

In the Sessions Court of Hamilton County, Tennessee

State of Tennessee)
)
vs.)
)
David Jonathan Tulis)
In *persona propria*)
% 10520 Brickhill Lane)
Soddy-Daisy TN 37379)
Tel (423) 316-2680)
davidtuliseditor@gmail.com)

Docket Nos.
1930155 "light law"
1930156 "driver's license"

FILED IN OFFICE:
DATE: 1-12-24 TIME: 3:16A
VINCE DEAN CLERK
BY [Signature] DEPUTY CLERK

Affidavit, pre-plea remedy and avoidance

Comes now accused, living in Hamilton County, Tenn., and does attest to the following matters pertaining to his arrest Nov. 22, 2023, by Hamilton County sheriff's department to be true, accurate, and complete, to the best of his knowledge.

1. Accused challenges the state's claim that its case gives the court subject matter jurisdiction because the accuser State of Tennessee has made appearance without having exhausted its administrative remedies before bringing the matter for enforcement in criminal jurisdiction, a case based on presumption the accused herein rebuts.
2. The matter at issue is under the uniform administrative procedures act (UAPA) at Tenn. Code Ann. § 4-5-101 *et seq.* Controversies over licenses are administrative in nature ("[T]he grant or refusal of a license to use public highways in commerce is purely an administrative question." McMinnville Freight Line, Inc. v. Atkins, 514 S.W.2d 725, 726-27 (Tenn. 1974)).¹ Accused demands his right to have the dispute over a license be

¹ All matters pertaining to driver licenses and licensed activity are purely administrative, however, and a upon a license follows the rule of exhaustion of administrative remedies.

heard first by State of Tennessee under auspices of its department of safety and homeland security, responsible for issuing the license upon which claim is made, the court not yet qualified by ripeness of the allegations to determine if State of Tennessee has authority make a claim for which relief may be granted as a criminal matter.

Factual Background

3. On Nov. 22, 2023, at 6:26 a.m., deputy Brandon Bennett of Hamilton County sheriff's office chases accused southbound on state Highway 153, running his blue lights. He arrests accused in a retail parking lot opposite the Hixson Wal-Mart store for "a broken passenger taillight in which white light could be seen."
4. Deputy Bennett in "incident narrative" and affidavit of complaint describes the seizure as a "traffic stop" for a "passenger taillight" of a "vehicle" being "[operated]" by a "driver and violator."²
5. "I explained [to] Tulis he must be in compliance with Tennessee Law while operating a vehicle on public roadways. I then asked for Mr. Tulis' driver's license which he refused to produce. Mr. Tulis stated he did have a license, but did not want to give it to me. I

"[T]he Utilities Commission has never been held by this Court to be restricted by the technical common law rules of evidence in determining purely administrative questions, and we have held that the grant or refusal of a license to use public highways in commerce is **purely an administrative question.**" *Hoover Motor Exp. Co. v. R.R. & Pub. Utilities Comm'n*, 195 Tenn. 593, 616, 261 S.W.2d 233, 243 (1953).(emphasis added)

² 18 U.S.C § 31. Definitions (6) Motor vehicle.- "The term '**motor vehicle**' means every description of carriage or other contrivance propelled or drawn by mechanical power **and used for commercial purposes on the highways** in the **transportation** of passengers, passengers and property, or property or cargo.***

(10) Used for **commercial purposes**.-The term 'used for commercial purposes' means the carriage of persons or property **for any fare, fee, rate, charge or other consideration**, or directly or indirectly in connection with any business, or other undertaking **intended for profit.**" (emphasis added)

advised *** I needed his license to identify him as the driver and violator. Mr. Tulis again refused so *** I asked him to step out of the vehicle, which he did,” according to the affidavit of complaint.

6. “What makes you believe right now that I’m traveling right now in commerce?” accused asks Mr. Bennett.
7. BENNETT “Well, I observed you on the motor way and *** I do believe you to be the person operating this vehicle as of right now.”
8. TULIS “I rebut the presumption, sir, I’m operating a vehicle. Right now, I would rebut the claim that I am driving and operating a motor vehicle. Is it not possibly prudent for you to determine whether or not I’m involved in the activity under the privilege right now? That would be under [Title] 55, chapter 50, and also under [Title] chapter 65 under the Tennessee code annotated, which is carriers.”
9. BENNETT “You’re not. I’d say you’re not. You’re not. If I take this before a judge he’ll also state that, ‘Yes, you are in violation of a traffic law under section 55 of — ”
10. TULIS “The light law?”
11. BENNETT “— Yes.”
12. TULIS “— Yes, well. I rebut the presumption, officer ***.”
13. Audio/video record shows Mr. Bennett stating three times that accused is not acting in commerce.

14. Mr. Bennett, under color of office, orders accused from his car and binds his wrists, arresting and imprisoning him. Mr. Bennett takes accused to Hamilton County detention center, aka Silverdale, whereupon in name of State of Tennessee accused is criminally charged and booked without warrant as required under T.C.A. § 40-7-103, the alleged breach not meeting the legal standard for public offense.
15. Magistrate Blake Murchison states at a hearing he finds probable cause for the arrest, and releases accused on his own recognizance.
16. The allegations arise from Hamilton County sheriff's office colorable administration of Tenn. Code Ann. §§ Titles 65, carriers, and 55, motor and other vehicles. Tenn. Code Ann. § Title 55 regulates the privileged field of activity called transportation. The privilege is the trade, business, calling or taxable vocation styled "operating" or "driving" a "motor vehicle," for which authority is state of Tennessee through the exercise of a state privilege in the Uniform Classified and Commercial Driver License Act of 1988, regulating transportation on Tennessee roads, Title 55, motor and other vehicles.
17. Deputy Bennett's vocabulary is thoroughly commercial, down to describing the right-rear taillight as the "passenger side" of the car. A guest or rider sits in the right-hand seat, in "absence of any contractual relation between the parties"; in contrast, a "passenger" pays for transport under §§ 65 and 55. Talbot v. Taylor, 184 Tenn. 428, 429–30, 201 S.W.2d 1, 1–2 (1935) (abrogated by a 1992 case on other grounds).

Petition for pre-plea avoidance

18. The state's case fails to give the court subject matter jurisdiction because (1) the party bringing the claim is acting outside of statutory authority, (2) the court into which he files his allegation receives it prematurely, and (3) because the accused is in no way

known, on Nov. 22, 2023, at 6:26 a.m., to be involved in privileged activity subject to the commercial and administrative authority of Tenn. Code Ann. § Title 55.

