

IN THE TWENTIETH JUDICIAL DISTRICT CHANCERY COURT  
FOR DAVIDSON COUNTY, TENNESSEE

ERNEST FALLS & ARTHUR )  
BLEDSOE, )

Plaintiffs, )

v. )

No. 20-0704-III

MARK GOINS, TRE HARGETT, )  
& HERBERT SLATTERY, III, in )  
their official capacities, )

Defendants. )

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PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSE IN OPPOSITION TO  
PLAINTIFFS' REQUEST FOR A TEMPORARY INJUNCTION

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**INTRODUCTION**

Plaintiffs incorporate their arguments and facts set forth in their verified complaint and provide the following reply to Defendants' Response in Opposition to Plaintiffs' Request for a Temporary Injunction. Plaintiffs are likely to succeed on both claims that Defendants are unconstitutionally denying their right to vote. Defendants misapply the history and statutory structure of the interlocking sections of the Elections Code and Criminal Procedure Code covering disenfranchisement and re-enfranchisement. Plaintiffs' claims are not barred by sovereign immunity because they challenge the unconstitutional application of a statute. Finally, Plaintiffs claims are not barred by timeliness concerns because they moved swiftly to bring this claim within weeks after learning their rights had been denied. Plaintiffs' counsel has been trying to resolve the underlying constitutional and statutory questions with Defendants for over a year during which time Defendants have moved the goal posts and flip-flopped on their position. Plaintiffs

respectfully ask the court to enter judgment in their favor and provide the requested relief as it deems appropriate.

## **ARGUMENT**

### **I. Plaintiffs are Likely to Succeed in Demonstrating that by Applying the Requirements of Tennessee Code § 40-29-202(b) to Plaintiffs, Defendants Have Unconstitutionally Deprived Plaintiffs of Their Fundamental Right to Vote.**

The Tennessee Constitution expressly prohibits a citizen from being denied the right to vote unless (1) they have been convicted of an infamous crime as defined by Tennessee law, and (2) explicitly disenfranchised as a result of such conviction. *See* Tenn. Const. Art. I § 5; *see also Gaskin v. Collins*, 661 S.W.2d 865, 867 (1983) (holding that unless the State passes both a law defining infamous crimes, and a law explicitly withholding the franchise from those convicted of committed such infamous crimes, the right to vote may not be denied). For individuals—like Plaintiffs—convicted in another state, the *only* provision of Tennessee law that serves the disenfranchising function is found in Tennessee’s Election Code, *see* Tenn. Code § 2-19-143(3), which provides that:

No person who has been convicted in another state of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall be allowed to register to vote or vote at any election in this state *unless* such person has been pardoned or restored to the rights of citizenship by the governor or other appropriate authority of such other state, or the person’s full rights of citizenship have otherwise been restored in accordance with the laws of such other state, or the law of this state.

*Id.*<sup>1</sup> Thus, Tennessee Code § 2-19-143(3) requires the State to deny the right to vote to individuals with out-of-state convictions for infamous crimes “unless” they can meet any one of three re-

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<sup>1</sup> Defendants fundamentally misunderstand which constitutionally authorized provisions regarding infamous crimes and disenfranchisement apply to individuals with out of state convictions. Tenn. Code § 2-19-143 is the sole statute that would purport to constitutionally remove Plaintiffs from the franchise and yet, in that same sentence, it brings them back in: “*unless* such person has been pardoned or restored to the rights of citizenship by the governor or other appropriate

enfranchising pathways: (1) having been pardoned by the governor of the other state, (2) having been restored to the full rights of citizenship under the other state's laws, or (3) having been restored to the full rights of citizenship under the laws of Tennessee. *See id.*

