

NO. \_\_\_\_\_

IN THE  
UNITED STATES SUPREME COURT  
OCTOBER TERM, 2020

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RE: DANIEL H. JONES,  
*Petitioner*

---

PETITION FOR AN EXTRAORDINARY WRIT TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
AT CINCINNATI, OHIO  
No. 19-5209

Supreme Court Rule 26.8

Appellant's initial Appendices  
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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION

DANIEL H. JONES #443638, )  
Plaintiff, )  
v. ) NO. 1:18-cv-00087  
CLAUDIA C. BONNYMAN, et ) JUDGE CAMPBELL  
al., )  
Defendants. )

ORDER

Plaintiff Daniel H. Jones, an inmate of the Turney Center Industrial Complex in Only, Tennessee, has filed a pro se complaint for alleged violation of his civil rights pursuant to 42 U.S.C. § 1983 (Doc. No. 1), along with an application to proceed in district court without prepaying fees and costs. (Doc. No. 2.)

The Prison Litigation Reform Act of 1995 (“PLRA”) was enacted to reduce the ability of prisoners to file frivolous lawsuits in federal court. *Skinner v. Switzer*, 562 U.S. 521, 535 (2011) (describing PLRA as imposing “constraints designed to prevent sportive filings in federal court”). One of the particular constraints in the PLRA serves to bar prisoners from bringing a civil action or appealing a judgment in a civil action in forma pauperis, that is, without prepaying the full filing fee,

if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). In other words, a prisoner plaintiff who falls within the scope of § 1915(g) may not file a civil lawsuit in federal court without prepayment of the filing fee unless he is

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under imminent danger of serious physical injury. *Wilson v. Yaklich*, 148 F.3d 596, 603-04 (6th Cir. 1998).

In his Complaint, Plaintiff acknowledges having filed only one previous lawsuit in any state or federal court. (Doc. No. 1 at 1-2.) The Court takes judicial notice, however, of the fact that Plaintiff has filed numerous lawsuits in federal courts in Tennessee and Kentucky, at least four of which were dismissed for failure to state a claim upon which relief could be granted. *See, e.g.*, Judgment Order at 1, *Jones v. Goodwin*, No. 3:18-cv-457 (E.D. Tenn. Nov. 13, 2018) (“This pro se prisoner’s civil rights complaint is DISMISSED pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915(A) for failure to state a claim upon which relief may be granted[.]”); Memorandum Opinion and Order at 4, *Jones v. Commonwealth of Ky.*, No. 6:18-96 (E.D. Ky. May 30, 2018) (“For all of the foregoing reasons, Jones’s complaint fails to state a claim for which relief may be granted and will be dismissed.”); Order at 2, *Jones v. Gwyn*, No. 3:15-30 (M.D. Tenn. Jan. 20, 2015) (holding that “the complaint fails to state a claim upon which relief can be granted” and dismissing pursuant to Section 1915(e)(2)); Order of Judgment, *Jones v. Robert H. Montgomery, Jr.*, No. 2:11-cv-47 (E.D. Tenn. Nov. 30, 2011) (dismissing “for failure to state a claim and because defendants enjoy immunity” pursuant to Sections 1915(e)(2) and 1915A(b)). Accordingly, Plaintiff is subject to the limitation on in forma pauperis filings set forth in Section 1915(g).

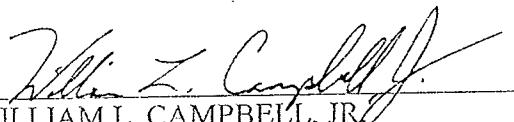
Plaintiff’s complaint does not allege any facts suggesting that he is currently in imminent danger of serious physical injury as required to satisfy Section 1915(g). Accordingly, Plaintiff is barred by 28 U.S.C. § 1915(g) from proceeding in this case in forma pauperis, and his application to do so (Doc. No. 2) is DENIED. Plaintiff is DIRECTED to remit the full \$400.00 filing fee within 30 days from the date of entry of this Order. Plaintiff is warned that failure to

remit the full \$400.00 filing fee within 30 days will result in dismissal of this action for failure to prosecute. In that event, the full amount of the filing fee will still be assessed against him and collected from his inmate trust account.

