United States district court — middle district for Tennessee, civil division

David Jonathan Tulis 10520 Brickhill Lane Soddy-Daisy, TN 37379 davidtuliseditor@gmail.com (423) 316-2680	)	Case no. 3:24-cv-01226 **Judge Crenshaw** **Magistrate Judge Holmes**
Plaintiff	)	
V.	)	
	)	**Jury trial demand**
David Gerregano Commissioner of revenue In his personal capacity & in his official capacity	)	
State of Tennessee Tennessee department of revenue	)	
Defendants	)	**Oral argument demand**

Memorandum of law supporting objection to magistrate's recommendation

Generally, federal courts should entertain and resolve on the merits an action within the scope of a jurisdictional grant, and should not refuse to decide a case in deference to the states. Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 creates an exception to the general rule that federal courts should not refuse to decide a case in deference to the states to prevent federal courts from interfering with ongoing state criminal proceedings.

"This underlying reason for restraining courts of equity from interfering with criminal prosecutions is reinforced by an even more vital consideration, the notion of 'comity,' that is, a proper respect for state functions, a recognition of the fact that the entire country

is made up of a Union of separate state governments, and a continuance of the belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways." *id.* Younger at 44

Younger remains "'the exception, not the rule.'" New Orleans Pub. Serv., Inc. v. Council of City of New Orleans, 491 U.S. 350, 359, 109 S. Ct. 2506, 2513, 105 L. Ed. 2d 298 (1989)

Plaintiff is suing David Gerregano in his personal capacity for tort. While the magistrate urges stay on the entire case, plaintiff points out that his suit upon the man is apart from any proceeding in agency and not subject to the familiar parameters of Younger.

A. Introduction

The financial responsibility law in Tennessee monitors high-risk private motorists required to have extraordinary insurance coverage to "[p]rotect the welfare and safety of the traveling and shipping public in their use of the highways" § 65-15-101(4). The special insurance is an *evidence* or ***proof.*** It's called the SR-22 and comes with a certificate that serves as evidence or proof of financial responsibility. It's called the "financial responsibility insurance certificate" T.C.A. 55-12-126. The insured buys this regulated financial product as condition precedent to regaining the driving privilege.

The focus of the electronic insurance verification system ("EIVS") is this special policy, the "motor vehicle liability policy."

> (7) "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 (emphasis added)

EIVS is to "verify" such policy. The Atwood purpose statement reads as follows:

> The purpose of this part is to develop and implement an efficient insurance verification program that utilizes the online verification system and data transfer standards for transmitting a full book of business specifications, model, and guide of the Insurance Industry Committee on Motor Vehicle Administration in order to **verify** whether the financial responsibility **requirements** of **this chapter** have **been met** with a **motor vehicle liability insurance policy**, and to provide the commissioner of revenue with the authority to develop, implement, and administer the program.

T.C.A. § 55-12-202 (emphasis added)

T.C.A. § 55-12-102 dictates that the "motor vehicle liability insurance policy" mentioned in T.C.A. § 55-12-202 is a certified policy.

The verification of insurance requirement under T.C.A. § 55-12-210 must be read *in pari materia* with the purpose of Atwood in T.C.A. § 55-12-102. The verification requirement also is read *in pari materia* with T.C.A. § 55-12-139(b)(1)(C). If the driver of a motor vehicle fails to show an officer evidence of financial responsibility, or provides the officer with evidence of a **motor vehicle liability policy** as evidence of financial responsibility, the officer shall utilize the vehicle insurance verification program as defined in § 55-12-203 and may rely on the information provided by the vehicle insurance verification program, for the purpose of verifying evidence of liability insurance coverage. [1]

Any such verification of insurance must be verification of a *certified policy*. "The fact the insurance policy in question is on file and approved by the Commissioner of the Insurance and Banking, pursuant to T.C.A. s 56—603, does not make the policy a 'certified policy' under our financial responsibility law." McManus v. State Farm Mut. Auto. Ins. Co., 225 Tenn. 106, 112, 463 S.W.2d 702, 705 (1971). (Copy of case attached.)

[1] (9) "Vehicle insurance verification program" or "program" means an insurance verification program that is created in compliance with the online verification system and data transfer standards, specifications, model, and guide of the IICMVA, and developed, implemented, and administered by the department of revenue in compliance with this part.

The passage of T.C.A. § 55-12-139 in 2002 does not change the requirement for insurance used as proof or evidence of financial responsibility to be certified. A "motor vehicle liability policy" as defined by T.C.A. § 55-12-102(7) is certified because certification constitutes the evidence shown to the officer proof of financial responsibility.

When defendants run EIVS with a filter, TFRL coheres as a body of law. Parts 1 and 2 work together. Without the filter of § 55-12-102(7), there abound abrogations of law and self-contradiction cited in the complaint and in brief in support of injunction.