Defendants do not dispute that Plaintiffs Falls and Bledsoe have respectively satisfied the first and second re-enfranchising pathways outlined in Tennessee Code § 2-19-143(3). *See Opp.* at 7-8. Those admissions should end the inquiry, and suffice to find that by denying Plaintiffs' voter registration applications, Defendants are unconstitutionally depriving Plaintiffs of their fundamental right to vote. *See Pls.' Ex. A, Goins Letter* (admitting that, "according to Tenn. Code Ann. § 2-19-143(3) [individual whose rights of citizenship have been restored in the state of conviction] is eligible to register to vote in Tennessee"). Instead, Defendants argue that in addition to satisfying the first or second pathways of Tennessee Code § 2-19-143(3), Plaintiffs must also satisfy separate re-enfranchising requirements found in Tennessee's Criminal Procedure Code, *see* Tennessee Code § 40-29-202. Not so. The re-enfranchising requirements outlined in Tennessee Code § 40-29-202 are not applicable to individuals with out-of-state convictions who—like Plaintiffs Fall and Bledsoe—had their full rights of citizenship restored by their state of conviction (*i.e.*, who satisfied the first or second re-enfranchising pathways of Tennessee Code § 2-19-143(3)).<sup>2</sup>

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authority of such other states, or the person's full rights of citizenship have otherwise been restored in accordance with the laws of such other state." Thus this section defines the contours of who is disenfranchised for an out of state conviction as anyone who was convicted of a felony *and* whose full rights of citizenship have not been restored by that state. The definition of infamous crimes in the Criminal Procedure code § 40-20-112 plainly does not apply to individuals with convictions in other states, as it is a directive to Tennessee Courts for declaration of infamy in the entry of judgment.

<sup>2</sup> Because Plaintiffs have each satisfied an exception to disenfranchisement outlined in Tennessee Code § 2-19-143(3), they are effectively in no different a position than any other citizen seeking to register to vote. And just as it would plainly be unconstitutional for Defendants to deny any

**A. The Statutory History Confirms that the Re-Enfranchisement Criteria of Title 40 Are Only Applicable to Individuals Seeking Rights “Restor[ation] in Accordance With . . . the Law of This State.”**

Defendants correctly argue that the rights restoration provisions found in Titles 2 and 40 operate together to form a comprehensive statutory scheme. *See Opp.* at 5. But as the statutory history shows, that scheme does not operate in the way Defendants’ propose. The requirements of Tennessee Code § 40-29-202 do not superimpose themselves over every other rights restoration provision found in the Tennessee Code, but rather, detail only one part of the rights restoration process: the process that is available under “the laws of this state.”

*1. The 1981 Establishment of Tennessee’s Modern Rights Restoration Framework*

In 1981, the Tennessee Legislature codified Tennessee Elections Code § 2-19-143, to “govern the exercise of the right of suffrage for those persons convicted of an infamous crime.” For individuals with in-state convictions, the new law provided that they would be disenfranchised unless they either (1) received a pardon from the governor, or (2) had their “full rights of citizenship . . . restored as prescribed by law.” Pub. Act 1981, Ch. 345 § 2(a), Tenn. Code § 2-19-143(1) (1981). A concurrently enacted provision, Tennessee Code § 40-29-101, which was housed in the Criminal Procedure Code, then outlined the path by which individuals with in-state convictions could have their rights restored other than by a pardon from the governor. Pub. Act 1981 Ch. 345 § 7, Tenn. Code § 40-29-101 (1981) (“Persons rendered infamous or deprived of the rights of citizenship by the judgment of a court may have their full rights of citizenship restored by the circuit court...”). Notably, at the time, the Criminal Procedure Code § 40-29-101 did not provide any rights restoration path to individuals convicted of a crime out-of-state.

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other citizen the right to vote because they have not complied with the requirements of the inapplicable-to-them provisions of Tennessee Code § 40-29-202, the same is true as to Plaintiffs.

At the same time, for individuals with out-of-state convictions, Tennessee Code § 2-19-143(3) (1981) provided that they would be disenfranchised unless they either (1) received restoration of citizenship from the governor of their state of conviction, or (2) otherwise had their rights restored “in accordance with the laws of such other state.” Pub. Act 1981, Ch. 345 § 2(c). For such individuals then, a rights restoration path under Tennessee law was simply unavailable at the time. Put differently, unless an individual with an out-of-state conviction had their rights restored by the state of their conviction, there was no available pathway to restore their right to vote in Tennessee.

