

IN THE CRIMINAL COURT OF HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE,)	
)	
<i>Plaintiff,</i>)	SECOND DIVISION
)	
vs.)	
)	NO(s). 317323
TAMELA GRACE MASSENGALE,)	
)	
<i>Defendant.</i>)	

ORDER OF DISMISSAL AS TO PETITION FOR WRIT OF CERTIORARI

This matter is before the Court following the filing of a document entitled *Affidavit and remonstrance in re Tamela Grace Massengale false imprisonment & false arrest; Petition for Writ of Certiorari* filed by David Tulis on April 29, 2024. As noted in the petition and accompanying affidavit, Mr. Tulis is not a licensed attorney, but has filed this petition as “next friend” of Ms. Massengale. The Petition specifically requests that this Court “lift the criminal case pending in general sessions, take jurisdiction over the substance of the case, and ministerially dismiss it as a nullity and void because of violations of due process.”

Defendant was arrested on March 27, 2024 for theft under \$500; theft of property; harassment; and registration, improper display of plates. Those cases remain pending in the General Sessions Court for Hamilton County, docket numbers 1941912 – 1941915. The present petition was filed on April 29, 2024, which is the same day that the office of the Public Defender was appointed to represent this Defendant.¹

Tenn. Const. art. VI, § 10 provides that “[t]he Judges or Justices of the Inferior Courts of Law and Equity, shall have power in all civil cases, to issue writs of certiorari to remove any cause or the transcript of the record thereof, from any inferior jurisdiction, into such court of law, on sufficient cause, supported by oath or affirmation.” This right was codified in *T.C.A §27-8-104*, and was cited throughout the petition as a statement of jurisdiction.

Although the power to issue writs exists in certain cases, the petition fails to cite any legal authority for this Court’s consideration of its petition relative to four *criminal* cases pending in the General Sessions Court. *T.C.A §27-8-101* makes clear that the writ of certiorari may be granted only when authorized by law. Thereafter, Title 27 of the Tennessee Code Annotated only confers authority to the circuit and chancery courts in *civil* matters, and does not specifically authorize the removal of a matter from the general sessions court in criminal cases.

¹ Counsel for the Defendant has now filed a *Motion to Strike Affidavit and Remonstrance in re Tamela Grace Massengale False Imprisonment and False Arrest: Petition for Writ of Certiorari*, which the Court has taken under advisement

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Accordingly, the Court does not have jurisdiction to consider the petition filed on Ms. Massengale's behalf.

The Court also finds that there is a separate issue in this matter related to standing. The doctrine of standing is used to determine whether a particular plaintiff is entitled to judicial relief. Knierim v. Leatherwood, 542 S.W.2d 806, 808 (Tenn. 1976); Garrison v. Stamps, 109 S.W.3d 374, 377 (Tenn. Ct. App. 2003). In order for standing to exist, the Court must make a finding that the plaintiff has alleged a sufficiently personal stake in the outcome of the litigation to warrant a judicial resolution of the dispute. SunTrust Bank v. Johnson, 46 S.W.3d 216, 222 (Tenn. Ct. App. 2000).

To establish standing, a plaintiff must show (1) that it has sustained a distinct and palpable injury, (2) that the injury was caused by the challenged conduct; and (3) that the injury is one that can be addressed by a remedy that the court is empowered to give. City of Chattanooga v. Davis, 54 S.W.3d 248, 280 (Tenn. 2001). To be clear, the focus in a standing analysis focuses on the party, not the merits of the underlying claim.

In the present case, Mr. Tulis has brought this action as "next friend" of Ms. Massengale, and attached an affidavit whereby the Defendant named him as "next friend." However, the Court finds that there is no basis for this Defendant to be appointed a next friend absent some showing that she is an infant or otherwise incompetent.

The civil code is replete with examples in which a person can be named "next friend" for an individual who is incapable of proceeding on their own behalf. *See T.C.A. §20-12-128; T.R.C.P. 17.03*. In each instance, there must be a showing that the injured party has been adjudicated incompetent or is an infant, as well as a Court order naming the next friend or guardian who can act on their behalf. It is insufficient for an alleged injured party to simply name another citizen as next friend to take up legal action on her behalf.

Accordingly, having considered the filings in this matter and the record as a whole, this Court finds no authority for a circuit court judge remove a criminal proceeding from the jurisdiction of the general sessions court, and therefore this Court lacks jurisdiction to grant the relief requested. In addition, the Court finds that Mr. Tulis does not have standing to file a petition on behalf of any person other than himself. Mr. Tulis has not established a sufficient personal stake in the outcome of Ms. Massengale's criminal charges to have standing to file this action on his own behalf. Likewise, he has not been authorized by this or any other court to act as her "next friend" for purpose of filing suit. Defendant's "appointment" of a next friend is insufficient in the eyes of the law.

Therefore, for the reasons stated herein, the *Affidavit and remonstrance in re Tamela Grace Massengale false imprisonment & false arrest; Petition for Writ of Certiorari* is respectfully **DISMISSED**.

It is so ordered.

Enter.


AMANDA B. DUNN, Judge