Plaintiff dubs the EIVS program the "Eye of Sauron." It wickedly burns out the countryside and annually delivers to defendants 40,800 criminal convictions of innocent Tennesseans denied due process and abused and injured by defendants' mass oppressive fraud.[2] EIVS is not to be a wide open eyeball, without lens or filter. In regular and proper use, it squints. It monitors the motor vehicle liability insurance certificate that the insured agrees to keep in possession as "evidence" or "proof of financial responsibility." It scans for an estimated few thousand SR-22s. [3]

DOR claims independent authority to suspend tags without regard to controlling law in Part 1. Its alleged authority, T.C.A.§55-12-210(f), refers to "the owner or operator's financial security requirements of this chapter." Sect. 210 calls the issuer of such special policy the "issuer of record." The SR-22 certificate record is with safety, as are all driver records. A person who has stopped payment on a motor vehicle liability policy "becomes eligible for notice."

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[2] Source of this figure is the 2023 report pursuant to T.C.A. §55-12-209(g) by defendant Gerregano and Jeff Long, commissioner of safety, to the general assembly with news about EIVS. **EXHIBIT No. 25** Dec. 18, 2023, letter to Lt. Gov. Randy McNally, House speaker Cameron Sexton

[3] Defendants have not rebutted plaintiff calculations from DOR data that the number of SR-22s is less than 3,000.

> (g) If the vehicle is no longer insured by the automobile **liability insurer of record** and no other insurance company using the IICMVA model indicates coverage after an unknown carrier request under § 55-12-205(3), the owner of the motor vehicle becomes **eligible for notice** as described in subsections (a) and (b).

T.C.A. § 55-12-210

Over four months, the high-risk driver gets inquiry letters and notices until, with the fourth notice, revenue revokes the tag ministerially without right of hearing under Atwood.

Insured becomes eligible for 210 notice after the carrier gives notice to DOSHS pending cancellation. T.C.A. § 55-12-123. Defendants allege they have authority in 210 to suspend a tag. Yet T.C.A. § 55-12-210 operates on definitions and provisions from Part 1 in putting suspension power with safety.

Defendants demand the case be stayed because of legal process occurring in defendant department.

The Younger doctrine respects state interests and wants Tennessee to operate its courts and agencies without interference from a remote master in Washington. The magistrate judge's recommendation that the court stall the lawsuit presumes the legitimacy and regularity of Tennessee state employees' tribunal under color of the Tennessee financial responsibility law of 1977 ("TFRL").

Generally, there is no state interest in a fraudulent program or extorting the public to serve insurance companies, their CEOs and shareholders. That's what this case exposes.

Respondents run the electronic insurance verification system ("EIVS") apart from its purpose at T.C.A. § 55-12-202 and its certification at T.C.A. § 55-12-212. Plaintiff alleges in the complaint a criminal enterprise under color of government ("a shakedown of the public," Doc. 1, PageID # 1). Plaintiff asks the court to review Doc. 6 of Dec. 17, 2024, containing an outline of his position in response to defendant motion to stay.

Here, he sharpens claims against imposing the Younger abstention upon a case of first impression evidencing a program "arbitrary and capricious *** oppressing plaintiff and harming the people of Tennessee with tens of thousands of criminal prosecutions" apart from law (Doc. 1, PageID # 1).

Plaintiff does not have a statutory agency forum in which to challenge the constitutionality of defendants' acts. The proceedings in agency are not like the legitimate and regular proceedings in the cases cited granting Younger abstention.

Further, the order pretends the definitions of harassment and bad faith are limited to activity imposed exclusively on an individual and not *en masse* in systematized extortion. Defendants' acts, as breach of law, are by definition ***infidelity***, or ***bad faith***.

B. Suit against Gerregano personally

Plaintiff served summons and complaint at Mr. Gerregano's domicile. He's suing Mr. Gerregano in his personal capacity to make him (1) cease arbitrary and capricious acts under color of office and (2) remit aggravated damages in trial by jury for willful acts so that accountability for wrongdoing might impress his conscience and warn other public servants.

Younger might be made to apply to the state of Tennessee, since plaintiff names the department as defendant. Younger might apply to Commissioner Gerregano in official capacity.

But plaintiff's claims against Mr. Gerregano in his personal capacity fall outside the Younger doctrine's reach. These claims seek equity and damages for bad-faith, arbitrary, and capricious acts under color of law. The relief sought against him does not necessarily infringe on ongoing state proceedings, nor do plaintiff's demands intrude upon the state's judicial machinery or seek to reach the state's treasury. Suit targets a private course of misconduct by defendant Gerregano, notwithstanding his official position.