Under the framework of the 1981 statutes, Title 2, the Election Code, thus outlined the general pathways for suffrage applicable to all individuals with convictions for “infamous” crimes, whether in- or out-of-state. At the same time, Title 40, the Criminal Procedure Code, further explained the re-enfranchisement process available only to individuals with in-state convictions. As explained below, while the Legislature did further update the applicable laws in subsequent terms, it has never abandoned the general framework that was established in 1981.

## 2. *The 1983 Update to Rights Restoration for Individuals with Out-of-State Convictions*

In 1983, the Tennessee Legislature revisited the Election Code at § 2-19-143(3), and created the third method by which individuals with out-of-state convictions could choose to be re-enfranchised: by having their full rights of citizenship restored under the laws of Tennessee. *See* Pub. Acts 1983, Ch. 207, § 1, Ex. F (“Tennessee Code Annotated, Section 2-9-143(2) and (3), are amended by deleting the period at the end of each subsection and adding the following: “, or the law of this state.”.) In that same act, the Legislature also updated Tennessee Code § 40-29-101 to reflect that the *additional* method of rights restoration could be available to individuals with out-of-state convictions. *See* Pub. Act 1983, Ch. 207 § 2 (amending Tennessee Code § 40-29-101 to

provide that “[p]ersons rendered infamous or deprived of the rights of citizenship by the judgment of any state or federal court, may have their full rights of citizenship restored by the circuit court.”). The update did not abrogate or limit the other rights restoration pathways that were already available to individuals with out-of-state convictions, but rather, established a new pathway under “the law of this state.”

### 3. The Enactment of Tennessee Code § 40-29-201, et seq. in 2006

In 2006, the Tennessee Legislature created an additional method by which any individual with a conviction for an infamous crime could have their rights restored. *See* Tenn. Code § 40-29-201, *et seq.* Under the new law, in addition to having the ability to have their rights restored by a circuit judge, *see* Tenn. Code § 40-29-101, individuals with convictions for infamous crimes could now also have their rights restored by receiving a certificate of restoration. *See* Tenn. Code § 2-6-202(a). Following the statutory framework for rights restoration established in 1981, the law, which provided a pathway to rights restoration *under Tennessee law* was codified in Title 40, like the original 1981 law that created a rights restoration pathway for individuals with in-state convictions only. But consistent with the 1983 update, the Legislature also ensured that this new rights restoration process would also be available to individuals with out-of-state convictions *if* they chose to rely on it. Indeed, confirming its intent to follow the framework established by the 1981 and 1983 statutes—that the Title 40 rights restoration provisions were the re-enfranchisement methods available under “the laws of this state”—Tennessee Code § 40-29-202(a) copied, almost verbatim, the language found in Tennessee Code § 40-29-101(a), including by mirroring the optional nature of the relief. *Compare* Tenn. Code 40-29-101(a) (“Persons rendered infamous or deprived of the rights of citizenship by the judgment of any state or federal court, may . . .”) *with*

Tenn. Code § 40-29-202(a) (“A person rendered infamous and deprived of the right of suffrage by the judgment of any state or federal court is eligible . . .”).