19. Privilege enforcement in Tennessee arises from the general assembly's constitutional authority to regulate trades, granted Tenn. const. art. 2, sect. 28, "The Legislature shall have power to tax merchants, peddlers, and **privileges**, in such manner as they may from time to time direct, and the Legislature may levy a gross receipts tax on merchants and businesses in lieu of ad valorem taxes on the inventories of merchandise held by such merchants and businesses for sale or exchange." Privilege management is described in Phillips v. Lewis, 3 Shannon's cases 230 (1877) (emphasis added)³

20. Criminal enforcement and administrative regulation are distinct areas of law. The case before the court originates in *administrative regulation*, which is civil. The criminal authority invoked only on articulable, reasonable or warranted *suspicion of a crime* under Tenn code ann. § Title 39 having been committed. State v. Garcia, 123 S.W.3d

³ Police power and regulatory authority under the UAPA are exercisable upon those "on the privilege" of driving or operating a motor vehicle. Phillips describes a privilege as an occupation, trade or calling such as the raising of bitches or jackasses for private profit and gain.

This pursuit or occupation is taxed, not as property, but as an occupation. Another element in this occupation is, that its object and pursuit is directed to a profit to be made off the general public, the merchant having a relation, by reason of his occupation, to the whole community in which he may do business, by reason of which he reaps, or is assumed to reap, the larger profit by drawing upon or getting the benefit of the resources of those surrounding him. The same idea is involved in the case of the peddler, who may range over a whole county by virtue of his license. His is an occupation of like character, a peculiar use of his capital varied only in some of its incidents.

Phillips v. Lewis, 3 Shannon's cases 230 (1877)_at 240

335, 343–44 (Tenn. 2003).⁴

21. Only a member of the highway patrol can stop a motor vehicle traveling on the road without probable cause. “(c) Unless a law enforcement officer has probable cause to believe that an offense has been committed, no officer, except members of the Tennessee highway patrol acting pursuant to § 4-7-104, shall have the authority to stop a motor vehicle for the sole purpose of examining or checking the license of the driver of the vehicle” (Tenn. Code Ann. § 40-7-103).

22. The trooper’s authority to stop motor vehicle operators apart from probable cause inheres in the *pre-agreement* to be stopped on part of the driver or operator of a motor vehicle, that being through his application for a classified and commercial driver’s license under § 55-50-101 *et seq.*⁵ A licensee “on the privilege” – or exercising the activity under state privilege – is subject to state trooper administration of the regulatory laws upon transportation or traffic. Transportation is under privilege because no one has a right to use the public right of way for private profit and gain; only licensees under

⁴ “We have noted that ‘[u]pon turning on the **blue lights** of a vehicle, a police officer has clearly initiated a stop and **has seized the subject** of the stop **within the meaning of the Fourth Amendment** of the Federal Constitution and Article I, section 7 of the Tennessee Constitution.’ *Id.* (citing *State *344 v. Pulley*, 863 S.W.2d 29, 30 (Tenn.1993)). Accordingly, in the instant case, when Officer Kohl stopped Garcia's vehicle **by turning on her blue lights**, she must have had **reasonable suspicion**, supported by **specific and articulable facts**, that the defendant had committed, or was about to commit, a **criminal** offense in order for the stop to be constitutionally valid.”

State v. Garcia, 123 S.W.3d 335, 343–44 (Tenn. 2003) (emphasis added)

⁵ Driver licenses are issued and revoked “upon the principles of equity.” *Sullins v. Butler*, 175 Tenn. 468, 135 S.W.2d 930, 933 (1940).

taxable privilege may use the people's public roads for gain.⁶

23. Driver licenses are purely an administrative matter enforceable by the Tennessee department of safety and homeland security (DOSHS). "The members of the Tennessee highway patrol have jurisdiction and authority to make such investigation of operators of motor vehicles for hire as they may see fit to ascertain whether or not they are operating in compliance with § 65-15-109, and whether or not they are otherwise complying with the law relating to such operators, and they have authority to make arrests for any violation of title 65, chapter 15, or of any other traffic law of the state."

⁶ "The state legislature may properly enact reasonable regulations requiring licensing and registration of motor vehicles as it furthers the interests of public safety and welfare pursuant to its police power. The ability to drive a motor vehicle on a public highway is not a fundamental right. Instead, it is a revocable privilege that is granted upon compliance with statutory licensing Procedures." State v. Ferrell, 2009 Tenn. Crim. App. LEXIS 629

"The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse-drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business." Thompson v. Smith, 154 SE 579, 11 American Jurisprudence, Constitutional Law, section 329, page 1135

"3079a199. **Operator** is a common **carrier**, and the business is a **privilege**, when.—Any person, firm, or corporation operating **for hire** any public conveyance propelled by steam, compressed air, gasoline, naphtha, electricity, or other motive power **for the purpose** of affording a means of street **transportation** similar to that ordinarily afforded by street railways (but not operated upon fixed tracks) by indiscriminately accepting and discharging such persons as may offer themselves for transportation along the way and course of operation, shall be and the same is hereby declared and defined to be a **common carrier**, and the business of all such common carriers is hereby declared to be a **privilege**." (1915, ch. 60, sec 1.), cited in Shannon's *A Compilation of Tennessee Statutes*, Volume 2, 1917. (emphasis added)

T.C.A § 65-15-102(7) "**For-hire motor carrier**' means a person engaged in the **transportation** of goods or passengers **for compensation**." (emphasis added)

(Tenn. Code Ann. § 4-7-105)

24. The DOSHS commissioner signs a semiannual covenant with the U.S. department of transportation for fiscal years 2022-2024 to receive federal funding to improve commercial motor vehicle safety. The document is “TENNESSEE Commercial Vehicle Safety Plan Federal Motor Carrier Safety Administration's Motor Carrier Safety Assistance Program Fiscal Years 2022 - 2024” (hereinafter, “TCVSP”) ⁷. **EXHIBIT No. 1.**

25. In the TCVSP, the commissioner states on p. 4 – “The Tennessee Highway Patrol of the Tennessee Department of Safety and Homeland Security (TDOSHS) is the **sole agency** in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles. The Tennessee Highway Patrol is the State's lead agency for the Motor Carrier Safety Assistance Program and does not fund any sub-grantees” (emphasis added).

26. TCVSP, on p. 5, states that the highway patrol’s overseer, DOSHS, enforces the operating and driving privilege upon commercial motor vehicles to protect “the general public.” ⁸

According to Tennessee Code Annotated (TCA) Title 65 Chapter 15, the Tennessee Highway Patrol (THP) is the lead agency in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles and the Federal Motor

⁷ Date of Approval: Aug. 10, 2022

https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2022-11/FY2022%20Tennessee%20eCVSP_Final.pdf

⁸ “**DRIVER.** One **employed** in conducting or **operating** a coach, carriage, wagon, or other vehicle, with horses, mules, or other animals, or a bicycle, tricycle, or motor car, though not a street railroad car. A person actually doing driving, **whether employed** by owner to drive or driving his own vehicle.” (*Black’s Law Dictionary* 4th ed. p.585) (emphasis added)

Carrier Safety Assistance Program. No sub-grantees are funded. The THP uses various regulatory, enforcement, and educational strategies to achieve its mission. Tennessee troopers are certified to conduct all levels of the North American Standard inspections, including passenger carriers, cargo tanks, and hazardous materials. The THP, in partnership with the Federal Motor Carrier Safety Administration, conducts commercial motor vehicle targeted enforcement and public education and awareness programs geared toward both industry and the general public to increase awareness of commercial motor vehicle safety issues and the operation of passenger vehicles around commercial motor vehicles.”

