

IN HAMILTON COUNTY, TENN., CHANCERY COURT

**IN CASE SEEKING CREATION OF 3-JUDGE PANEL UNDER T.C.A. §
28-18-101 ET SEQ**

State of Tennessee *ex rel.* David Jonathan Tulis)
% 10520 Brickhill Lane)
Soddy-Daisy, Tenn. 37379)
davidtuliseditor@gmail.com)
423-316-2680)

Relator)

V.)

David Gerregano)
Commissioner of revenue)
In official capacity)

Jeff Long)
Commissioner of safety)
In his official capacity)

Respondents)

Docket no.
No. 33CHI-2024-CV-779

**ORAL ARGUMENT
DEMAND**

Rule 54 notice regarding 3-judge panel

State of Tennessee on relation files notice pursuant to Tenn. Sup. Ct. R. 54 that his lawsuit filed in Hamilton County chancery court satisfies the criteria for the three-judge panel at T.C.A. § 20-18-101.

Respondents are (1) David Gerregano, commissioner of revenue, served at 500 Deaderick St., Nashville, Tenn. 37242, and (2) Jeff Long, commissioner of safety, 312 Rosa L. Parks

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Respondents' statutory breaches are so stark and numerous, relator asks fresh consideration not just of the scope of the program's demolition of statute, but in the particulars of how it violates constitutionally guaranteed rights.

Background

The law's purpose at T.C.A. § 55-12-202 authorizes EIVS to surveil certified "*motor vehicle liability insurance policies*" used as proof of financial responsibility.¹ "Motor vehicle liability policy" is defined at T.C.A. § 55-12-102 as being certified. An officer acting under T.C.A. § 55-12-139(B)(1)(C) "shall utilize the vehicle insurance verification program" when a *motor vehicle liability policy* is provided by the driver. An officer does not verify an owner's or operator's policy unless it has been certified into a *motor vehicle liability policy* as and when required by the commissioner of safety. Exactly when safety requires proof of financial responsibility is laid out at T.C.A. § 55-12-101 *et seq.* A record of persons required to maintain proof is kept by safety's division of financial responsibility. When an officer acts under T.C.A. § 55-12-139 and runs a check upon a license, then if it shows that the person is required to have proof of financial responsibility ("POFR"), he is required to ask for that proof. But only from those persons. When these two statutes — § 139 and § 202 — are read in *para materia*, it is clear that certified policies are subject to being surveilled by EVIS and only certified policies are acceptable.

¹ Parts 1 and 2 of the Tennessee financial responsibility law have as subject matter the "motor vehicle liability policy," defined as follows:

"Motor vehicle liability policy" means an "owner's policy" or "operator's policy" of liability insurance, **certified** as provided in § 55-12-120 or § 55-12-121 **as proof of financial responsibility**, and issued, except as otherwise provided in § 55-12-121 by an insurance carrier duly licensed or admitted to transact business in this state, to or for the benefit of the person named therein as insured;

Tenn. Code Ann. § 55-12-102(7) (emphasis added)

DOR claims it doesn't have a way to "weed out" only those persons. The Atwood law says DOR must consult with and cooperate with safety which maintains those records. DOR does not consult nor cooperate with safety, according to testimony.

Under DOR policy, every **motor vehicle** must have proof of financial responsibility at all times. How can an object be required to have proof? Under Part 1, the owner or driver is required to have it, not the vehicle. If the owner is required, his vehicle is linked to the owner's policy. An operator's policy is not linked to a vehicle, yet DOR forces an operator to link a VIN to his policy against the very definition of what an operator's policy is defined as under T.C.A. § 55-12-122.

DOR has no authority to sift the ordinary *noncertified* operator's or owner's policy held by the general public vehicle registrant, nor the noncustomer of the insurance industry. All "driving without insurance" criminal cases in Tennessee are prosecuted under the penalty statute, T.C.A. § 55-12-139.

This cause in a word: *Respondents compel people to buy insurance they do not need to obtain policy cards that are not legally sufficient.*

Complaint sufficiency

Relator regrets he is not learned enough in the law to be succinct. Twenty-nine abrogations of law summarized in ¶¶ 159-196, however, evidence the scale of the corruption that statutory construction rules trace out in the good-faith complaint, the better to secure sufficiency and credibility.

The harm to relator and the public is concrete, ongoing and irreparable. The grinding forward of the program — DOR fraudulently using the U.S. mails to send 12,000 demand

or revocation notices weekly — lends urgency to the creation of the three-judge panel. That court is established precisely to overthrow practices such as respondents’.

Constitutional rights violations

The main abrogation of God-given, constitutionally guaranteed, unalienable and inherent rights is that of communication by physical movement of one’s person and chattel on the public roads, the right to have and use property, the right to contract, and due process.

