it may *possess such other jurisdiction* as is now conferred by law on the present Supreme Court,” art. 6, sect. 2.

This organic power of original jurisdiction is developed in certiorari jurisprudence. “The extraordinary power is not applicable to just any case. The writ of certiorari derives from Article 6, Section 10 of the Constitution of Tennessee, but the practice with respect to how and when it may be obtained is set out in statutory provisions enacted by the General Assembly of Tennessee. Today, the statutory provisions regarding the writ are found at Tennessee Code Annotated section 27–8–101, *et seq.* The remedy of certiorari is not available as of right, but is only to be granted under unusual or extraordinary circumstances. The writ may also not take the place of an appeal when an express

provision for an appeal is available; although, there are some circumstances such a fraud, contrivance by the opposing party or the court, or the willful or negligent act of the court clerk that will excuse the failure to pursue an available appeal and permit review by way of certiorari.” *State v. Hartwell*, 124 S.W.3d 629, 631 (Tenn. Crim. App. 2003) (internal citations omitted). The petition of the state, on relation is an “unusual or extraordinary circumstance,” and notwithstanding any evasion in any denial by counsel to the respondents-in-fraud for want of timely avoidance as to those frauds, an admission.

“[T]he Supreme Court is a direct creature of the Constitution and constitutes the supreme judicial tribunal of the state and is a court of last resort. All other courts are constitutionally inferior tribunals subject to the actions of the Supreme Court. Its adjudications are final and conclusive upon all questions determined by it.” *Barger v. Brock*, 535 S.W.2d 337, 340 (Tenn. 1976).

The justices who read petitioner’s administrative grievances against the trial court know they have authority to unilaterally order the record up from the trial court, *sua sponte*, to deliver justice for the frauds and official breaches claimed, the petition taken true, and pursuant to this constitutional original jurisdiction can make any orders required to do justice, forthwith. Instead, the court mistreats the administrative complaint as a writ of error or review without a dispositional order doing so as well without any stated foundation as equity requires, the fraud on the court preserved by timely objection. Given cooperation of Justice Kirby and of Justice Lee in fraud, the objective appearance of impartiality having vanished, petitioner demands they disqualify themselves under the rules, so he might get a fair hearing from unbiased justices not partaking in the extrajudicial subject matter fraud and breaches of law and able to dispose justly the issues of this case.

The justices of the entire court, regarding this matter, have denied constitutional remedy to the state, on relation, without lawful due process, and must recuse themselves because

they cannot be trusted to provide what the people ordained to themselves in protection against official tyranny.

Wherefore, premises considered, law, justice and the perception of justice being done requires, in the minimum, of the members of the honorable court:

1. That those disqualified give notice of recusal and that the court adhere to Tenn. const. art. 6, sect. 11, which states: “In case all or any of the judges of the Supreme Court shall *thus be disqualified* from presiding on the trial of any cause or causes, the court or the judges thereof, shall certify the same to the governor of the state, and he *shall forthwith specially commission the requisite number of men, of law knowledge*, for the trial and determination thereof.”
2. Given this authority, petitioner demands the court certify to the governor those justices disqualified, and demand that he *forthwith* — meaning immediately, if not sooner — fulfill his duty to commission the requisite number of men or women “of law knowledge” to hear relator’s petition for certiorari and cause.

By my signature above and properly notarized affidavit under oath, I, David Jonathan Tulis, relator for grievances of state of Tennessee, do hereby make oath and affirm that all statements included in this motion for recusal and disqualification upon Justice Roger Page, Justice Jeff Bivins, Justice Holly Kirby and Justice Sharon Lee are true and correct to the best of my knowledge, information and belief.

Respectfully submitted,

David Jonathan Tulis

State of Tennessee ex rel. David Jonathan Tulis

STATE OF TENNESSEE, COUNTY OF HAMILTON — I, the undersigned Notary Public, do hereby affirm that David Jonathan Tulis personally appeared before me on the 8th day of August 2022, and signed this affidavit as his free and voluntary act and deed.



[Signature]
Exp. 12/13/2022 Notary Public

CERTIFICATE OF SERVICE

David Jonathan Tulis certifies that a true and exact copy of this petition is being sent by email as an attachment to the parties below this Monday, the 8th day of August, 2022, at their respective email addresses.