27. TCVSP p. 7: “The State of Tennessee, Highway Patrol executes the following activities to meet the requirements of 49 CFR part 350.213(b): *** Enforcing federal registration (operating authority) requirements under 49 U.S.C. 13902, 49 CFR Part 365, 49 CFR Part 368, and 49 CFR 392.9a by prohibiting the operation of (i.e., placing out of service) any vehicle discovered to be operating without the **required operating authority** or beyond the scope of the motor carrier's operating authority” (emphasis added).

28. Regulation of transportation is under federal auspices.

Analysis

29. Use of the public road is in either of two categories, either for private purposes as member of the general public or in regulable commerce. The subject matter in instant case is commercial, under Tenn. Code Ann. § Title 55, motor and other vehicles, and § Title 65, carriers.

30. The court receives the allegation of commercial use – and wrongdoing under any license – prematurely from State of Tennessee.

31. Title 65 grants DOSHS authority to regulate commercial activity, affirms the **commercial** nature of the privileged activity of operating a motor vehicle upon the public highways. “(a) It is unlawful for any motor carrier, contract hauler, or exempt

for-hire motor carrier to use any of the public highways of this state for the **transportation** of person or property, or both, **in interstate or intrastate commerce**, without first having received a permit from the department or from any state designated as the base jurisdiction state for that carrier pursuant to 49 U.S.C. § 11506 [omitted] as amended by § 4005 of the Intermodal Surface Transportation Efficiency Act of 1991. Violators are subject to penalty pursuant to § 65-15-113” (Tenn. Code Ann. § 65-15-107) (emphasis added).

32. The law creating THP affirms the same in § 4-7-105. “The members of the Tennessee highway patrol have jurisdiction and authority to make such investigation of **operators of motor vehicles for hire** as they may see fit to ascertain whether or not they are operating in compliance with § 65-15-109, and whether or not they are otherwise complying with the law relating to such operators, and they have authority to make arrests for any violation of title 65, chapter 15, or of any other traffic law of the state” (emphasis added).

33. DOSHS is designated for enforcement of privileged commercial motor vehicle activity and its licensing. DOSHS is the specialized agency for ascertaining subject matter jurisdiction for any alleged violations of §§ Titles 55 and/or 65.

34. Driver licenses are an exclusive state privilege. “The licensing as a privilege of the driving of any motor driven vehicle upon the roads, streets or other highways of the state is declared an **exclusive state privilege** and no tax for such privilege under any guise or shape shall hereafter be assessed, levied or collected by any municipality of the state” Tenn. Code Ann. § 6-55-501 (emphasis added).

35. The department of safety and homeland security has exclusive jurisdiction over all matters pertaining to driver licenses and privilege enforcement upon those people using

motor vehicles,⁹ according to the two titles above mentioned (§ Title 55 and § Title 65), and under agreement with the U.S. department of transportation that holds that the highway patrol is the “sole agency” for enforcement of the state’s interest in equity and public health, safety and welfare.

36. Given that a dispute over a license, arising from a rules of the road violation claim, is a privilege and tax matter,¹⁰ the accused in an administrative and civil matter has right to be heard *in agency* at DOSHS, with claims as to subject matter jurisdiction to be established there first.

37. The courts recognize the necessity for exhausting administrative remedies before suits are brought to adjudication:

The exhaustion doctrine has been recognized at common law as an exercise of judicial prudence. Justice Brandeis referred to it as ‘the long settled rule of judicial administration that no one is entitled to judicial relief for a supposed or threatened injury until the prescribed administrative remedy has been exhausted.’ *Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41, 50-51, 58 S.Ct. 459, 82 L.Ed. 638 (1938). When a claim is first cognizable by an administrative agency, therefore, the courts will not interfere ‘until the administrative process has run its course.’ *United States v. W. Pac. R.R. Co.*, 352 U.S. 59, 63, 77 S.Ct. 161, 1 L.Ed.2d 126 (1956). Both courts and legislatures have recognized that the exhaustion doctrine promotes judicial efficiency and protects administrative authority in at least three ways.

First, sometimes ‘[j]udicial intervention may not be necessary because the agency can correct any initial errors at subsequent stages of the process[, and] the

⁹ 18 U.S.C § 31 (a)(6) “Motor vehicle.— The term ‘motor vehicle’ means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.”

¹⁰ “**PRIVILEGE.** A particular and peculiar benefit or advantage enjoyed by a person, company, or class, beyond the common advantages of other citizens. An exceptional or extraordinary power or exemption. A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law.” *Black’s Law Dictionary* 4th edition, p.1359

agency's position on important issues of fact and law may not be fully crystallized or adopted in final form.' *Ticor Title*, 814 F.2d at 735 (quoting *Gellhorn Boyer*).

Secondly, exhaustion allows the agency to develop a more complete administrative record upon which the court can make its review. *Efco Tool Co. v. Comm'r*, 81 T.C. 976, 981, 1983 WL 14906 (1983).

Finally, cases that concern subject matter within the purview of administrative agencies often involve 'specialized fact-finding, interpretation of disputed technical subject matter, and resolving disputes concerning the meaning of the agency's regulations.' *West v. Bergland*, 611 F.2d 710, 715 (8th Cir. 1979) (citations omitted). Requiring that administrative remedies be exhausted often leaves courts better equipped to resolve difficult legal issues by allowing an agency to 'perform functions within its special competence.' *Id.* (quoting *Parisi v. Davidson*, 405 U.S. 34, 37, 92 S.Ct. 815, 31 L.Ed.2d 17 (1972)).

Colonial Pipeline Co. v. Morgan, 263 S.W.3d 827, 838-39 (Tenn. 2008)

38. The doctrine of exhaustion of remedies requires that administrative matters are to be heard in agency in a contested case "by an administrative judge or hearing officer sitting alone." Tenn. Code Ann. § 4-5-301. At conclusion of such case, the party may appeal "in the chancery court nearest to the place where the cause of action arose, or in the chancery court of Davidson County" Tenn. Code Ann. § 4-5-322.
39. The moving party, in its endeavors to enforce motor vehicle and transportation laws via TCVSP pursuant to CFR Title 49, is obligated by statute to the doctrine of exhaustion of administrative remedies: "These rules do not relieve the requirement that a party exhaust its administrative remedies before going to court. Any action appealable as of right must be timely appealed. If an appeal, discretionary appeal, or petition seeking reopening is filed under § 1115.2 or § 1115.3 of this part, before or after a petition seeking judicial review is filed with the courts, the Board will act upon the appeal or petition after advising the court of its pendency unless action might interfere with the court's jurisdiction." (49 CFR § 1115.6 - Exhaustion of remedies and judicial review.)