To stretch Younger to apply to Mr. Gerregano the man would be improper. Mr. Gerregano presides over a personal feudatory run out of a state facility in Nashville. In Xcaliber Int'l, Ltd., LLC v. Gerregano, 290 F. Supp. 3d 747 (M.D. Tenn. 2018), case dismissed sub nom. Xcaliber Int'l, Ltd., L.L.C. v. Gerregano, No. 18-5317, 2019 WL 4780923 (6th Cir. Sept. 20, 2019), Younger abstention was applied as the plaintiff sought to enjoin state proceedings under the state's escrow statute. But here, unlike Xcaliber, plaintiff is fighting not just state enforcement action, but targeting personal conduct.

David Gerregano uses TFRL to cudgel plaintiff and to annually convict 40,800 Tennesseans of "driving without insurance" under color of T.C.A. § 55-12-139 without immunity attaching to him. "It has never been suggested that *Younger* requires abstention in deference to a state judicial proceeding reviewing legislative or **executive action**. Such a broad abstention requirement would make a mockery of the rule that only exceptional circumstances justify a federal court's refusal to decide a case in deference to the States." New Orleans Pub. Serv., Inc. v. Council of City of New Orleans, 491 U.S. 350, 368, 109 S. Ct. 2506, 2518, 105 L. Ed. 2d 298 (1989) ("NOPSI") (emphasis added).

"Eye of Sauron" is under color of the executive branch. It is a colorable executive branch program and action challenged by one of its victims forced into an executive branch tribunal that has no authority to hear his pleas.

NOPSI separates instant case from those that might otherwise be stayed under Younger.

C. Erroneous statements in recommendation

Plaintiff asks the court to review the following magistrate statements, indented, followed by response.

1. ‘Avenues for remedy’ — ‘Adequate opportunity to raise claims’ — NOT TRUE

> “[DOR] thereafter initiated the proceeding against Plaintiff through its preliminary letters to him and the July 21, 2023, letter that sanctioned him with the suspension of the vehicle registration and the assessment of a fee against him and presented him with his **avenues to remedy** or **appeal** the sanction. Such circumstances reflect a state civil enforcement proceeding to which *Younger* abstention may apply.” (Doc. 33 PageID# 500)

> “Plaintiff has an **adequate opportunity** to raise his constitutional claims in the current state proceeding because proceedings under the Tennessee [Uniform] Administrative Procedures Act have repeatedly been found to satisfy the third element necessary for *Younger* abstention.” (PageID# 501)

The order looks at the surface of the term “state proceedings” and not the meaning of that term. Plaintiff is not in authentic state proceedings. A hearing for 20 months denies him the right to challenge the targeted defendant conduct in a lawful court with authority to hear the case and give relief. The order appears to arise from an insufficient inquiry. It agrees that, “as set out by Defendant Gerregano, *** [DOR] is authorized to hold the administrative hearing at issue” (Doc. 33, PageID No. 502).

However, this is a superficie that disregards tax law language at T.C.A. § 67-1-105.

> In the **absence of any other provisions**, and **except as may otherwise be provided by law**, whenever any person is aggrieved and desires a hearing with respect to the final resolution of any issue or question involved in connection with either an application for and entitlement to the issuance of, or the proposed revocation of, any certificate, license, permit, privilege or right, *** such person shall, upon written request made within ten (10) days of the action complained of, be afforded an opportunity for a formal hearing before the commissioner.

Tenn. Code Ann. § 67-1-105(a)(1)

This provision has two (2) exclusion clauses excluding DOR’s hearing a license case because there is no “absence of any other provisions” and these other provisions are

"otherwise be provided by law" as in title 55, chapter 12. The order disregards TFRL as to the venue. The financial responsibility law puts all hearings in safety.

> (a) Except as otherwise specifically provided, the **commissioner [safety]** shall administer and enforce this chapter, may make rules and regulations necessary for its administration, and shall provide for hearings upon request of persons aggrieved by orders or acts of the commissioner under this chapter; provided, that the requests are made within twenty (20) days following the order or act and that failure to make the request within the time specified shall without exception constitute a waiver of the right.
>
> (b) Any person aggrieved by an order or act of the commissioner under this chapter may seek judicial review of the order or act as provided by § 4-5-322.

T.C.A. 55-12-103 (emphasis added)

Defendants' misconduct in running EIVS forces plaintiff into a futile act. Revenue obtains no authorization from TFRL to hear the case. Plaintiff's presence at the revenue hearing office does not cure this jurisdictional defect. Safety alone hears a TFRL appeal. Safety has initiatory revocation or restoration authority. See T.C.A §§ 55-12-103, -105, -114, -115, -116, -117, -118, -126, -127, -129 and -130. [4] Plaintiff has no standing to

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[4] In suspending plaintiff's tag suspension, defendants cite chapter 5, titled "anti-theft provisions." DOR has no independent authority to revoke any tag. Revocations come following notice by commissioner of safety. See **APPENDIX,** letter of suspension