At the same time, Plaintiff **MUST** show cause why he should not be sanctioned for falsely indicating in his certified complaint that he has never filed any previous lawsuits in federal court. *See Hood v. Tompkins*, 197 F. App'x 818, 819 (11th Cir. 2006) (per curiam) (stating that "A district court may impose sanctions if a party knowingly files a pleading contained false contentions," and affirming dismissal of prisoner complaint for providing false information regarding prior filing history).

Finally, Plaintiff is also cautioned that if he fails to notify promptly the Court of any change in his address, this action may be dismissed for failure to prosecute and for failure to comply with the Court's Order.

It is so **ORDERED**.



\_\_\_\_\_  
WILLIAM L. CAMPBELL, JR.  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISIÓN

DANIEL H. JONES, 443638

Plaintiff

Vs.

CLAUDIA C. BONNYMAN, et.al.

Defendants

)  
)  
)  
)  
)  
)  
)

NO. 1:18-cv-00087  
JUDGE CAMPBELL

PURSUANT TO F.R.CIV.P. 59(e)

MOTION TO ALTER AND/OR AMEND  
JUDGMENT

*Plaintiff, Daniel H. Jones, pro se, respectfully moves the Court to alter and/or amend its judgment of 1/8/19, requiring the Plaintiff to remit the sum of \$400.00 in order to proceed in forma pauperis; as grounds with authority, the Appellant submits the following*

*[i] Plaintiff's complaint [**in form**] clearly shows that he admitted having filed more than one complaint as well as to indicate his most recent filing [document [ p.1 &2].*

*[ii.] This Court was, and has expressed as much, clear knowledge and prior information having to do with this Plaintiff's filings, leaving **no deception** on his part, however, indicating bias on the Court's behalf, having dismissed a former suit; also indicated in this Appendix [attached hereto]*

*[iii.] This Court, in contempt of a Congressional Act is attempting to deprive the Plaintiff of his Constitutional right to both file and appeal a civil action SEE 28 USC §1915(2) (4) with F.R.Civ.P. 3 & 4.*

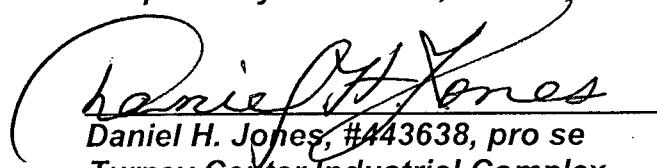
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[iv.] Fourthly, under the **PLR id.** its requisites aren't reduced to "just" the forbidding of frivolous suits, but also enacted to allow litigants unfettered access to commence new actions when the prior conclusions rest upon any decision (as here) other than the "merits" See Payne v. Matthew, 633 S.W.2d. 494 (Tenn.1982), Wolfe v. Perry, 412 F.3d. 707,714 (6<sup>th</sup> Cir. 2005).

## CONCLUSION

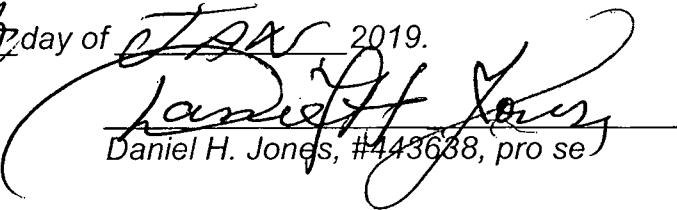
*In summary, to reiterate, this Plaintiff has at all time adequately informed the court as to the information required for acceptance of his civil complaint, and therefore, request that its judgment be amended to comply with the federal Rules governing his action; Alternatively, and by right of passage, to be allowed to appeal his matter to the U.S. Court of Appeals for the 6<sup>th</sup> Circuit: F.R.A.P. 3 &4.*