Thus, in ensuring that individuals with out-of-state convictions who needed to have their rights restored under “the law of this state” could access the procedures outlined in Tennessee Code § 40-29-201, *et seq.*, the Legislature did not silently abrogate or limit the other two rights restoration pathways available to individuals with out-of-state convictions (*i.e.*, pardon by the other state’s governor, or restoration of rights pursuant to the other state’s laws). *Owens v. State*, 908 S.W.2d 923, 926 (Tenn.1995) (stating that the court must assume that the General Assembly is always aware of any prior enactments and their meanings). Even after the enactment of the 2006 law, those other two paths of rights restoration remained—and still remain—available to individuals with out-of-state convictions, unaffected by the separately enacted provisions of Title 40.<sup>3</sup>

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<sup>3</sup> Defendants argue that this outcome would lead to the “absurd” result that individuals with in-state convictions are treated more harshly than individuals with out-of-state convictions. Defendants, offer no actual evidence to support the proposition that individuals with in-state convictions will be treated more harshly than those with out-of-state convictions. Plaintiffs disagree with Defendants’ assessment. The harshness of the application would depend on the facts and the state of conviction. For example, if a Tennessee resident had a conviction for felony bad check in Mississippi, she could only restore her right to vote under the laws of that state through a legislative bill of suffrage passed by two thirds of the legislature, undoubtedly a more difficult process than restoration under the laws of Tennessee. Miss. Const. Art. 12 § 253. Nevertheless, leaving aside the qualitative judgment about relative harshness, the result is certainly not absurd. It is perfectly rational to believe that the Tennessee legislature might want to respect the sovereign judgments made by its peer states about the propriety of rights restoration for individuals convicted in those other states. Moreover, the result also makes practical sense. As Defendants themselves have attested, it can be nearly impossible for individuals convicted out-of-state to obtain paperwork related to their out-of-state convictions. *See Lim Decl.* ¶ 9-10. Thus, where the other state has already adjudged the individual to be a proper candidate for rights restoration, it makes sense that the Tennessee legislature might not want to disturb that judgment. Regardless, if the legislature in fact does wish to upset the judgments of its peer states, and to qualify the rights restoration processes that it established for individuals with out-of-state convictions, it can do so more clearly. Until then, Defendants cannot act contrary to the legislative enactments in order to unconstitutionally deprive Plaintiffs of their right to vote.

Defendants urge the Court to consider “the overall statutory framework” in evaluating the scope and applicability of Tennessee Code §§ 2-19-143 and 40-29-202. Plaintiffs agree. The overall statutory framework, as described above, and as made clear through the statutory history, shows that rather than act as a superimposed requirement applicable to *all* rights restoration pathways, Tennessee Code § 40-29-202 only affects the pathway available under “the laws of this state.” Because Plaintiffs Falls and Bledsoe did not rely on that pathway to have their franchise rights restored, they are not required to comply with the requirements of Tennessee Code § 40-29-202 before being able to exercise their right to vote.

## **II. Plaintiffs’ Claims Are Not Barred By the Doctrine of Sovereign Immunity.**

Defendants argue that Count 1 of Plaintiffs Complaint is barred by the doctrine of sovereign immunity. They assert that under *Colonial Pipeline Co. v. Morgan*, 263 S.W. 3d 827, 853 (Tenn. 2008), “*the only time* sovereign immunity does not bar a suit against a state agency or state officials for a declaratory judgment is when the suit seeks to prevent the enforcement of an unconstitutional statute.” Opp. at 12. Because Plaintiffs do not claim in Count 1 that any of the rights restoration statutes are themselves unconstitutional, but rather, that Defendants are acting in an unconstitutional manner, Defendants argue that they are immune from suit. *Id.*

That is not the case. In *Colonial Pipeline*, a plaintiff sued several state officials seeking a declaration that the statutes they sought to enforce against plaintiff were unconstitutional. 263 S.W. 3d at 827. In light of conflicting prior opinions construing the breadth of sovereign immunity protection available to state officials, the Tennessee Supreme Court had to construe whether a declaratory judgment could be issued against individual state officers. *See id.* at 848. It found that it could, holding that “sovereign immunity simply does not apply to a declaratory judgment action



challenging the constitutionality of a statute against state officers.” *Id.* at 853. In so holding, the Court affirmed “the concept that an officer acting pursuant to a statute that is unconstitutional and void does not act as an agent of the State.” *Id.* (citing *Stockton v. Morris Pierce*, 110 S.W. 2d 480, 485 (Tenn. 1937)).