> (a) The department is authorized to suspend or revoke the registration of a vehicle or a certificate of title, certificate of registration, or registration plate, or any nonresident or other permit in any of the following events:
>
> (1) When the department is satisfied that the registration or that the certificate, plate, or permit was fraudulently or erroneously issued;
> (2) When a registered vehicle has been dismantled or wrecked;
> (3) When the department determines that the required fee has not been paid and the same is not paid upon reasonable notice and demand;
> (4) When a certificate of registration, registration plate or permit is knowingly displayed upon a vehicle other than the one for which it was issued; and
> (5) The commissioner shall be empowered to suspend the permit or right of any nonresident under any reciprocal agreement executed under §

appeal to safety, its commissioner having no hand in his suspension. His case in revenue is without legal authority and not permitted. In fraud's vacuous workarounds, plaintiff is denied the right to due process with a hearing before tag revocation. "Thus, § 59-1204 in its present form, falls short of the constitutional requirements enunciated in Bell, inasmuch as it makes no provision for a pre-suspension or pre-revocation hearing to determine fault." Beazley v. Armour, 420 F. Supp. 503, 506 (M.D. Tenn. 1976). Unconstitutional provisions are not "cured" by administrative acts. "Thus defendants' contention that the unconstitutional provisions of T.C.A.[] 59-1204 have been cured by the promulgation of Regulation No. 2 must be rejected. That section in its present form denies persons in plaintiffs' position the right to a pre-revocation hearing on the question of potential liability. Such a practice is inconsistent with concepts of procedural due process and cannot be permitted to stand." *Id.* Beazley at 507

Even if plaintiff prevailed in that venue, for Mr. Gerregano to grant renewal of his tag would be a *crime*.

> It is **unlawful** for the commissioner of revenue to reregister any vehicle, the registration of which has been revoked under the authority of this part, unless **the written approval of the commissioner of safety is obtained prior to the reregistration** *** .

Tenn. Code Ann. § 55-12-130(a) (emphasis added)

Will the court ignore this provision showing the helter-skelter mess Mr. Gerregano's capricious policy has made? If he commits *a criminal act* to reregister a vehicle without safety OK, is the public's safety in good hands. Is Mr. Gerregano's hearing office "court" truly engaging in "state proceedings" so that the federal court must defer under Younger?

> 55-4-121 if the nonresident is found to have violated any of the laws of this state regulating motor vehicles.
>
> (b) Nothing in chapters 1-6 of this title shall be construed to affect or change the power of the commissioner to revoke motor vehicle registrations under the financial responsibility law in chapter 12 of this title.

T.C.A. § 55-5-117

Surely not. All authority to revoke a registration is under Part 1 of TFRL, overseen by safety. And safety controls restoration of any tag by "written approval."

2. 'Adequate opportunity' or 'avenues to remedy or appeal' — NOT TRUE

> "[DOR] thereafter initiated the proceeding against Plaintiff through its preliminary letters to him and the July 21, 2023, letter that sanctioned him with the suspension of the vehicle registration and the assessment of a fee against him and presented him with his **avenues to remedy** or **appeal** the sanction. Such circumstances reflect a state civil enforcement proceeding to which *Younger* abstention may apply." (Doc. 33 PageID# 500)

> "Plaintiff has an **adequate opportunity** to raise his constitutional claims in the current state proceeding because proceedings under the Tennessee [Uniform] Administrative Procedures Act have repeatedly been found to satisfy the third element necessary for *Younger* abstention." (PageID# 501)

In ordinary circumstances, a contested case under the uniform administrative procedures act ("UAPA") lets an aggrieved person set a record, establish his facts and lay out how a department's use of a statute or regulation is wrong, and whether proceedings afflict constitutionally guaranteed rights. The existence of UAPA, which sets forth administrative contested case procedure, is no authority on venue in instant case. UAPA leaves to other law how a motor vehicle case is heard. Controlling law is T.C.A. § 55-12-103, placing TFRL hearings in safety.

Plaintiff's cause is 20 months in agency, with no prospect of a fair hearing, and no prospect of appeal of a void matter. [5]

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[5]

> 'While it is well settled that a judgment cannot be questioned collaterally for an error committed in the exercise of jurisdiction, the rule is equally well established that a judgment may be attacked in a collateral proceeding for error in assuming jurisdiction. Even where a court has jurisdiction over the parties and the

3. 'procedural law bars presentation of his challenges' — NOT TRUE

> "To succeed in showing that he does not have an adequate opportunity to raise his constitutional challenges in the state proceeding, he must show that state **procedural law bars presentation of his challenges**. *** Plaintiff fails to meet this burden." (PageID# 501)

A question under Younger is whether the proceedings in Tennessee give "an adequate opportunity in the state proceedings to raise constitutional challenges." Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n, 457 U.S. 423, 432, 102 S. Ct. 2515, 2521, 73 L. Ed. 2d 116 (1982). The answer is yes, and no. Yes, plaintiff can "raise" a challenge—he makes words fall from his lips and he files papers. But the answer is "no" because doing so in an illegitimate venue is like making his case in the men's restroom or in the courthouse breakroom. A venue without subject matter jurisdiction gives no "adequate opportunity" to challenge constitutionality of the fraud run by defendants, nor their breach across 29 statutory contradictions (Brief in support of motion for preliminary injunction, Doc. 9).