*Respectfully submitted,*

  
Daniel H. Jones, #443638, pro se  
Turney Center Industrial Complex  
1499 R.W.Moore Memorial Hwy.  
Only, Tennessee. 37140-4050

## CERTIFICATION

*This is to certify, the foregoing motion to Alter and/or Amend has this day been mailed postage prepaid to the clerk of the United States District Court for the Middle District, located at, U.S. Courthouse, 801 Broadway, Nashville, Tennessee37202.. On this 25<sup>th</sup> day of Oct 2019.*

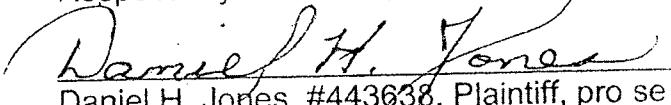
  
Daniel H. Jones, #443638, pro se

C:\File/dhj

TCA § 29-20-307-8 and Art.I, § 17; Tenn. Constitution; Nance v. City of Knoxville, 883 S.W.2d. 629 [Tenn. 1994]. **Judge Campbell**, respectfully I submit that I am in total compliance with both State and Federal Requisites.

**Accordingly**, it is for these causes this matter requires, as well as warrants your reconsideration, and in particular, where the issue is for injunctive relief F.R.Civ.P. 62(c)(1) &(2), *remanding this action to the Davidson Circuit Court for further and final disposition: See Coleman v. Governor of Michigan, 413. App'x 866, 872 (6trh Cir. 2011).*

Respectfully submitted,

  
Daniel H. Jones, #443638, Plaintiff, pro se  
Turney Center Industrial Complex  
1499 R.W. Moore Memorial Hwy.  
Only, Tennessee. 37140-4050.

*C: File/ dhj*

**Leonard Greene, Clerk  
U.S. Sixth Circuit**

5/

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE

DANIEL H. JONES )  
Plaintiff ) Case No. 3:15-0030  
v. ) Judge Todd Campbell  
MARK GWYN, et.al. ) Magistrate Judge  
Defendants )

**Title 42 USC § 1983; Civil Rights Complaint/ Appeal**

**Type of Pleading**  
**Motion To Reconsider**

Pursuant to F.R.Civ.P. 59(e): Motion To Alter Or Amend Judgment:

JUDGE CAMPBELL; with all due respects to your judgment primarily holding my Civil Rights Complaint in abeyance as well as any attempt to appeal until such demands for prepayment of an initial \$350.00 have been satisfied, which I don't have and clearly demonstrated, you are directly in contempt of an Act of Congress prohibiting this form of conclusive denial; 28 USC § 1915(b)(4); See Appendix, hereafter, [Apdx. Doc. 1].

Secondly, under the Prison Litigation Reform Act (PLRA), release account balances are irrelevant to the forma pauperis analysis, See 28 USC § 1915(b)(4) with Gidarisinh v. Malone, 2011 [WL-570803]. Third, 42 USC §1983 does not contain [a] statute of limitations, Moore v. Lewis, 2011 [WL-4344433; E.D. Tenn. 2011], as neither the U.S. Constitution nor the Federal statutes enacted by Congress expressly provide a statute of limitations for claims arising under § 1983, rather, defers to state law, e.g., TCA § 28-3-104(a)(3), to determine a statute of limitations, Harris v. United States, 422 F.3d.

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322, 331 (6<sup>th</sup> Cir. 2005), even in such actions involving federal parties. See also Wilson v. Garcia, 471 U.S. 261, 2366-69, 105 S.Ct. 1938; 85 L.Ed.2d. 254 (1985).