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David J Tulis

David Jonathan Tulis

ORDER FOR THE EXPUNGEMENT OF CRIMINAL OFFENDER RECORD

Exhibit 1

State of Tennessee vs David Jonathan Tulis Circuit Docket Number
 Date Original Case was filed in Clerk's Office 12-6-2021 General Sessions Docket Number 2021 CR 4946
 In the Franklin Court of Williamson County, Tennessee at Franklin
 On the Motion or Petition of Defendant

Defendant/Arrest Information:

<u>David Jonathan Tulis</u> Defendant (name used at time of arrest)	<u>W</u> <u>M</u> <u>6-8-59</u> Race Sex Date of Birth
<u>Franklin Police Dept</u> Arresting Agency	<u>11-11-2021</u> Date of Arrest
<u>Criminal Trespass</u> Charge 1 (As shown on arrest fingerprint card)	OCA# <u>[REDACTED]</u> SSN# <u>[REDACTED]</u>
Charge 2 (As shown on arrest fingerprint card)	
Charge 3 (As shown on arrest fingerprint card)	

Disposition Information:

Final Charge 1
Final Charge 2
Final Charge 3
<u>No probable cause found on 12-14-21</u> Final Disposition
Diversion Date (if applicable)

The defendant named above is entitled to have all PUBLIC RECORDS relating to the offenses listed above expunged according to the Tennessee Code Annotated provision marked below:

Provision relating to Adults: <input checked="" type="checkbox"/> Charge has been dismissed (T.C.A. § 40-32-101) <input type="checkbox"/> No true bill returned by Grand Jury (T.C.A. § 40-32-101) <input type="checkbox"/> Verdict of not guilty returned by jury (T.C.A. § 40-32-101) <input type="checkbox"/> Conviction which has by appeal been reversed (T.C.A. § 40-32-101) <input type="checkbox"/> Nolle Prosequi entered in case (T.C.A. § 40-32-101) <input type="checkbox"/> Successful completion of all probation provisions and proceedings against defendant have been discharged by the court (T.C.A. § 40-35-313) <input type="checkbox"/> Suspension of prosecution pursuant to T.C.A. § 40-15-105	Provisions relating to Juveniles: <input type="checkbox"/> Petition alleging delinquency not filed (T.C.A. § 37-1-155) <input type="checkbox"/> Proceedings dismissed after petition is filed or the case transferred to Juvenile Court as provided in T.C.A. § 37-1-109 (T.C.A. § 37-1-155) <input type="checkbox"/> Adjudicated not to be a delinquent child (T.C.A. § 37-1-155) <input type="checkbox"/> Child has reached eighteen (18) years of age and there is no record that he committed a criminal offense after reaching sixteen (16) years of age, unless such fingerprints were obtained on alleged charge which if committed by an adult would be a felony (T.C.A. § 37-1-155) <input type="checkbox"/> Passage of six (6) months from date of liquor law violations defined by T.C.A. § 57-3-412(a)(3)(c) or T.C.A. § 57-5-301(e)(3)
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It is ordered that all PUBLIC RECORDS relating to such offense above referenced be expunged and immediately destroyed upon payment of all costs to clerk and that no evidence of such records pertaining to such offense be retained by any municipal, county, or state agency, except non-public confidential information retained in accordance with T.C.A. § 10-7-504 and T.C.A. § 38-6-118.

APPROVED FOR ENTRY

Defendant/Attorney for Defendant	Entered this <u>16th</u> day of <u>May</u> 2022
District Attorney General	Judge

Exhibit 2

209668

COMPLAINT - AFFIDAVIT

21CR4946

COMPLAINT #

202103751

AGENCY

Franklin Police Dept.

I.D. NO.

TN0940100

THE UNDERSIGNED BEING DULY SWORN UPON HIS OATH DEPOSES:

NAME (FIRST)

DAVID

(MIDDLE)

JONATHAN

(LAST)

TJ/15

DATE OF BIRTH

06/08/59

RACE

W

SEX

M

ADDRESS

10520 Brickhill Ln.

TN RESIDENT?

YES ☒ NO ☐

SEAT BELT?

YES ☐ NO ☒

CITY

SODDY DAISY

STATE

TN

ZIP CODE

37379

SOCIAL SECURITY NUMBER

413-82-5029

DRIVER LICENSE NUMBER

061252193

STATE

TN

EXPIRATION DATE

05/08/27

TELEPHONE NUMBER

☐ OWNED ☐ LEASED

NAME

ADDRESS

☐ CARRIER☐ MC☐ CMV☐ HAZ☐ ACCIDENT

MAT

DID UNLAWFULLY OPERATE/PARK A MOTOR VEHICLE:

MAKE

MODEL

YEAR

COLOR

LICENSE PLATE NUMBER

STATE

YEAR

LOCATE

UPON STREET/HIGHWAY AT OR NEAR

620 Crescent Center Dr

TRAVEL DIR.

☐ N ☐ S ☐ E ☐ W

CITY/COUNTY

Franklin, TN

HIGHWAY TYPE

☐ E-L ☐ 4-L ☐ DIV. ☐ 1-RD

AREA

☐ SCHOOL ☐ RES. ☐ RURAL☐ BUSINESS

A FORESAID DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE:

01 ☐ SPEEDING

MPH IN

SPEED LIMIT

☐ ZONE☐ PACING☐ RADAR☐ OTHER☐ FAILURE TO YIELD02 ☐ RECKLESS DRIVING

20

☐ DUI BAC103 ☐ REGISTRATION LAW☐ IMPROPER TURN03 ☐ TRAFFIC CONTROL DEVICE

22

☐ REV/SUS/CAN DL393 ☐ CHILD RESTRAINT☐ IMPROPER PASSING☐ OTHER

T.C.A.