If plaintiff is being irreparably harmed, along with thousands of others, he's under no obligation to conclude a contested case. UAPA does not derogate constitutional rights nor common law rights, and the harm complained of is not within the regular operation of

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> subject-matter, yet if it makes a decree which is not within the powers granted it by the law of its organization, its decree is void. ***
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> 'One form of usurpation of power on the part of a court in rendering a judgment is where it attempts to disregard limitations prescribed by law restricting its jurisdiction. * * * Where a court is authorized by statute to entertain jurisdiction in a particular case only, and it undertakes to exercise the power and jurisdiction conferred in a case to which the statute has no application, in so doing it will not acquire jurisdiction, and its judgment will be a nullity and subject to collateral attack.'

Richardson v. Mitchell, 34 Tenn. App. 318, 332, 237 S.W.2d 577, 583–84 (1950)

law. [6] Plaintiff is protected by the due process clauses in U.S. Const. Amends. V and XIV and Tenn. Const. Art. 1 § 17 that says "That all courts shall be open," promising justice "without *** delay." The state's administrative machinery in hands of Mr. Gerregano denies due process with a lawful hearing on the suspension, as described in the complaint. TFRL and Atwood are constitutional.

Mr. Gerregano's spiteful program is unconstitutional and begs forthwith relief.

4. 'Authorized to hold hearing' — PLAIN ERROR

> "However, as set out by Defendant Gerregano, **** the [DOR] is **authorized to hold the administrative hearing** at issue. See Tenn. Code § 67-1-105(a)(1); Tenn. Code Ann. §§55-12-3-210 and -211," and UAPA. "To the extent that Plaintiff disagrees, he may raise that issue at the administrative level or before the state court upon judicial review." (PageID# 502).

Here is plain error. Nothing in T.C.A. § 55-12-210 or -211 authorizes defendant Gerregano "to the administrative hearing at issue." Neither, as noted above, does title 67 "authorize [DOR] to hold the administrative hearing at issue." *Ersatz* due process is not due process.

Plaintiff demands relief.

5. 'Only applies when a statute is violative' — NOT TRUE

> "The exception only applies when a statute is 'flagrantly and patently violative of express constitutional prohibitions in every clause, sentence and paragraph, and in whatever manner and against whomever an effort

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[6] (a)(1) This chapter shall not be construed as in derogation of the common law, but as remedial legislation designed to clarify and bring uniformity to the procedure of state administrative agencies and judicial review of their determination and shall be applied accordingly.

Tenn. Code Ann. § 4-5-103

> might be made to apply it.' *Younger,* 401 U.S. at 53-54. *** Plaintiff comes nowhere close to showing that this exception applies." (PageID # 502, 503)

The order appears to err in suggesting that the Younger exception applies only when an unconstitutional statute is contested. In instant case, plaintiff is fighting to uphold the statute, and defendants are attempt to flee the law's claims under motions to dismiss and not answering forthrightly to show cause why, effectively, they have put ankle monitors on every registered passenger vehicle owner, forcing 100 percent of the general public to buy insurance they can't afford to obtain policies that are legally insufficient for POFR. In Doe v. Univ. of Kentucky, 860 F.3d 365 (6th Cir. 2017) and other cases, the supreme court doesn't appear to exclude *policies, programs, or practices* in the statement about a statute being "flagrantly and patently violative of express constitutional prohibitions." If the U.S. supreme court is open to federal courts hearing challenge of unconstitutional statutes of the worst sort, it reasonably should be understood to be equally as intolerant of lesser forms of government miscreancy.

If the greater is in view (statute), it is reasonable to infer the lesser is, as well (policy or practice).

6. 'Important state interest' — NOT SO

> "[T]he state of Tennessee unquestionably has an important state interest in matters relating to the operation of motor vehicles and the well-being of [motorists] on its roadways and in enforcing the statutes and policies it has enacted to this effect. Plaintiff raises no argument to the contrary." (PageID# 501)

The Sixth Circuit has found important state interests in multiple contexts: from maintaining and assuring the professional conduct of attorneys, governing state and local housing codes, and zoning laws, divorce laws, governing the health and safety of its workers, and eliminating sexual assault on college campuses. "The strong weight of

authority requires the Court to find that the state has an important interest in regulating its escrow statute." *Id.* Xcaliber at 754.

Tennessee has an important interest in "regulating its [financial responsibility] statute." But the state refuses to regulate solely parties subject to the statute, and instead runs a program of extortion serving insurance carriers.