40. The commissioner of safety certifies that, “The State will ensure that violation sanctions imposed and collected by the State are consistent, effective, and equitable.” (TCVSP item 11 on page entitled “Certification of MCSAP Conformance (State Certification)- FY 2018”). In the interest of maintaining these principles, the law ensures the duty for State of Tennessee exhaust its remedies in agency.

Argument

41. Accused gives notice that he is unwilling to yield this right to have the matter heard administratively in the department of safety where available administrative remedies have not yet been exhausted.

42. The protocol for an in-agency hearing as to the facts and subject matter jurisdiction is outlined at Tenn. Code Ann. § 4-5-301; accused also has right to a pre-hearing conference, Tenn. Code Ann. 4-5-306, a hearing on whether he is subject to the officer’s claims about his activity, and a final order, pursuant to Tenn. Code Ann. § 4-5-314. Further administrative remedies remain available to the accuser in an administrative hearing pursuant to Tenn. Code Ann. § 4-5-223 (a). Declaratory orders.

“(a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency. The agency shall:

- (1) Convene a contested case hearing pursuant to this chapter and issue a declaratory order, which shall be subject to review in the chancery court of Davidson County, unless otherwise specifically provided by statute, in the manner provided for the review of decisions in contested cases; or
- (2) Refuse to issue a declaratory order, in which event the person petitioning the agency for a declaratory order may apply for a declaratory judgment as provided in § 4-5-225.

43. The state’s accusation in this case is premised on authority of Tenn. Code Ann. Title 55, invoking the jurisdiction of the department of safety and homeland security, before

which they must reasonably be first heard.

44. Case law has consistently recognized the importance of the exhaustion doctrine:

When a **statute provides** for an administrative remedy, an aggrieved party **must ordinarily exhaust** the remedy **before** seeking to utilize the judicial process. Thomas v. State Bd. of Equalization, 940 S.W.2d 563, 566 (Tenn. 1997); Bracey v. Woods, 571 S.W.2d 828, 829 (Tenn. 1978). In Thomas, this Court observed that the exhaustion of remedies **doctrine** allows an administrative body to ‘(1) **function efficiently** and have an opportunity to correct its own errors; (2) afford the parties and the courts the benefit of its **experience and expertise** without the threat of litigious interruption; and (3) compile a record which is adequate for judicial review.’ Thomas, 940 S.W.2d at 566. Nevertheless, unless the **statute** providing for an administrative remedy **requires exhaustion** ‘by its plain words,’ an administrative appeal is not mandatory. Id.; see also Reeves v. Olsen, 691 S.W.2d 527, 530 (Tenn. 1985). Absent a statutory mandate, the exhaustion of the administrative remedies doctrine is a matter of judicial discretion. Thomas, 940 S.W.2d at 566 n.5; Reeves, 691 S.W.2d at 530; State ex rel. Moore & Assocs., Inc. v. West, 246 S.W.3d 569, 577 (Tenn. Ct. App. 2005).

Ready Mix, USA, LLC v. Jefferson County, Tennessee 380 S.W.3d 52 at 63-64.
(emphasis added)

45. The above mentioned facts and law demonstrate that the court does not have subject matter jurisdiction, as the matter is administrative and not ripe. The accused demands that the court dismiss the case and grant the state leave to exhaust its remedies against the license at DOSHS.

46. “The trial court, by reason of plaintiff’s failure to exhaust her administrative remedies, acquired no jurisdiction over the plaintiff’s claim. When it clearly appears that the court lacks jurisdiction, the court has no authority to reach the merits. In such a situation the action should be dismissed for want of jurisdiction.” Melo v. United States, 505 F.2d 1026, 1030 (8th Cir. 1974)

47. "Courts derive their powers to adjudicate not from the parties, but from the law. A Court acting without jurisdiction of the subject matter, or beyond the jurisdiction conferred upon it, is therefore acting without authority of law and its judgments and decrees in so acting are void and bind no one. Sheffy v. Mitchell, 142 Tenn. 48, 215 S.W. 403." Gillespie v. State, 619 S.W.2d 128, 129 (Tenn. Ct. App. 1981)

48. "The lack of subject matter jurisdiction is a nonwaivable defect that may be raised at any time to justify dismissal of a pending action. *Id.*" Ambrose v. Welch, 729 F.2d 1084, 1085 (6th Cir. 1984).

Relief demanded

49. The state of Tennessee and the officer fail to exhaust such available administrative remedies in the department of safety before seeking adjudication, depriving accused of his right to have the matter heard administratively, whereafter he demands to exercise this right at the agency. Because the court receives the allegation prematurely, it lacks subject matter jurisdiction over this case, and should dismiss it *ministerially*.

I attest that the foregoing is true and accurate to the best of my knowledge. Further affiant sayeth naught.

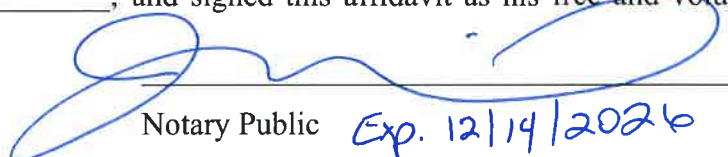
Respectfully submitted,



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 12 day of January 2024, and signed this affidavit as his free and voluntary act and deed.


Notary Public Exp. 12/14/2026

Exhibits

1. TENNESSEE Commercial Vehicle Safety Plan Federal Motor Carrier Safety Administration's Motor Carrier Safety Assistance Program Fiscal Years 2022 - 2024, Pages 1-5, 89-91
2. Charging instrument State of Tennessee v. David Jonathan Tulis
3. Incident narrative, deputy Brandon Bennett

Certificate of Service

This pre-plea remedy and avoidance is served in person by hand delivery to the office of the district attorney general, Coty Wamp, at the Hamilton County courts building at
600 Market St., Suite 310
Chattanooga, TN 37402
Phone: (423) 209-7400

Exhibit 1



TENNESSEE

Commercial Vehicle Safety Plan

**Federal Motor Carrier Safety Administration's
Motor Carrier Safety Assistance Program**

Fiscal Years 2022 - 2024

Date of Approval: August 10, 2022

FINAL CVSP



**U.S. Department of Transportation
Federal Motor Carrier Safety Administration**

Part 1 - MCSAP Overview

Part 1 Section 1 - Introduction

The Motor Carrier Safety Assistance Program (MCSAP) is a Federal grant program that provides financial assistance to States to help reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles (CMV). The goal of the MCSAP is to reduce CMV-involved accidents, fatalities, and injuries through consistent, uniform, and effective CMV safety programs.

