

In the court of the Chattanooga parking authority

City of Chattanooga)	
Plaintiff)	
)	Case No.
V.)	20889606
)	
David Jonathan Tulis)	
Accused)	

Affidavit & motion for summary judgment

Affiant lives in Soddy-Daisy, Tenn., in Hamilton County, and swears to the following as true, complete and to the best of his knowledge, as follows:

Facts of the case, procedural history

1. An officer of the Chattanooga parking authority (hereinafter CPA), or some other person, on Jan. 25, 2024, placed on the windshield of his motor vehicle a “parking violation” notice on 7th Street in downtown Chattanooga under sec. 24-332 who “conspicuously [affixes]” a claim notice upon accused’s car. **EXHIBIT No. 1**
2. It states under “violation information” as follows: “Code 24.324 UNLAWFUL ACTS - PARKING METER VIOLATIONS” with “fine \$11.00” due, or \$41.50 “if paid after 02/04/2024.” In a box, “vehicle information,” the notice states “License plate 639BKTV” with make of car, “TOYT *** GRN.” The fine is \$10; the additional \$1 is privilege tax.
3. Accused files timely appeal at the parking authority website Feb. 2, 202, stating, “Challenge officer authorization 24-325; challenge accuracy, sufficiency of

citation under 24-331; challenge claim of breach, harm to movant.” **EXHIBIT No. 2.**

4. The same day, the parking authority sends accused a ruling by e-mail: “The request has been processed and denied. The citation has been denied for the following reason(s): METER EXPIRED.” **EXHIBIT No. 3.**
5. Accused timely calls the parking authority Feb. 5, 2024, to request a hearing. Hearings are held under Sec. 24.331(c).
6. On March 25, 2024, accused by phone speaks with manager John Bell asking why no hearing date had been set. He indicates April 24, 2024, will be the hearing date. Accused insists on having the ticketing employee — witness accuser — available for questioning. Mr. Bell indicates that work schedules of this employee might require delaying the hearing.

Analysis

7. The ordinance provides a liability provision, an enabling provision and a penalty provision. Sec. 24-324 is the enabling procedural law giving CPA the authority to “establish the hours and days of operation” for meters and rates and requiring it to publish the information. The penalty provision is at sec. 24-326, titled “penalties for violation.”
8. The liability ordinance is elsewhere. It creates a legal duty upon members of the public by empowers the CPA or other officer to prosecute offenses:

(a) No vehicle shall remain parked in a lawful, designated parking space longer than the maximum amount of time allowed for parking in such parking space, as indicated by appropriate markings of signs, printed receipts, or electronic messages, or as indicated by such parking meters.

The provisions of this section shall apply during such hours and on such dates as established from time to time by the Parking Authority.

(b) It is unlawful to “feed the meter” or otherwise to attempt to avoid detection for parking longer than the maximum amount of parking time designated for that space.

(c) Failure to purchase parking time or failure to otherwise follow procedures required for confirming the purchase of time **shall be considered a violation** of this ordinance.

([Ord. No. 12626, § 3, 7-10-12](#)) [emphasis added]

Sect. 24-320. - Time limitations; Failure to Purchase Time or Confirm Purchase

9. That “no vehicle shall remain parked” authorizes the officer to tag a car as offender, thusly creating a duty or liability upon the vehicle’s owner or operator if he wishes to avoid offense.

10. The liability ordinance is at Sect. 24-320.

11. CPA’s charging instrument cites 324 as basis for its suit upon the accused. This provision is the enabling provision.

Exclusive state privilege

12. The charging instrument cites the car’s registration. Chattanooga is a home rule municipality. However, general laws apply to all cities. The charging instrument refers to the car’s license plate.

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.

T.C.A. § 6-55-501 (emphasis added)

13. Tag No. 639BKTV is under an “exclusive state privilege” and “no tax for such privilege” shall be imposed by “any municipality of the state.”

14. Any rule in conflict with the above law at 501 is “declared inoperative and of no effect.”

(a) All ordinances, rules or regulations heretofore passed, enacted or promulgated by any incorporated municipality of the state in conflict with § 6-55-501 are **declared inoperative and of no effect.**

(c) No municipality shall require any **person who does not reside within the municipality’s corporate boundaries** to purchase a city automobile tag, or **pay** any license fee, regulatory fee, inspection fee, safety inspection fee, or **any citation or fine for noncompliance with any regulatory, license, or inspection requirement, or tax of whatever nature for the privilege of driving a motor vehicle** on the roads, streets or highways of such municipality.

Tenn. Code Ann. § 6-55-502 (emphasis added)

15. City of Chattanooga and its parking authority division are imposing a tax under guise of parking violation fine and a \$1 “privilege tax” upon accused in his use of the public street within the corporate city limit.