Even though in this instance federal law determines the accrual of these claims, which began when I, [the Plaintiff then], became aware of the injuries, and through exercise of reasonable diligence, [Apdx. Doc.2], See Wolfe v. Perry, 412 F.3d. 707, 714 (6<sup>th</sup> Cir. 2005), from that point on [Apdx. Doc.3] "repeatedly denied," and, without consideration for the merits of my complaint, Congressional lenity requires Federal Courts to adopt ["State"] standards governing tolling periods, and in this case, under the applicable Tennessee Savings Statute, which is now TCA § 28-1-105, regarding my new State Tort Action commenced in January 22, 2014 [Governmental Tort Liability Action --- GTLA], also "after" my adverse decision in the United States Supreme Court (hereafter Sup.Ct) November 8, 2013, filed against former Defendant Judge Robert H. Montgomery listing eight (8) other Defendants, including (current) defendants **Gwyn** and **Stone**, this enactment will read - - - -

**If the action is commenced within the time limited by Rule or Statute, [i.e. Sup.Ct. R.13] of limitations, but the judgment or decree is rendered against the Plaintiff upon any ground "not" concluding his right of action . . . the Plaintiff or his Representatives and privies as the case may be, may from time to time, commence a new action within one (1) year.**

[emphasis, mine]

Judge **Campbell**, in examining all former records to this on-going complaint [past and present] you'll quickly note, that on Federal review, each conclusion dismissing my Complaint(s) were due to my pauper status, under guise of the Rooker-Feldman Doctrine, whose Court Opinion was not, but, **must be** approved by an appropriate decision-maker,

here "Congress," reflecting the purpose for § 1983 review as upheld in this supreme Court in Bd. Of County Comm's of Bryan County Okla v. Brown, 520 U.S. 397, 403; 117 S. Ct. 1382, 1388; 137 L.Ed. 626 (1997).

Therefore, with this in mind, the full meaning and intent of this statute, id., was spelled out by Justice Holmes of the Tennessee Supreme Court in Balsinger v. Gass, 211 Tenn. 343, 379 S.W.2d. 800, 805 [19464], where he said; . . . \*2) Under TCA § 28-106, all actions which may be brought by virtue of that statute must be brought within one (1) year "after" the [in]conclusive dismissal of an action brought within the period, id. [Rule 13] of the applicable statute of limitations

In other words, it makes no difference whether the initial inconclusive dismissal in the U.S. Supreme Court [November 8, 2013 ], "not on the merits" was a voluntary non-suit or dismissal for want of prosecution, as also indicated in some of my [Plaintiff] former attempts, Payne v. Matthews, 633 S.W. 2d. 494 [Tenn.1982]. It is unmisrtakenly clear from the posture of these prior filings the entire proceedings (past and present) has been timely in satisfying this Tennessee Saving Statute. In addition to this, notwithstanding any applicable statute of limitations to the contrary; See TCA § 28-1-115, any party filing an action in the Federal Courts that is subsequently dismissed for lack of jurisdiction - §§ 1331 & 1367 – shall have one (1) year from the date of such dismissal to timely file such action in an appropriate State [Davidson Circuit Court] Court, and as made feasible via

**\*2) As particularly indicated by appendix  
[doc. 4 : Plaintiff's Complaint] the new GTLA---  
Gwyn, et.al is still pending in the Davison Circuit  
Court and currently being addressed for a conclusive  
ruling, or in this instance, this District court's intervention.**

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
COLUMBIA DIVISION**

**DANIEL H. JONES #443638,**

) ) ) ) ) ) ) ) )

**Plaintiff,**

V.

**CLAUDIA C. BONNYMAN, et al.,**

NO. 1:18-cv-00087

**Defendants:**

JUDGE CAMPBELL

## ORDER

Plaintiff appeals this Court's Order denying his motion to reconsider the denial of his application to proceed in district court without prepaying fees and costs ("IFP application").<sup>1</sup> (Doc. No. 8.) Because Plaintiff is clearly subject to the Section 1915(g) bar preventing him from prosecuting this case IFP, the Court finds his appeal of that ruling frivolous and **DENIES** leave to proceed IFP on appeal.