In *Colonial Pipeline*, because it was not presented, the Court did not explicitly reach the question whether a plaintiff could obtain a declaration finding that a state official’s action, rather than the underlying statute itself, was unconstitutional. But the reasoning of *Colonial Pipeline* indicates a clear answer: sovereign immunity does not protect a state official from a declaration that the manner in which they are enforcing an otherwise constitutional statute is unconstitutional. See *City of Memphis v. Hargett*, 2012 WL 5265006 (Tenn. Ct. App. 2012) (finding that the Declaratory Judgment Act “allows a proper plaintiff to challenge the constitutionality of a statute or seek a construction of a statute when the plaintiff does not seek to reach state funds” (citing *Colonial Pipeline*, 263 S.W. 3d at 853)). Indeed, as the *Colonial Pipeline* Court acknowledged, unconstitutional acts undertaken by state officials are “beyond the authority granted by the State.” See *Colonial Pipeline*, 263 S.W. 2d at 852 (also noting that its holding is consonant with the “traditional” view of sovereign immunity, which permits state officials to be sued for a declaration that a particular statute or action of the State is unconstitutional (citing *City of Belmont v. Miss. State Tax Comm’n*, 860 So.2d 289, 296 (Miss. 2003); *Northwall v. State*, 263 Neb. 1, 637 N.W. 2d 890, 896 (2002); *Tex. Natural Res. Conservation Comm’n v. IT–Davy*, 74 S.W.3d 849, 855 (Tex. 2002); *Berlowitz v. Roach*, 30 N.W. 2d 256, 257 (Wisc. 1947))). Moreover, permitting Plaintiffs to seek declarations that a statute or enforcement thereof is unconstitutional “is most consistent with our separation of powers doctrine in that it prevents sovereign immunity from devitalizing a

judicial tool necessary to ensure that the executive and legislative branches act within the constraints of the state and federal constitution.” *Id.*

Defendants thus read too far into *Colonial Pipeline* in arguing that its holding means that sovereign immunity does not apply *only* where a plaintiff challenges the constitutionality of a statute. *See Opp.* at 12. As the reasoning of *Colonial Pipeline* makes clear, sovereign immunity also does not shield a state official from a declaration that they are enforcing an otherwise constitutional act in an unconstitutional manner. Plaintiffs should therefore be able to proceed with Count 1, and the Court should find—for reasons articulated above as to Count 2—that Plaintiffs are likely to succeed on the merits of the claim.

Of course, to the extent the Court agrees with Defendants that Count 1 is barred by the doctrine of sovereign immunity, the parties all agree that Count 2 does not suffer from a similar concern. Because the relief available under Count 2 is virtually concurrent with the relief that would be available under Count 1, for purposes of Plaintiffs’ Request for a Temporary Injunction, the Court need not address the applicability of the sovereign immunity doctrine to Count 1. Rather, the Court may, instead, find for and provide relief to Plaintiffs under Count 2 alone, for the reasons described above.

### **III. Defendants’ Claims of Delay and Prejudice Should be Rejected**

Defendants argue that Plaintiffs’ Request for a Temporary Injunction should be denied because of Plaintiffs’ alleged “inexplicabl[e] delay” in bringing this suit. *See Opp.* at 21-24. But Plaintiffs’ counsel has been trying to resolve this matter with the Elections Division and the Attorney General’s office for nearly a year. *See Ex. G.* Defendants reversed course, moving the goal posts without notice and failed to respond to multiple follow up inquiries over the course of

months. In contrast, as soon as Plaintiff Falls became aware that his voting rights were denied, he swiftly prepared for suit.

Plaintiffs did not delay in initiating this litigation. Plaintiff Falls submitted his voter registration application on June 4, 2020, and received notice of his rejection from the Grainger County Election Commission on June 22, 2020. Less than one month later, Plaintiff Falls sued in this Court to vindicate his rights. Likewise, Plaintiff Bledsoe submitted his voter registration application in June 2020, and is still awaiting a determination from the State.