A State lead MCSAP agency, as designated by its Governor, is eligible to apply for grant funding by submitting a commercial vehicle safety plan (CVSP), in accordance with the provisions of [49 CFR 350.209](#), [350.211](#) and [350.213](#). The lead agency must submit the State's CVSP to the FMCSA Division Administrator on or before the due date each year. For a State to receive funding, the CVSP needs to be complete and include all required documents. Currently, the State must submit a performance-based plan or annual update each year to receive MCSAP funds.

The online CVSP tool (eCVSP) outlines the State's CMV safety objectives, strategies, activities and performance measures and is organized into the following five parts:

- Part 1: MCSAP Overview (FY 2022 - 2024)
- Part 2: Crash Reduction and National Program Elements (FY 2022 - 2024)
- Part 3: National Emphasis Areas and State Specific Objectives (FY 2022 - 2024)
- Part 4: Financial Information (FY 2022)
- Part 5: Certifications and Documents (FY 2022)

You will find that each of the five eCVSP parts listed above contains different subsections. Each subsection category will provide you with detailed explanation and instruction on what to do for completing the necessary tables and narratives.

The MCSAP program includes the eCVSP tool to assist States in developing and monitoring their grant applications. The eCVSP provides ease of use and promotes a uniform, consistent process for all States to complete and submit their plans. States and territories will use the eCVSP to complete the CVSP and to submit a 3-year plan or an Annual Update to a 3-year plan. As used within the eCVSP, the term 'State' means all the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Virgin Islands.

REMINDERS FOR FY 2022:

Multi-Year plans—All States will be utilizing the multi-year CVSP format. This means that objectives, projected goals, and activities in the plan will cover a full three-year period. The financial information and certifications will be updated each fiscal year.

Annual Updates for Multi-Year plans—States in Year 2 or Year 3 of a multi-year plan will be providing an Annual Update only. States will review the project plan submitted the previous year and indicate any updates for the upcoming fiscal year by answering the "Yes/No" question provided in each Section of Parts 1-3.

- If Yes is indicated selected, the information provided for Year 1 will be editable and State users can make any necessary changes to their project plan. (Note: Trend Analysis information that supports your current activities is not editable.) Answer carefully as there is only one opportunity to select "Yes" before the question is locked.
- If "No" is selected, then no information in this section will be editable and the user should move forward to the next section.

All multi-year and annual update plans have been pre-populated with data and information from their FY 2021 plans. States must carefully review and update this information to reflect FY 2022 activities prior to submission to FMCSA. The financial information and certifications will be updated each fiscal year.

- Any information that is added should detail major programmatic changes. Do not include minor modifications that reflect normal business operations (e.g., personnel changes).
- Add any updates to the narrative areas and indicate changes by preceding it with a heading (e.g., FY 2022 update). Include descriptions of the changes to your program, including how data tables were modified.
- The Trend Analysis areas in each section are only open for editing in Year 1 of a three-year plan. This data is not editable in Years 2 and 3.

Personally Identifiable Information - PII is information which, on its own or matched with other data, would permit identification of an individual. Examples of PII include: name, home address, social security number, driver's license number or State-issued identification number, date and/or place of birth, mother's maiden name, financial, medical, or educational

records, non-work telephone numbers, criminal or employment history, etc. PII, if disclosed to or altered by unauthorized individuals, could adversely affect the Agency's mission, personnel, or assets or expose an individual whose information is released to harm, such as identity theft.

States are reminded **not** to include any PII in their CVSP. The final CVSP approved by FMCSA is required to be posted to a public FMCSA website.

Part 1 Section 2 - Mission/Goal Statement**Instructions:**

Briefly describe the mission or goal of the lead State commercial motor vehicle safety agency responsible for administering this Commercial Vehicle Safety Plan (CVSP) throughout the State.

NOTE: *Please do not include information on any other FMCSA grant activities or expenses in the CVSP.*

The Tennessee Highway Patrol of the Tennessee Department of Safety and Homeland Security (TDOSHS) is the sole agency in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles. The Tennessee Highway Patrol is the State's lead agency for the Motor Carrier Safety Assistance Program and does not fund any sub-grantees.

The Tennessee Department of Safety and Homeland Security's mission is to serve, secure, and protect the people of Tennessee. The Department's vision is to be a national leader in best practices that enhance public safety and customer service. The Commercial Vehicle Enforcement Administration Unit of the Tennessee Highway Patrol is responsible for the Department's mission with respect to commercial motor vehicles. Tennessee carries out this mission through commercial vehicle inspections, traffic enforcement, education, and the implementation of special initiatives targeting Commercial Motor Vehicle safety. These activities include the following:

- Enforcement of motor vehicle and criminal laws focusing on commercial motor vehicles
- Regulation of commercial motor vehicles and motor carriers per Title 49 CFR
- Public Education and Awareness
- Driver/Vehicle Inspections
- Carrier Investigations and New Entrant Safety Audits
- Data Collection
- Crash Investigations

Part 1 Section 3 - MCSAP Structure Explanation

Instructions:

Answer the questions about your grant activities and briefly describe the State's commercial motor vehicle (CMV) enforcement program funded by the MCSAP grant. Please do not include activities or expenses associated with any other FMCSA grant program.

Complete the check boxes below if they **affirmatively** apply to this CVSP:

- Initiatives involving "rural roads" are specifically included in this CVSP.
- The State has voluntarily submitted an annual Training Plan to the National Training Center (NTC).

According to Tennessee Code Annotated (TCA) Title 65 Chapter 15, the Tennessee Highway Patrol (THP) is the lead agency in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles and the Federal Motor Carrier Safety Assistance Program. No sub-grantees are funded. The THP uses various regulatory, enforcement, and educational strategies to achieve its mission. Tennessee troopers are certified to conduct all levels of the North American Standard inspections, including passenger carriers, cargo tanks, and hazardous materials. The THP, in partnership with the Federal Motor Carrier Safety Administration, conducts commercial motor vehicle targeted enforcement and public education and awareness programs geared toward both industry and the general public to increase awareness of commercial motor vehicle safety issues and the operation of passenger vehicles around commercial motor vehicles.