Pursuant to Rule 24(a)(5) of the Federal Rules of Appellate Procedure, Plaintiff may nonetheless file, within 30 days after service of this Order, a motion directly in the Sixth Circuit Court of Appeals for leave to proceed as a pauper on appeal. *Owens v. Keeling*, 461 F.3d 763, 775 (6th Cir. 2006); *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999). The motion should comply with the requirements stated in Rule 24(a)(1), by (A) showing the plaintiff's inability to pay in full the appellate filing fee; (B) claiming an entitlement to redress; and (C) stating the issue the plaintiff intends to present on appeal.

<sup>1</sup> The Court observes that Plaintiff purports to appeal "from the final judgment of an Order dismissing his Civil Rights Complaint," (Doc. No. 8 at 1), but this case has not been dismissed. Plaintiff has simply been denied the privilege of prosecuting the case without prepayment of the filing fee.

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Plaintiff is notified that if he does not file a motion in the Sixth Circuit Court of Appeals within 30 days of receiving notice of this Order and subsequently obtain leave of that court to proceed without prepayment of the appellate filing fee, or if he fails to pay the required appellate filing fee of \$505.00 within this same time period, the appeal may be dismissed for want of prosecution. *Callihan*, 178 F.3d at 804.

The Clerk of Court is **DIRECTED** to furnish a copy of this Order to the Sixth Circuit Court of Appeals.

It is so **ORDERED**.



---

WILLIAM L. CAMPBELL, JR.  
UNITED STATES DISTRICT JUDGE

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Aug 23, 2019  
DEBORAH S. HUNT, Clerk

DANIEL H. JONES, )  
 )  
 Plaintiff-Appellant, )  
 )  
 v. )  
 )  
 CLAUDIA C. BONNYMAN, Part-I, Chancellor; )  
 CAROL L. MCCOY, Part-II, Chancellor; ELLEN )  
 HOBBS LYLE, Part -III, Chancellor; RUSSELL T. )  
 PERKINS, Part-IV, Chancellor; DAVIDSON )  
 COUNTY CHANCERY COURT TWENTIETH )  
 JUDICIAL DISTRICT; JIM PURVIANCE, )  
 Executive Director; RICHARD MONTGOMERY, )  
 Chair, )  
 )  
 Defendants-Appellees. )

O R D E R

Daniel H. Jones, a pro se Tennessee prisoner, appeals the order of the district court denying his motion to proceed in forma pauperis in connection with his complaint alleging civil rights violations pursuant to 42 U.S.C. § 1983. Jones has filed a motion to proceed in forma pauperis on appeal. *See* Fed. R. App. P. 24(a)(5).

Jones's complaint alleged that members of the Tennessee Board of Parole and Chancellors of the Davidson County, Tennessee, Chancery Court violated his civil rights in connection with a parole hearing and an appeal of the Board's decision to defer a decision on Jones's parole for five years. With his complaint, Jones filed an application to proceed in forma pauperis. As required by the Prison Litigation Reform Act ("PLRA"), the district court screened the complaint. *See* 28 U.S.C. § 1915(g). Although Jones claimed to have filed only one previous lawsuit in any court,

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the district court took judicial notice of the fact that Jones had filed several lawsuits in federal district courts and that at least four of them were dismissed as frivolous or for failure to state a claim. Because Jones's current complaint also did not demonstrate that he was in imminent danger, the district court denied Jones's motion to proceed in forma pauperis. The court ordered Jones to pay the filing fee within thirty days of the court's order or his action would be dismissed for failure to prosecute. Jones did not pay the filing fee but filed a motion asking the court to reconsider its decision. The district court denied the motion and concluded that an appeal could not be taken in good faith.