Argument

16. The parking authority has power to “control all parking meters in the city *** “[s]ubject to all applicable state laws and regulations.” Sec. 24-312(e)(5)

17. City ordinance savings clause recognizes powers greater than the limited municipal authority exercised by CPA.

18. The Chattanooga parking authority fails to state a claim for which relief may be granted.
19. It cites as authority for its prosecution a provision in the city code, sec. 24-324, one that does not create any duty or liability upon accused because it is an enabling or procedural provision. **The liability law imposing duty on a member of the public is sec. 24-320.**
20. CPA, thusly, cites in instant case a provision that does not empower its claims as against the accused.
21. Further, and in the alternative, CPA, agent for city of Chattanooga, illicitly imposes a tax on a statewide privilege.
22. CPA seeks to impose a privilege tax and a duty upon a party exercising a state-protected privilege under T.C.A. § 6-55-501, ignoring the limit in control of all parking meters in the city that is “[s]ubject to all applicable state laws and regulations.” Sec. 24-312(e)(5).
23. The case makes a claim upon a person not subject to city of Chattanooga ordinances, a nonresident who lives in Soddy-Daisy under protection of a protectible interest in a statewide privilege.

Plea for relief

24. In light of the foregoing, the parking authority –
 - a. Makes no claim upon accused for which relief can be granted, as its charging instrument fails to cite authority, and

b. Lacks authority to impose any "tax *** under any guise or shape" for use of nonresident accused's car, an instrumentality registered with the Tennessee department of revenue, under its metal privilege plate.

25. Therefore, accused demands accuser's claim be dismissed with prejudice.

Further affiant sayeth naught.

Respectfully submitted,

David Jonathan Tulis

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 24th day of April 2024, and signed this affidavit as his free and voluntary act and deed.

Charlotte G. Olson

Notary Public

My commission expires
07/07/2024



Date expires



1

Parking Violation

CITATION INFORMATION

Citation Number	Issue Type
20889606	
Date	Time
01/25/2024	03:28 PM

VIOLATION INFORMATION

Code	Fine
24.324	\$ 11.00
UNLAWFUL ACTS - PARKING METER VIOLATIONS	
If Paid After 02/04/2024	Due In 30 Days
\$ 41.50	\$ 61.00
Location	Meter
0 7TH ST	2912

VEHICLE INFORMATION

License Plate	State
639BKTV	TN
Vin Number	
Make	Color
TOYT	GRN

On-street tickets include \$1 State Privilege Tax.
Every Vehicle must pay to park.

See reverse for more information

2



David Tulis <davidtuliseditor@gmail.com>

Chattanooga Online Review Request Receipt No : 784735

1 message

noreply.chattanoogaappeals@dsparkingportal.com
<noreply.chattanoogaappeals@dsparkingportal.com>

Fri, Feb 2,
2024 at
6:00 AM

To: DAVIDTULISEDITOR@gmail.com



Chattanooga Parking Authority 1362 Market St. Chattanooga, TN 37402 423-648-4031

Dear DAVID,

This reply serves as notification that the Chattanooga Parking Authority has received your Citation Appeal request. Please keep this email for your records. Your appeal is being reviewed along with any evidence submitted. A Chattanooga Parking Authority representative will respond to your request via email with an outcome within 14 calendar days.

Officer Badge No: 114 Vehicle License Plate No: 639BKTV Vehicle License Plate State: TN First Name: DAVID Last Name: TULIS Address: 10520 BRICKHILL LANE SODDY-DAISY TN 37379 Submission Date: 02-FEB-24 Telephone Number: (423) 316-2680 Email: DAVIDTULISEDITOR@GMAIL.COM Reason for Appeal: Challenge officer authorization 24-325; challenge accuracy, sufficiency of citation under 24-331; challenge claim of breach, harm to movant

Terms and Conditions: CPA Authorization - Chattanooga Parking Authority

Please do not respond to this email address. For inquires please call (423) 648-4031.

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Chattanooga Online Appeal Outcome

4 messages

noreply.chattanoogaappeals@dsparkingportal.com
<noreply.chattanoogaappeals@dsparkingportal.com>
To: DAVIDTULISEDITOR@gmail.com

Fri, Feb 2, 2024 at 7:01 PM

*Pam Brookins calls 2/5/24
Wed. on a Wed. I request ofcr
who wrote ticket*



Chattanooga Parking Authority 1362 Market St. Chattanooga, TN 37402 423-648-4031

February 02, 2024 DAVID TULIS DAVIDTULISEDITOR@GMAIL.COM Parking Citation #: 20889606

Dear DAVID,

We have received your request to dismiss the below listed citation. The request has been processed and denied. The citation has been denied for the following reason(s): **METER EXPIRED.**

Additional Comments:

Citation Issued	Violation	Plate	Amount Owed
20889606 01/25/2024	UNLAWFUL ACTS - PARKING METER VIOL	639BKTV	\$11.00

The citation must be paid in full within 7 days of the date of this notification in order to avoid additional penalties. Failure to make payment may result in further action including immobilization and/or impoundment of your vehicle. If you still feel this citation was issued in error, you may request an administrative hearing within 7 days of the date of this notice by contacting the Chattanooga Parking Authority at (423) 648-4031.

You may pay the citation(s) by the method below: 1) Pay online at <https://chattanoogaparking.org/pay> 2) By phone with Visa or Mastercard by calling (423) 648-4031 Monday through Friday from 8:00am to 4:00pm 3) By mailing payment (do not send cash) with check or money order payable to Chattanooga Parking Authority, please write your citation number on your check or money order, Or brought in person to: Chattanooga Parking Authority 1362 Market Street Chattanooga, TN 37402