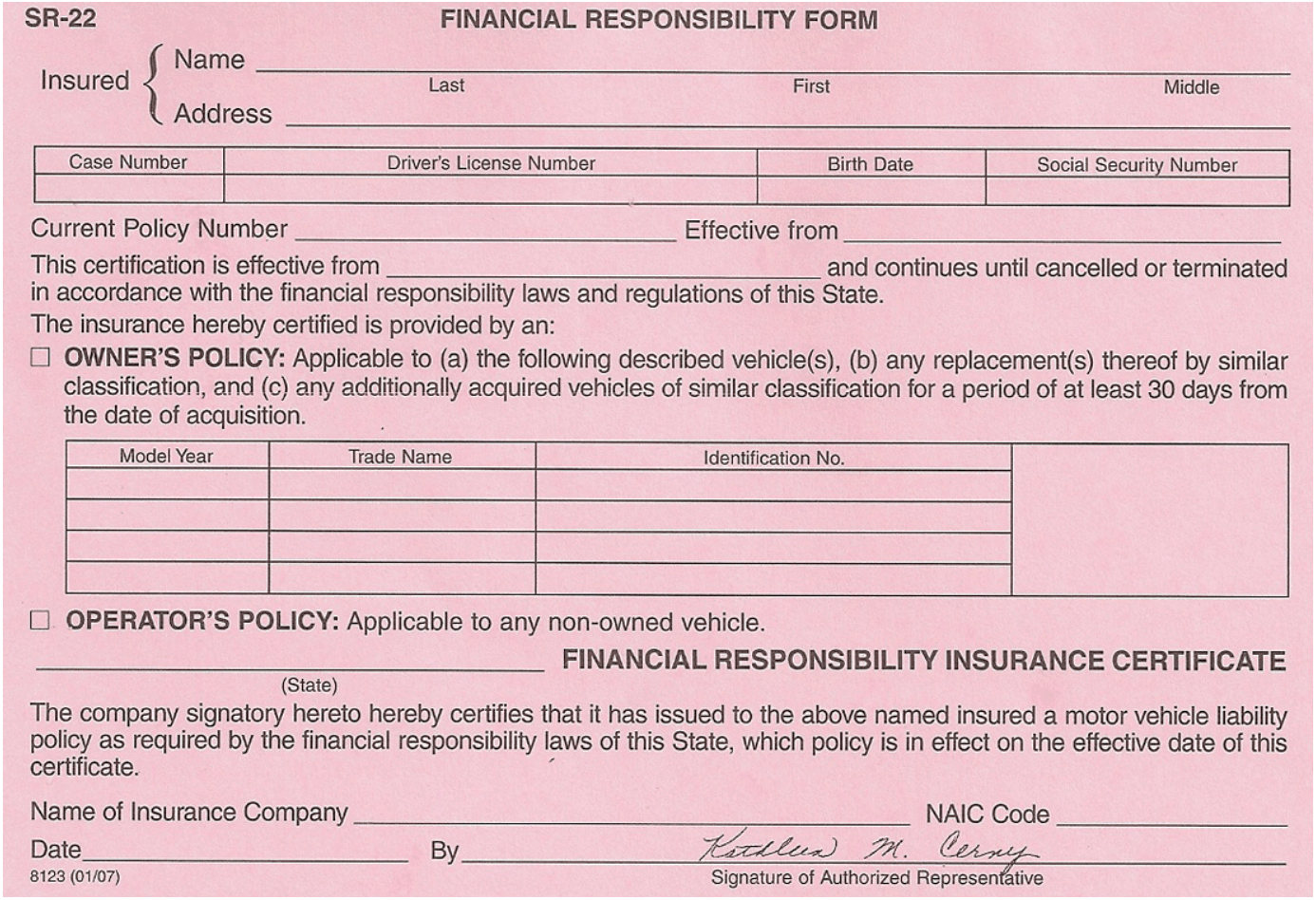
It allows its revenue commissioner to rewrite the TFRL, and in so doing create 28 abrogations and contradictions, as detailed in plaintiff's brief in support of injunction. The EIVS program is an independent venture of the executive branch, a separate operation with only colorable connection to title 55, chapter 12.

The law charges state government with maintaining the roads and using police powers to monitor the person who's been adjudicated irresponsible and high risk under TFRL. To falsely accuse 40,800 people a year, with many arrests, many towings of vehicles if there is a local agreement, T.C.A. § 55-12-139(C)(4), ***makes the streets unsafe for the public***. *It converts state troopers, sheriff's deputies and municipal police into predators and bandits*, enforcing § 55-12-139 ***illegally***, contrary to the public health, safety and welfare tens of thousands of people.