Defendants nevertheless argue that Plaintiffs should have sued earlier, and point to the voter registration deadline of July 7, 2020 as a deadline he should have met. *See* Opp. at 22. Defendants do not explain, however, why that deadline is relevant to when Plaintiffs initiated this litigation. Plaintiffs submitted their voter registration applications over a month before the July 7, 2020 deadline. They are therefore eligible to vote under Tennessee law, so long as their voter registration is approved by the State—whether voluntarily or by Court order—prior to the August 6, 2020 election. Plaintiffs filed this litigation with enough time to ensure that such an outcome can be achieved, and thus, are timely in their initiation of this litigation.

Moreover, Defendants argue too much in claiming that Plaintiffs’ challenge is untimely because it is brought against “established voter registration laws.” *See* Opp. at 23. As recently as December 2019, the State Election Commission agreed with Plaintiffs’ interpretation of the law. *See* Ex. A. It was only in March 2020, that the State wholly reversed its interpretation after the issuance of an Attorney General’s Opinion that only once referenced the directly on-point rights restoration provisions outlined in Tennessee Code § 2-19-143. The challenged provisions are thus hardly “established” law. The State Election Commission also failed to respond to multiple follow-up communications from Plaintiffs regarding their interpretation. Defendants argument that they

will be prejudiced by a change in the “established” voter registration laws similarly fails to carry water.

Defendants also raise the specter of the Purcell doctrine to oppose the Temporary Injunction. Opp. at 23. In *Purcell v. Gonzalez*, the United States Supreme Court vacated an order modifying election laws fearing that such action too close to an election would create confusion and thus deter voters from going to the polls. *Purcell v. Gonzalez*, 549 U.S. 1 (2006). That concern does not apply here. Permitting individuals, like Plaintiffs, who are already eligible to vote to actually register does nothing to confuse other voters, or introduce chaos into the system. Instead, it merely ensures that all eligible Tennesseans are actually able to exercise their fundamental right to vote. And of course, for those individuals who will newly register, given the deadline to register to vote for the August election has already passed, they will be registering for the November election, more than 3 months away.

### **CONCLUSION**

For the foregoing reasons and those outlined in the complaint, Plaintiffs respectfully ask the Court to grant their requested relief.

Respectfully submitted,

/s/ William L. Harbison

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Attorneys for Plaintiffs

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# EXHIBIT F

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APPROVED this 2<sup>nd</sup> day of May 19 83

  
GOVERNOR

## CHAPTER NO. 207

## HOUSE BILL NO. 344

By Robertson

Substituted for: Senate Bill No. 427

By Ashe

AN ACT relative to persons convicted of felonies and to amend Tennessee Code Annotated, Title 2, Chapter 19; Title 8, Chapters 35 and 36; and Title 40, Chapter 29.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-19-143 (2) and (3), are amended by deleting the period at the end of each subsection and adding the following "or the law of this state".

SECTION 2. Tennessee Code Annotated, Section 40-29-101(a), is amended by deleting the subsection in its entirety and by substituting the following in lieu thereof:

Persons rendered infamous or deprived of the rights of citizenship by the judgement of any state or federal court, may have their full rights of citizenship restored by the circuit court.

SECTION 3. Tennessee Code Annotated, Section 40-29-103, is amended by deleting such section in its entirety and substituting instead the following:

Before the petition of a person rendered infamous or deprived of the rights of citizenship by the judgement of a state court is heard, the District Attorney General in whose county the petitioner currently resides and the District Attorney General of the county in which the petitioner was convicted shall have twenty (20) days notice of such petition in order that, if deemed advisable, each may resist. The Federal United States Attorney and the District Attorney General in whose district the petitioner currently resides shall be given such notice, with the same opportunity to resist, when such petitioner was rendered infamous or deprived of the rights of citizenship by the judgement of a Federal Court.