There are eight THP Districts within the state. Each district is commanded by a District Captain. All districts are under the command of the THP Administrative Office located in Nashville, Tennessee. The command staff consists of Majors, Lieutenant Colonels, and a Colonel. Within the state there are eight commercial vehicle weigh station facilities. Each of the fixed facilities is under the command of a Lieutenant who reports to the Captain of that district. All of the Agency's commercial motor vehicle activities are coordinated by the Commercial Vehicle Enforcement Administration Unit. Within the Commercial Vehicle Enforcement Administration Unit is a Lieutenant who coordinates passenger transportation safety and a Sergeant who coordinates hazardous materials and new entrant activities. There are also two Sergeants whose duties include, but are not limited to, coordination of commissioned and industry education, interpretation of regulations for drivers, motor carriers and field personnel. All three Sergeants report to the Commercial Vehicle Enforcement Lieutenant who oversees all CVE grant and enforcement programs and he reports directly to the CVE and Special Program's Captain. The Captain then reports to a Major within the THP Command Staff.

Along with the CVE commissioned personnel, there are several administrative support personnel who include an Administrative Secretary, an Accounting technician, a Grants manager, a Statistical analyst, and part time Fiscal Service Accounting personnel. There are also eight Troopers and one Administrative Assistant who make up the Tennessee New Entrant Program.

As of June 2021, THP had 54 troopers assigned to the fixed inspection facilities and 683 in patrol and/or administrative positions. All troopers below the rank of Captain are, at a minimum, Level III certified. Troopers in specialized CVE positions are required to maintain higher levels of certification. Troopers assigned to the road and administrative positions are required to complete a minimum number of North American Standard inspections each year in addition to their regular duties. The primary responsibilities of troopers assigned to the fixed facilities are commercial vehicle inspections and other commercial motor vehicles related enforcement.

All new troopers are required to pass the North American Standard Part A. Within six months of completing training they must complete 32 North American Standard Level III inspections with a Certified Field Training Officer. Select troopers receive additional training in HAZMAT, Level VI (Radioactive Materials & Transuranics), North American Standard Part B, cargo tank, and passenger carrier, which allows them to gain certification in these specialized areas. The table below shows the number of certified Troopers as of June 2021.

FY 2022 Certification of MCSAP Conformance (State Certification)

I, Jeff Long, Commissioner, on behalf of the State of Tennessee, as requested by the Administrator as a condition of approval of a grant under the authority of 49 U.S.C. § 31102, as amended, do hereby certify as follows:

1. The State has designated the Tennessee Highway Patrol as the Lead State Agency to administer the Commercial Vehicle Safety Plan (CVSP) throughout the State for the grant sought and the Tennessee Highway Patrol to perform defined functions under the CVSP.
2. The State has assumed responsibility for and adopted commercial motor carrier and highway hazardous materials safety regulations, standards and orders that are compatible with the FMCSRs and the HMRs, and the standards and orders of the Federal Government.
3. The State will cooperate in the enforcement of financial responsibility requirements under 49 C.F.R. part 387.
4. The State will enforce registration (i.e., operating authority) requirements under 49 U.S.C §§ 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operating without the required registration or beyond the scope of the motor carrier's registration.
5. The laws of the State provide the State's enforcement officials right of entry (or other method a State may use that is adequate to obtain the necessary information) and inspection sufficient to carry out the purposes of the CVSP, as approved.
6. The Lead State Agency and any subrecipient of MCSAP funds have the legal authority, resources, and qualified personnel necessary to enforce the State's commercial motor carrier, driver, and highway hazardous materials safety laws, regulations, standards, and orders.
7. The State has undertaken efforts to emphasize and improve enforcement of State and local traffic laws as they pertain to CMV safety.
8. The State will obligate the funds or resources necessary to provide a matching share to the Federal assistance provided in the grant to administer the plan submitted and to enforce the State's commercial motor carrier safety, driver, and hazardous materials laws, regulations, standards, and orders in a manner consistent with the approved plan.
9. The State will maintain the maintenance of effort required under 49 C.F.R. § 350.225.
10. The State requires that all reports required in the CVSP be available to FMCSA upon request, meets the reporting requirements, and uses the forms for recordkeeping, inspections, and investigations that FMCSA prescribes.
11. The State implements performance-based activities, including deployment and maintenance of technology, to enhance the efficiency and effectiveness of CMV safety programs.

12. The State dedicates sufficient resources to a program to ensure that accurate, complete, and timely motor carrier safety data are collected and reported, and to ensure the State's participation in a national motor carrier safety data correction system prescribed by FMCSA.
13. The State will ensure that the Lead State Agency will coordinate the CVSP, data collection, and information systems with the State highway safety improvement program under 23 U.S.C. § 148(c).
14. The State will ensure participation in information technology and data systems as required by FMCSA for jurisdictions receiving MCSAP funding.
15. The State will ensure that information is exchanged with other States in a timely manner.
16. The laws of the State provide that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Standard Inspection procedure, through the use of a nationally accepted system allowing ready identification of previously inspected CMVs.
17. The State will conduct comprehensive and highly visible traffic enforcement and CMV safety inspection programs in high-risk locations and corridors.
18. The State will ensure that it has departmental policies stipulating that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel.
19. The State will ensure that, except in the case of an imminent or obvious safety hazard, an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a bus station, terminal, border crossing, maintenance facility, destination, or other location where motor carriers may make planned stops (excluding a weigh station).
20. The State will address activities in support of the national program elements listed in 49 C.F.R. § 350.203.
21. The State will ensure that detection of criminal activities and CMV size and weight enforcement activities described in 49 C.F.R. § 350.227(b) funded with MCSAP funds will not diminish the effectiveness of other CMV safety enforcement programs.
22. The State will ensure that violation sanctions imposed and collected by the State are consistent, effective, and equitable.
23. The State will include, in the training manual for the licensing examination to drive a non-CMV and the training manual for the licensing examination to drive a CMV, information on best practices for safe driving in the vicinity of noncommercial and commercial motor vehicles.
24. The State has in effect a requirement that registrants of CMVS demonstrate their knowledge of the applicable FMCSRs, HMRs, or compatible State laws, regulations, standards, and orders on CMV safety.

25. The State will transmit to its roadside inspectors at the notice of each Federal exemption granted pursuant to 49 U.S.C. § 31315(b) and 49 C.F.R. §§ 390.32 and 390.25 as provided to the State by FMCSA, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.
26. Except for a territory of the United States, the State will conduct safety audits of interstate and, at the State's discretion, intrastate new entrant motor carriers under 49 U.S.C. § 31144(g). The State must verify the quality of the work conducted by a third party authorized to conduct safety audits under 49 U.S.C. §31144(g) on its behalf, and the State remains solely responsible for the management and oversight of the activities.
27. The State will fully participate in the performance and registration information systems management program under 49 U.S.C. §31106(b) not later than October 1, 2020, or demonstrates to FMCSA an alternative approach for identifying and immobilizing a motor carrier with serious safety deficiencies in a manner that provides an equivalent level of safety.
28. The State will ensure that it cooperates in the enforcement of hazardous materials safety permits issued under subpart E of part 385 of this subchapter by verifying possession of the permit when required while conducting vehicle inspections and investigations, as applicable.
29. In the case of a State that shares a land border with another country, the State may conduct a border CMV safety program focusing on international commerce that includes enforcement and related projects or will forfeit all MCSAP funds based on border-related activities.
30. In the case that a State meets all MCSAP requirements and funds operation and maintenance costs associated with innovative technology deployment with MCSAP funds, the State agrees to comply with the requirements established in 49 C.F.R. subpart D.