1. DOR tells relator, among the poor in Tennessee, that if he doesn’t enter into contract to buy insurance, he may choose an alternate threat. (1) Give Mr. Gerregano a \$65,000 cash payment, (2) stop using the public road for any purpose in an automobile or motor vehicle, or (3) face criminal prosecution from respondents’ agents and privies for enjoying use of private property, the Toyota RAV4 automobile.
2. The right to have and use property apart from privilege is constitutionally guaranteed. Phillips v. Lewis, 3 Shannon’s cases 230, 1877. Privilege law is upon acts of commercial nature for private profit and gain affecting the public interest.
3. The right to contract – or to not contract – is constitutionally guaranteed. No authority exists for a department or commissioner to criminalize use of the ordinary means of the day on the public right of way in exercise of individual rights of ingress and egress, and force the public into a contract with insurance or bonding agencies.
4. Free use of the people’s roads must be recognized, for by free use are many rights enjoyed. For example, press rights (Tenn. const. Art 1 § 19). Obstructing automobile use quashes this communication enjoyment.
5. The right of ingress and egress from one’s place is constitutionally protected, as noted in 13 Tennessee court cases cited to respondent Gerregano. Exercise of that right allows pleasure and comfort of a host of others, as follows:

6. Free exercise of rights of conscience in religion (Tenn. const. art 1, § 3), free assembly (Tenn. const. art. 1 § 23), right to open courts and travel there (Tenn. const. art. 1 § 17), suffrage and elections (Tenn. const. art 1 § 5), freehold, liberties or privileges, and right to earn living in calling of common right (Tenn. const. art. 1 § 7 and 8), right to property and contract (Tenn. const. art. 1 § 21) and due process (Tenn. const. art. 1 § 8).
7. No authority exists under the Tennessee constitution for any department or official to use extortion to forbid insurance industry noncustomers from using roads thrown open for public travel or use free of charge. T.C.A. § 67-5-204
8. Their overthrow of law denies relator a hearing before revocation in violation of his due process rights to a hearing before the axe falls. Hearings under TFRL are at T.C.A. § 55-12-103 in DOSHS. Beazley v. Armour, 420 F. Supp. 503, 506, 507, 509 (M.D. Tenn. 1976). Except in emergency situations, due process requires that when state seeks to terminate interest such as driver's license it must afford notice and opportunity for hearing appropriate to the nature of case before termination becomes effective. Bell v. Burson, 402 U.S. 535, 91 S. Ct. 1586, 29 L. Ed. 2d 90 (1971).

That five of every six registrants are rich enough to buy auto insurance doesn't make respondents' "Eye of Sauron" program *less* unconstitutional; that the poor suffer doesn't make it *more*. Obstruction against the function of the law, however, reasonably afflicts the poor the most, as they have few means of dealing with sky-high premiums, criminal accusations under § 139, hauled-off autos and vehicles, tow company storage fees, and, if jailed, bail bond fees, sheriff department cash card-on-exit skims and loss of work hours.

Respondents and their privies use crime-preventing or conservator of the peace powers to arrest on sight all people whose evidences of commercial roadway use — registration tags and driver licenses — are not in good standing (revoked, suspended, expired). Police power practice in Tennessee operates effectively as a bill of attainder against private

activity on the public road that does not affect the public interest and is not that for which the privilege is required.

The state of Tennessee on relation has standing, has stake in the outcome and claims the public interest against departure from law.

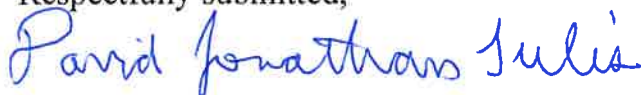
Role of presiding judge

The jurist charged under T.C.A. § 20-18-101 with connecting the complainant with the Tennessee supreme court and its administrator of the courts serves an administrative function until the panel is created by the supreme court. Hamilton County's supervising judge in his discretion might intervene to deny ascendancy to the supreme court if a complaint is facially without merit.

Instant cause comports with the order's Page 2 "Law and Analysis" section in initial determination of the constitutionality of an administrative rule or regulation. Establishing a three-judge panel requires a civil action in which the complaint challenges "the constitutionality of *** an administrative rule or regulation," however written.

Respectfully, the presiding county judge is not charged with dealing with the merits of the case. Given the foregoing, relator asks the judge to go beyond his "initial determination" that the cause has no merit, and graciously grant that, on fresh determination, more than a "sliver of a potential meritorious claim" exists in the complaint. State of Tennessee on relation asks its exhaustive report of public wrongdoing go before the three-judge panel forthwith, if not sooner.

Respectfully submitted,



David Jonathan Tulis