39-14-405

ORDINANCE:

CRIMINAL TRAFFIC

DEPT WAS OBSERVED AT ABOVE LOCATION WITHOUT AUTHORITY OR CONSENT. DEPT WAS ASKED AND INSTRUCTED TO LEAVE PREMISES. DEPT REFUSED AND HAD TO BE REMOVED BY EMS (COMPLAINED OF PAIN & HERNIA INJURY) DEPT STATED THAT HE WILL LEAVE PROPERTY WHEN CITED & RELEASED.

THE UNDERSIGNED FURTHER STATES THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE, THAT THE PERSON NAMED ABOVE COMMITTED THE OFFENSE HEREIN SET FORTH, CONTRARY TO LAW.

THIS 6th DAY OF NOVEMBER 2021 TIME 10:30 ☒ AM

RANK

P.O. W. ORANGE

OFFICER NAME (PRINT)

BADGE/ID NO.

4731

HAVING BEEN DULY SWORN, I DO HEREBY ATTEST THAT THE ABOVE IS A TRUE AND COMPLETE COPY OF THE ORIGINAL CITATION, AND THAT THE INFORMATION CONTAINED THEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

SWORN TO AND SUBSCRIBED BEFORE ME THIS

6

DAY

NOV

20

21

SIGNATURE OF OFFICER

JUDGE/CLERK

COURT

IN THE

- 1 ☒ GENERAL SESSIONS COURT OF
2 ☐ JUVENILE COURT
3 ☐ FRANKLIN CITY COURT

Williamson

COUNTY OF

NO. 917

IN THE CITY OF

Franklin

NO. 013

THE

14th

DAY OF

DECEMBER 2021

TIME 6:00

☐ AM ☒ PM

NOTICE: FAILURE TO APPEAR IN COURT ON THE DATE ASSIGNED TO THIS CITATION OR AT THE APPROPRIATE POLICE STATION FOR BOOKING AND PROCESSING WILL RESULT IN YOUR ARREST FOR A SEPARATE CRIMINAL OFFENSE WHICH IS PUNISHABLE BY A JAIL SENTENCE OF UP TO SIX (6) MONTHS AND/OR A \$50 FINE.

I UNDERSTAND THE ABOVE NOTICE, AND THAT MY SIGNATURE IS NOT AN ADMISSION OF GUILT.

VIOLATOR'S SIGNATURE

David Jonathan Julius

COURT COPY

GENERAL SESSIONS COURT OF WILLIAMSON COUNTY TENNESSEE

State of Tennessee vs. David Jonathan Tulis

Court file # 21CP4946 Charge Criminal Trespass

JUDGMENT

() Dismissed () Not Guilty () No Contest () Best Interest () Nolle Prosequi () Conditional Guilty Plea 40.35.31

() Costs and taxes to the Defendant

Found GUILTY of violation of T.C.A.

fined \$ _____, and sentenced to serve _____ months _____ days in the _____ County Jail (Class _____ Misd.)

Eligible for work release (if available), furlough (if approved), trusty status and related rehabilitative programs after service of _____ % of the term of imprisonment.

Granted Judicial Diversion

Jail sentence suspended except _____ on condition of good behavior, payment of fines, costs and taxes and restitution of \$ _____ to _____ and

() no contact with _____

() no violent contact with _____

() supervised probation for _____ months _____ days

() not drive in Tennessee for _____ year(s)

() restricted license eligible or as determined by the Department of Safety and Homeland Security

() with an ignition interlock device installed on the defendant's vehicle

() completion of DUI school

() alcohol/drug evaluation within _____ and complete any recommendations

() domestic abuse/Batterers Intervention Program assessment within _____ and complete any recommendations

() anger management assessment within _____ and complete any recommendations

() _____ hours of community service _____

Conditions/Other _____

To report to serve on _____ at _____ am/pm

Time served credit for _____ days _____ hours.

() I waive my right to a preliminary examination and agree for my case to be bound over to the Williamson County Grand Jury.

Defendant _____

Date _____

() Defendant bound over to Williamson County Grand Jury after () preliminary hearing

() bail set at \$ _____ () Defendant shall continue on current bond of \$ _____

() no probable cause found

() Appealed

I, DEBBIE MCWILLIAM, CLERK OF GENERAL SESSIONS COURT, WILLIAMSON COUNTY, TENNESSEE, DO HEREBY CERTIFY THE FOLLOWING TO BE A TRUE AND PERFECT COPY OF THE ORIGINAL INSTRUMENT ON FILE IN THIS CASE. CASE # 21CP4946 DATE 12-14-21

14 Day Rule Waiver -After being duly advised, Defendant waives right to a hearing within 14 days.

Defendant _____ Date _____ Judge _____

Defense Attorney OAppointed O Public Defender O Retained

Date of Final Disposition 12-14-21

Judge _____