Date 7/08/2021

Signature _____

A handwritten signature in blue ink, appearing to read "Jeff Long", is written over a horizontal line.

SPN 626945	Date Arrested 11/22/2023	Time Arrested 6:26 AM	Arrestee # 1	Sector / District	Warrant Signed By <input type="checkbox"/> Officer <input type="checkbox"/> Victim <input type="checkbox"/> Both	<input type="checkbox"/> Original Charge <input checked="" type="checkbox"/> Warrant Service
Location Of Arrest 5741 HIGHWAY 153 CHATTANOOGA TN 37343		Location Of Incident (If different from arrest)			CPD Number	
ARRESTING AGENCY	Arresting Agency Name HAMILTON COUNTY SHERIF	Arresting ORI TN 0330000	Arresting Agency ID Num 1	Jail/Arrest Number	Arresting Complaint Number 23-045719	
REPORTING AGENCY	Reporting Agency Name HAMILTON COUNTY SHERIF	Reporting ORI TN 0330000	Reporting Agency ID 1	T.B.I. Document#	Reporting Complaint Num	
ARRESTEE	(Office Only) Last Name TULIS, DAVID J	First Name	Middle Name	Alias/Maiden/Nickname		
Last name	First Name	Middle Name	Age 64	Sex M	Race W	Date Of Birth 6/8/1959
			Ethnicity N	Resident Status Resident	Under Age 18	
Height 602	Weight 160	Hair BRO	Eyes GRN	Marks, Scars, Tattoos, Physical Defects		Social Security Number [REDACTED]
Home Address 10520 BRICKHILL LANE		City SODDY-DAISY	State TN	Zip 37379	Business Name/Address	City State Zip
Home Phone 423-316-2680	Place Of Birth	F.B.I. or S.I.D. Number	Business Phone	Type Of Arrest T	Multiple Clearance	Cleared
Armed with: Describe weapon (serial# Code: 01 auto 336-09482		Make RUGER	Model SR9C	Caliber 9m	Armed with: Describe weapon (serial# Code: auto	
Offense	TIBRS	Status C	Def Used	Location	Criminal Activity	Bias
Gang: Activity Type Name		1.				
#	Suspected Drug Type	Estimated Qty	Measurement	2.		
1				IF MARIJUANA COMPLETE THE FOLLOWING		
2				<input type="checkbox"/> Indoor	<input type="checkbox"/> Outdoor	<input type="checkbox"/> Both
3				Num Of Plots	Latitude	Longitude
Property Or Evidence Description: 9MM AMMUNITION				Receipt Number		
CODE: C-Complaint V-Victim W-Witness P-Parent G-Guardian ***Obtain information from warrant if available***						
Code	Last Name	First Name	Mid	DOB	Age	Sex Race Home or Business Address Phone Number
VEHICLE: YR	Make	Model	Style	Color(s)	License	State Year Type

Exhibit 2

CHARGE	DOCKET #	CHARGE	DOCKET #	CHARGE	DOCKET #
LIGHT LAW VIOLATION	1930155	VIOLATION OF DRIVER'S LICENS	1930156		

AFFIDAVIT OF COMPLAINT In the General Sessions Court of Hamilton State of Tennessee vs. TULIS, DAVID

The undersigned affiant, after being duly sworn according to the law TULIS, DAVID whose name is otherwise unknown to the affiant, committed the offense of LIGHT LAW VIOLATION in the above county at (Location) 5741 HIGHWAY 153 CHATTANOOGA TN 37343 on or about 11/22/2023. Further, affiant makes oath that the essential facts constituting said offense, the sources of affiant's information, and the reasons why his/her information is believable concerning said facts are as follows:

23-045719CPD. BENNETT 27550N 11/22/2023 AT APPROXIMATELY 0626 HOURS, I, CORPORAL BENNETT WAS LEAVING LINEUP FROM THE WEST SECTOR AND WAS ENTERING HIGHWAY 153 SOUTH. I OBSERVED A GREEN TOYOTA RAV 4 TRAVELING SOUTH BOUND WITH A BROKEN PASSENGER TAILLIGHT IN WHICH WHITE LIGHT COULD BE SEEN. I CONDUCTED A TRAFFIC STOP OF THE VEHICLE IN THE 5100 BLOCK OF HIGHWAY 153. UPON PERSONAL CONTACT WITH THE DRIVER (DAVID TULIS), DEPUTIES IDENTIFIED THEMSELVES AND THE REASON FOR THE TRAFFIC STOP. MR. TULIS IMMEDIATELY BEGAN TO RECORD WITH HIS PHONE FROM INSIDE THE VEHICLE AND ATTEMPTED TO REBUT THE VIOLATION AS AN UNLAWFUL DETENTION. I EXPLAINED THE TULIS HE MUST BE IN COMPLIANCE WITH TENNESSEE LAW WHILE OPERATING A VEHICLE ON PUBLIC ROADWAYS. I THEN ASKED FOR MR. TULIS' DRIVER'S LICENSE WHICH HE REFUSED TO PRODUCE. TULIS STATED HE DID HAVE A LICENSE, BUT DID NOT WANT TO GIVE IT TO ME. I ADVISED MR. TULIS I WOULD LIKE TO GET HIM ON HIS WAY, BUT I NEEDED HIS LICENSE TO IDENTIFY HIM AS THE DRIVER AND VIOLATOR. MR. TULIS AGAIN REFUSED SO AT THAT TIME I ASKED HIM TO STEP OUT OF THE VEHICLE WHICH HE DID. AT THIS TIME HE ADVISED HE WAS IN POSSESSION OF A WEAPON ON HIS HIP. A TERRY FRISK WAS DONE OF HIS - CONT. NEXT PAGE

If the defendant's charge is dismissed, a no true bill is returned by a grand jury, the defendant is arrested and released without being charged with an offense, or the court enters a nolle prosequi in the defendant's case, the defendant is entitled, upon petition by the defendant to the court having jurisdiction over the action, to the removal and destruction of all public records relating to the case without cost to the defendant.