Pursuant to the PLRA, a prisoner may not bring a civil action or appeal in forma pauperis

if the prisoner has, on 3 or more prior occasions . . . brought an action . . . that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). As cited by the district court, Jones has had at least four cases dismissed as frivolous or for failure to state a claim for relief. Nor does Jones fall within the exception to the three strikes rule because his allegations do not demonstrate that he is in imminent danger of serious physical injury. Accordingly, the district court did not abuse its discretion by denying Jones pauper status.

Jones's motion to proceed in forma pauperis is **DENIED**. Unless Jones pays the \$505 filing fee to the district court within thirty days of the entry of this order, this appeal will be dismissed for want of prosecution.

ENTERED BY ORDER OF THE COURT



---

Deborah S. Hunt, Clerk

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

FILED  
Aug 27, 2019  
DEBORAH S. HUNT, Clerk

DANIEL H. JONES, )  
Plaintiff-Appellant, )  
v. )  
CLAUDIA C. BONNYMAN, Part-I, Chancellor; )  
CAROL L. MCCOY, Part-II, Chancellor; ELLEN )  
HOBBS LYLE, Part -III, Chancellor; RUSSELL T. )  
PERKINS, Part-IV, Chancellor; DAVIDSON )  
COUNTY CHANCERY COURT TWENTIETH )  
JUDICIAL DISTRICT; JIM PURVIANCE, )  
Executive Director; RICHARD MONTGOMERY, )  
Chair, )  
Defendants-Appellees. )

ORDER

Daniel H. Jones, a pro se Tennessee prisoner, appeals the order of the district court denying his motion to proceed in forma pauperis in connection with his complaint alleging civil rights violations pursuant to 42 U.S.C. § 1983. Jones has filed a motion to proceed in forma pauperis on appeal. *See* Fed. R. App. P. 24(a)(5).

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*R-6*

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Pursuant to the PLRA, a prisoner may not bring a civil action or appeal in forma pauperis:

if the prisoner has, on 3 or more prior occasions . . . brought an action . . . that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). As cited by the district court, Jones has had at least four cases dismissed as frivolous or for failure to state a claim for relief. Jones does not fall within the exception to the three strikes rule because his allegations do not demonstrate that he is in imminent danger of serious physical injury. Accordingly, the district court did not abuse its discretion by denying Jones pauper status.

Jones's motion to proceed in forma pauperis is **DENIED**. Unless Jones pays the \$505 filing fee to the district court within thirty days of the entry of this order, this appeal will be dismissed for want of prosecution.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

NO. \_\_\_\_\_

IN THE  
UNITED STATES SUPREME COURT  
OCTOBER TERM, 2020

---

RE: DANIEL H. JONES,  
*Petitioner*

---

PETITION FOR AN EXTRAORDINARY WRIT TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
AT CINCINNATI, OHIO  
No. 19-5209

Appellant's initial Appendices  
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STATE OF TENNESSEE  
BOARD OF PAROLE  
404 JAMES ROBERTSON PARKWAY SUITE 1300  
NASHVILLE, TENNESSEE 37243-0850  
Phone: (615) 741-1150 \* Fax: (615) 741-5337

## Offender Hearing Decision Notification

January 27, 2018

NIEL HENDERSON JONES, 00443638  
TURNEY CENTER INDUSTRIAL COMPLEX, 03B, 221

This is to serve as your official notification regarding your parole hearing on 2/6/2018 held at Turney Center Industrial Complex. The Tennessee Board of Parole made a final decision on 2/26/2018 as follows, decline parole. The following information is related to this decision:

The release from custody at this time would have a substantially adverse effect on institutional discipline: T.C.A. 40-35-503(b)(3)

The release from custody at this time would depreciate the seriousness of the crime of which the offender stands convicted or promote disrespect of the law: T.C.A. 40-35-503(b)(2)

Next review date is currently set for 02/2023.

### Appeal Rights

Offenders have appeal rights if their final parole decision is to decline, revoke or rescind parole. Appeals may be granted based on the following criteria:

1. Significant new evidence or information that was not available at the time of the hearing.
2. Allegations of misconduct by the hearings official and is substantiated by the record.
3. Significant procedural errors by the hearings official.