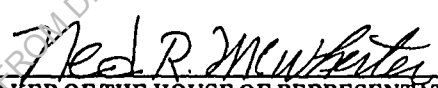
SECTION 4. Tennessee Code Annotated, Section 8-35-116, is amended by adding a new Subsection as follows:

( ) Notwithstanding any provision of law to the contrary, any member of the superseded County Officials' Retirement System may establish credit for service as a member of a county board of education upon certification of such service and the payment of the contributions which the member would have made plus interest as required by Section 8-37-214; provided the governing body of the county authorizes and accepts the liability for such credit by passage of a resolution. Application for service credit under this provision shall be made within ninety (90) days after the effective date of the Act.

SECTION 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 6. This Act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 21, 1983

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

  
SPEAKER OF THE SENATE

APPROVED this 3rd day of May 19 83

  
GOVERNOR



# EXHIBIT G

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**IN THE TWENTIETH JUDICIAL DISTRICT CHANCERY COURT  
FOR DAVIDSON COUNTY, TENNESSEE**

**ERNEST FALLS & ARTHUR** )  
**BLEDSON,** )  
 )  
**Plaintiffs,** )  
 )  
**v.** )  
 )  
**MARK GOINS, TRE HARGETT,** )  
**& HERBERT SLATERY, III, in** )  
**their official capacities** )  
 )  
**Defendants.** )  
 )

**No. 20-0704-III**

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**DECLARATION OF BLAIR BOWIE**

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I, Blair Bowie, have personal knowledge of the following matters, would so testify in open court if called to do so, and am competent to render the following:

1. My name is Blair Bowie. I am over 21 years of age and I reside in Washington, DC.
2. I currently serve as Legal Counsel and Restore Your Vote Manager with the Campaign Legal Center.
3. I first raised the issue in the present case with the Tennessee Elections Division on August 8, 2019, sending a letter on behalf of three individuals with out of state convictions. The Elections Division did not respond to that letter. In November 15, 2019, I sent another letter. On November 22, Defendants responded to that letter with a letter agreeing with the position that Plaintiffs' counsel now argues to this court. To resolve the question of how these individuals and those similarly situated should register to vote, myself, others from my organization, and Defendants held a phone call December 11,

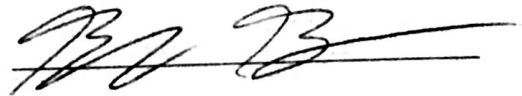
2019. Present on that call were Mark Goins and Jessica Lim of the Elections Division and Janet Kleinfelter of the Attorney Generals office. At no time in that call did the Defendants express doubt as to their agreement with Plaintiff counsel's position that individuals whose rights had been restored in the state of conviction have the right to vote. On that call, Defendants and we agreed to an interim solution for how these individuals should register to vote: by paper application and submitting a separate form disclosing their out of state convictions. The Elections Division agreed to create a standard form and distribute to all county elections divisions. To help our then clients register and to facilitate the development of a standard form, I created a draft and sent it to the Elections Division. I then instructed our then-clients to register to vote using the form.

4. On January 15, 2020, I followed up with the Elections Division by email on the status of our then-clients' voter registrations, the suggested form, and their timeline for instructing registrars on out of state convictions. The Elections Division did not respond to that email.
5. On February 19, 2020, I sent another follow up email.
6. On February 28, 2020, Jessica Lim responded to my latest email but did not address the outstanding questions about the process for registration for Tennesseans with out of state convictions and the status of our then-clients.
7. On March 12, 2020, I followed up again and requested a phone call.
8. On March 13, 2020 the Elections Director responded declining to speak on the phone or answer questions.

9. On March 20, I requested by email that the Elections Division respond to the outstanding questions over email instead. The Elections Division did not respond.

10. On April 21, I followed up with the Elections Division by email again. Elections Division did not respond.

Pursuant to Rule 72, Tenn. R. Civ. P., I declare under penalty of perjury that the foregoing is true and correct to best of my knowledge and belief.



Blair Bowie

Dated: 7/29/2020

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