O-Defendants:

Signature Arresting Officer/Affiant <i>[Signature]</i>	Badge/ID 2755
Signature Approving Supervisor	Badge/ID
HCIC/TIES Entries/Clear Made By	Date

Sworn to before me this 11/22/2023

Judge-Court Of General Sessions
Vince Dean, Clerk, Criminal Div.
General Sessions Court

By *[Signature]*
Court Clerk/Deputy Clerk

Arresting Officer: BENNETT, B 2755

SPN 626945	Date Arrested 11/22/2023	Time Arrested 5:26 AM	Arrestee # 1	Sector / District	Warrant Signed By <input type="checkbox"/> Officer <input type="checkbox"/> Victim <input type="checkbox"/> Both	<input type="checkbox"/> Original Charge <input checked="" type="checkbox"/> Warrant Service
Location Of Arrest 5741 HIGHWAY 153 CHATTANOOGA TN 37343			Location Of Incident (if different from arrest)		CPD Number	
ARRESTING AGENCY	Arresting Agency Name HAMILTON COUNTY SHERIF	Arresting ORI TN 0330000	Arresting Agency ID Num 1	Jail/Arrest Number	Arresting Complaint Number 23-045719	
REPORTING AGENCY	Reporting Agency Name HAMILTON COUNTY SHERIF	Reporting ORI TN 0330000	Reporting Agency ID 1	T.B.I. Document#	Reporting Complaint Num	
ARRESTEE	(OfficeOnly) Last Name TULIS, DAVID J	First Name	Middle Name	Alias/Maiden/Nickname		
Last name First Name Middle Name TULIS, DAVID		Age 64	Sex M	Race W	Date Of Birth 6/8/1959	Ethnicity N
Height 602	Weight 160	Hair BRO	Eyes GRN	Marks, Scars, Tattoos, Physical Defects		Social Security Number [REDACTED]
Home Address 10520 BRICKHILL LANE		City SODDY-DAISY	State TN	Zip 37379	Business Name/Address	City State Zip
Home Phone 423-316-2680	Place Of Birth	F.B.I. or S.I.D. Number	Business Phone	Type Of Arrest T	Multiple Clearance	Cleared
Armed with: Describe weapon (serial# Make Model Caliber) Code: 01 auto 336-09482 RUGER SR9C 9m			Armed with: Describe weapon (serial# Make Model Caliber) Code: auto			
Offense	TIBRS	Status C	Def Used	Location	Criminal Activity	Bias
Suspected Drug Type		Estimated Qty	Measurement			
#						
1						
2						
3						
Property Or Evidence Description: 9MM AMMUNITION				Num Of Plots	Latitude	Longitude
CODE: C-Complaint Y-Victim W-Witness P-Parent G-Guardian ***Obtain information from warrant if available***				Receipt Number		
Code	Last Name	First Name	Mid	DOB	Age	Sex
VEHICLE: YR		Make	Model	Style	Color(s)	License
						State Year Type

VIN	<input type="checkbox"/> Parked and Locked <input type="checkbox"/> Towed	Vehicle can be located at:
-----	--	----------------------------

CHARGE	DOCKET #	CHARGE	DOCKET #	CHARGE	DOCKET #
LIGHT LAW VIOLATION	1930155	VIOLATION OF DRIVER'S LICENS	1930156		

AFFIDAVIT OF COMPLAINT In the General Sessions Court of Hamilton State of Tennessee vs TULIS, DAVID

The undersigned affiant, after being duly sworn according to the law TULIS, DAVID whose name is otherwise unknown to the affiant committed the offense of LIGHT LAW VIOLATION in the above county at (Location) 5741 HIGHWAY 153 CHATTANOOGA TN 37343 on or about 11/22/2023. Further affiant makes oath that the essential facts constituting said offense, the sources of affiant's information, and the reasons why his/her information is believable concerning said facts are as follows:

WOULD NOT BE VIOLATING HIS CONSTITUTIONAL RIGHTS.

If the defendant's charge is dismissed, a no true bill is returned by a grand jury, the defendant is arrested and released without being charged with an offense or the court enters a nolle prosequi in the defendant's case, the defendant is entitled upon petition by the defendant to the court having jurisdiction over the action, to the removal and destruction of all public records relating to the case without cost to the defendant.

O-Defendants:

Signature Arresting Officer/Affiant 	Badge/ID 2755
Signature Approving Supervisor	Badge/ID
NCIC/TIES Entries/Clear Made By	Date

Arresting Officer BENNETT, B 2755

Sworn to before me this 11/22/2023

Judge-Court Of General Sessions
Vince Dean, Clerk, Criminal Div
General Sessions Court

By Maria Johnson
Court Clerk-Deputy Clerk

Bennett aff.

Case #:23-045719

Arrest #: HC23110362A

Narrative (1)

INCIDENT NARRATIVE

Exhibit 3

11/22/2023

23-045719
Cpl. Bennett 2755

On 11/22/2023 At approximately 0626 hours, I, Corporal Bennett was leaving lineup from the West Sector and was entering Highway 153 South. I observed a green Toyota Rav 4 traveling south bound with a broken passenger taillight in which white light could be seen. I conducted a traffic stop of the vehicle in the 5100 Block of Highway 153. Upon personal contact with the driver (David Tulis), Deputies identified themselves and the reason for the traffic stop. Mr. Tulis immediately began to record with his phone from inside the vehicle and attempted to rebut the violation as an unlawful detention. I explained the Tulis he must be in compliance with Tennessee Law while operating a vehicle on public roadways. I then asked for Mr. Tulis' driver's license which he refused to produce. Tulis stated he did have a license, but did not want to give it to me. I advised Mr. Tulis I would like to get him on his way, but I needed his license to identify him as the driver and violator. Mr. Tulis again refused so at that time I asked him to step out of the vehicle which he did. At this time he advised he was in possession of a weapon on his hip. A Terry frisk was done of his person and at which time a Ruger SR9C was discovered loaded in a holster on his right hip. The weapon was secured and checked for stolen through NCIC. During the Terry Frisk Deputies felt an unusual object in Tulis' left pocket. I asked his permission to enter the poket to identify the object which he stated was a rotary phone dial. Due to Deputies', and Officer's safety present at the scene I entered the pocket due to such object being used as explosive initiators. Once the item was identified as a rotary face with keys they were placed back into the pocket. Tulis again refused to cooperate at which time he was placed into custody for the equipment violation, and failure to produce identification. At this time a search incident to arrest was conducted of his person and the vehicle. R&D wrecker service was called as next district to take possession of the vehicle. Mr. Tulis' firearm was placed into property at the West Sector Property Room. Tulis was advised of this at the appropriate time. Mr. Tulis was Mirandized which he refused to acknowledge and then attempted to again rebut his detention. I advised Tulis he has originally wished to remain silent and see a Magistrate and I would not be violating his constitutional rights.

Officer (2)

Arresting Officer: Bennett, Brandon (2755hs)
APPROVING Officer: Merritt, Ginger (gmerritt2)