An individual subject to the law fails to satisfy a court judgment or is convicted criminally for a motor vehicle offense. Safety revokes his license. Under T.C.A. § 55-12-114, the commissioner gives notice to the commissioner of revenue who "shall suspend or revoke those registrations immediately; provided, that the registrations in the person's name must not be suspended or revoked, unless otherwise required by law, if the person provides and maintains proof of financial responsibility ["POFR"] for the length of the license's revocation or suspension."

The state interest is in the "ankle monitor" of each SR-22 insured, not each motor vehicle registrant. The law's interests and the state's interests should correspond. But since plaintiff's administrative notice about the law in July 2023 and defendant

Gerregano's abrogation of the law, the department has refused to change course and come into compliance.



SR-22 FINANCIAL RESPONSIBILITY FORM

Insured { Name _____ (Last / First / Middle)
Address _____

Case Number	Driver's License Number	Birth Date	Social Security Number

Current Policy Number _____ Effective from _____

This certification is effective from _____ and continues until cancelled or terminated in accordance with the financial responsibility laws and regulations of this State.

The insurance hereby certified is provided by an:

☐ **OWNER'S POLICY:** Applicable to (a) the following described vehicle(s), (b) any replacement(s) thereof by similar classification, and (c) any additionally acquired vehicles of similar classification for a period of at least 30 days from the date of acquisition.

Model Year	Trade Name	Identification No.	

☐ **OPERATOR'S POLICY:** Applicable to any non-owned vehicle.

_____ **FINANCIAL RESPONSIBILITY INSURANCE CERTIFICATE**
(State)

The company signatory hereto hereby certifies that it has issued to the above named insured a motor vehicle liability policy as required by the financial responsibility laws of this State, which policy is in effect on the effective date of this certificate.

Name of Insurance Company _____ NAIC Code _____

Date _____ By _____ Kathleen M. Cerny
Signature of Authorized Representative

8123 (01/07)

On this industry standard SR-22 certificate, the insurance carrier avers, "The company signature hereto hereby certifies that it has issued to the above named insured a *motor vehicle liability policy* as required by the financial responsibility laws of this State, which policy is in effect on the effective date of this certificate.

An evil motive is not just in evidence, but is admitted. Revenue claims TFRL is intended to ban poor people from use of roads thrown open to public vehicular travel.

> If someone is unable to meet the financial burden of proving financial responsibility, their ability to pay for damages they may cause in the operation of their vehicle is necessarily also in question. It is the intent of

> the General Assembly in enacting the TFRL to bar such motorists from operating on the highways of this state.

Initial order granting department's motion for summary judgment and dismissing petition, Brad Buchanan, administrative hearing officer, p. 31

Tennessee does not have an interest in oppression of the 1 million poor among 6 million passenger auto registrations in keeping them off the roads. They are people who are free to buy ordinary owner's or operator's policies, and are not subject to show POFR. (1) They haven't had a qualifying accident under T.C.A. § 55-12-104 and -105. (2) They have not been adjudicated under § 55-12-114 and -115, committed to buy the motor vehicle liability policy as defined in § 55-12-102 with content described in § 55-12-120 and § 55-12-122.

State of Tennessee has no interest implicated so as to avoid federal intervention under Younger. The fraud targeted by this lawsuit is apart from the office of commissioner of revenue. It is outside the department under its authority as part of TFRL and Atwood. It **is not a state interest.**

Insurance companies derive at least a part of the $3 billion in auto insurance revenues they collect annually from the conflicted EIVS program. The state prospers from fraud, just as if it were a business with myriad income streams, many lawful. The state gets 2½ percent tax skim from motor vehicle insurance premiums. T.C.A. § 56-4-205. If motor vehicle premiums in 2022 are $2.67 billion ($2,677,063,051), as DOR reports, that's $66.92 million in tax revenues for state government at 2½ percent. If 50 percent of these premiums are fruit of extortion and duress, and not voluntary, **fraud in 2022 generates $33.473 million** for the state. What about in the past half decade? The past five years insurance companies charged $12.511 billion in premiums, DOR says. The state collected $312.78 million in tax on those premiums. If half of the premiums is extorted earnings, the state collected **$156.39 million** in payments under color of taxation. That's not chump change.

Plaintiff makes no allegation Mr. Gerregano is personally enriched in this fraud. But he personally oversees that the money flows without interruption — to the state, and to state-licensed members of the Tennessee automobile insurance plan. T.C.A. § 55-12-136. This scheme is corporate capture corruption and misfeasance, not in the state's nor the people's interests.

D. Exceptions to Younger

> "Plaintiff's argument is misplaced because it is not actually based on an argument that the [TFRL] and/or James Lee Atwood R. Law are 'flagrantly unconstitutional,' both facially and in practice. *** [T]he exception **only applies when a statute** is 'flagrantly and patently violative *** ." (PageID# 502)
>
> "Plaintiff has presented nothing that would support a finding that he has somehow been **singled out** or harassed by the [DOR]'s suspension *** in a manner that would support **the bad faith exception**." (PageID# 503)

The order says the "bad faith" exception is out of reach because plaintiff doesn't show how he, specifically, has been "singled out" for evil treatment. This narrow application of the concept of bad faith to a single person is unreasonable.

Bad faith defined as "[t]he opposite of 'good faith,' generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation, not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive." *Black's Law Dictionary*, rev. 4th ed.

Any corporate capture operation run under color of law in one of the 50 states creating **thousands** of criminal convictions among poor people can be described as nothing less than in bad faith.

Quoting that "bad faith" exception is "exceedingly rare" doesn't deny plaintiff *a priori* the right to point out that the Tennessee program is an overthrow of government and law

allowed by the corruption watchdog, the comptroller of the treasury, Jason Mumpower, and the attorney general, Jonathan Skrmetti. Each abdicates the responsibility to stop private control of government departments and offices using arbitrary policies that violate the law. No individual is "singled out" by the EIVS scam.

The magistrate's report makes room for the infamy defense for a mass harm; so many people are are injured that no one can be seen as singled out by an invidiously discriminatory act; thus, no one has standing to sue, no one can show harm particularized in intent from others, making anyone victim indistinguishable from others, and hence without standing and judicially invisible, and so large scale harms escape the hand of justice.

CONCLUSION

Plaintiff asks the court to deny the motion to grant the Younger abstention, and to let the case go forward. Irreparable harm is being done to plaintiff and to tens of thousands of other Tennesseans in a fiat overseen by defendant Gerregano in each of his capacities, having corruptly captured his department and serving interests other than those of the general public. This case calls for the court's scrutiny and intervention.

Respectfully submitted,

David Jonathan Tulis

Appendix

STATE OF TENNESSEE
DEPARTMENT OF REVENUE

July 21, 2023

VEHICLE REGISTRATION SUSPENSION NOTICE

Coverage Failure Fee $125
Go to www.DriveInsuredTN.com to pay fee and confirm proof of insurance coverage

Vehicle ID # (VIN): 2HKRL1859YH575510
Plate: 774BGWC
PIN: VBUUMWUG

DAVID JONATHAN TULIS TTEE UDT 8 15 22
10520 Brickhill Ln
Soddy Daisy, TN 37379-5230

Dear: DAVID JONATHAN TULIS TTEE UDT 8 15 22

The Tennessee Department of Revenue is authorized to suspend the registration of a vehicle for any of the reasons set forth under TENN. CODE ANN. § 55-5-117(a)(1)-(5) (2015). While our records indicate that the VIN listed above has an active Tennessee registration, we are unable to verify that acceptable insurance coverage is currently in place.

Your insurance status: You have been assessed $125 in coverage failure fees, and your vehicle registration has been suspended. Two separate notices have been mailed to your attention on previous dates notifying you of the coverage failure fees associated with failure to provide proof of insurance coverage or a verifiable exemption.

Consequences of suspension: This letter serves as official notice that you may not drive your vehicle while your registration is suspended. Driving a vehicle without a current registration is a Class C Misdemeanor (T.C.A. § 55-3-102). Tennessee law requires registration of all vehicles operating on the streets or highways of the state (T.C.A. § 55-4-101).

How to reinstate your vehicle registration: In order to reinstate your vehicle registration, you must purchase liability insurance for your vehicle, provide evidence of insurance coverage, and pay all coverage failure fees associated with the suspension of your vehicle. Visit **www.DriveInsuredTN.com** to provide proof of insurance, and pay the associated fees to reinstate your registration. The above VIN and PIN will be needed to complete the information.

How to challenge this suspension: You may request a hearing to challenge this suspension under the Uniform Administrative Procedures Act by submitting a written request for a hearing within 10 days of the date of this letter. The scope of the hearing is limited to whether the Department of Revenue's Vehicle Services Division properly undertook this action based on the record and the law.

Requests for an administrative hearing must be submitted in writing to the Tennessee Department of Revenue at the following address: Hearing Office, Andrew Jackson State Office Building 11th Floor, 500 Deaderick Street, Nashville, TN 37242.

For further information, please visit us at www.DriveInsuredTN.com, send us an email at Insurance.Verification@tn.gov or speak to a customer service representative at 615-741-3101, option 2.

Vehicle Services Division ▪ 500 Deaderick Street ▪ Nashville, TN 37242
Tel: 615-741-3101, option 2 ▪ www.DriveInsuredTN.com

EXHIBITS

EXHIBIT No. 25 Dec. 18, 2023, letter to Lt. Gov. Randy McNally, House speaker Cameron Sexton reporting on criminal convictions under EIVS

CERTIFICATE OF SERVICE

A copy of this document placed into the U.S. mail to the U.S. district court and also is served this Friday, April 18, 2025, upon defendants' attorney, Nicholas Barca, senior assistant attorney general, by e-mail at the address as follows;
nick.barca@ag.tn.gov