In order to be considered for an appellate review, a written request must be received within forty-five (45) days from the date this decision notice is issued. The request must be mailed to: Board of Parole, Attn: Appeals Unit, 404 James Robertson Parkway, Suite 1300 Nashville, TN 37243-0850.

*[Signature]* \_\_\_\_\_, received this notification on *3-11-18*  
Signature of Offender \_\_\_\_\_ Date \_\_\_\_\_  
Witness Name *Marissa Fields* Witness Signature *Marissa Fields* Date *3-1-18*  
Please Print \_\_\_\_\_

Officials Only (Jails, Prisons and all PPOs):  
If offender is not at this location please specify reason when you sign and date this document before returning.  
Reason \_\_\_\_\_ Sign \_\_\_\_\_ Date \_\_\_\_\_  
This document must be returned to the Board of Parole, Board Operations within three business days of date signed by the offender or witness.

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STATE OF TENNESSEE  
BOARD OF PAROLE  
404 JAMES ROBERTSON PARKWAY, SUITE 1300  
NASHVILLE, TENNESSEE 37243-0850 (615) 741-1150

October 26, 2018

Daniel H. Jones #443638  
Turney Center Industrial Complex  
1499 R. W. Moore Memorial Highway  
Only, Tennessee 37140

**RE: Recent Correspondence**

Dear Mr. Jones:

This is in response to your recent "Petition For Declaratory Order". Tenn. Code Ann. § 4-5-106(c) provides, "Sections 4-5-105, 4-5-219, 4-5-223, 4-5-225 and 4-5-301--4-5-323 shall not apply to the board of claims, the state election commission or the board of probation and parole." Therefore, the Board is exempt from Declaratory Orders.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Purviance".

Jim Purviance  
Executive Director

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WESTLAW

§ 40-35-503. Release status; determination  
 West's Tennessee Code Annotated Title 40, Criminal Procedure Effective: July 1, 2012 (Approx. 2 pages)

West's Tennessee Code Annotated

Title 40. Criminal Procedure

Chapter 35. Tennessee Criminal Sentencing Reform Act of 1989 (Refs & Annos)

Part 5. Release and Parole (Refs & Annos)

Effective: July 1, 2012

T.C.A. § 40-35-503

**§ 40-35-503. Release status; determination**

Currentness

- (a) The board of parole has the authority to parole inmates with felony sentences of more than two (2) years or consecutive felony sentences equaling a term greater than two (2) years.
- (b) Release on parole is a privilege and not a right, and no inmate convicted shall be granted parole if the board finds that:
  - (1) There is a substantial risk that the defendant will not conform to the conditions of the release program;
  - (2) The release from custody at the time would depreciate the seriousness of the crime of which the defendant stands convicted or promote disrespect for the law;
  - (3) The release from custody at the time would have a substantially adverse effect on institutional discipline; or
  - (4) The defendant's continued correctional treatment, medical care or vocational or other training in the institution will substantially enhance the defendant's capacity to lead a law-abiding life when given release status at a later time.
- (c) No person convicted of a sex crime shall be released on parole unless a psychiatrist or licensed psychologist designated as a health service provider has examined and evaluated the inmate and certified that, to a reasonable medical certainty, the inmate does not pose the likelihood of committing sexual assaults upon release from confinement. The examination and evaluation shall be provided by psychiatrists or licensed psychologists designated as health service providers whose services are contracted or funded by the department of correction or the board of parole. The board shall consider any other evaluation by a psychiatrist or licensed psychologist designated as a health service provider that may be provided by the defendant.
- (d)(1) The board shall conduct a hearing within a reasonable time prior to a defendant's release eligibility date to determine a defendant's fitness for parole.
  - (2) At the hearing, the board shall permit the video testimony of the immediate family members of the victim of a defendant's criminal offense relative to the fitness of the defendant for parole, if the family members are unable to attend the hearing. The board may, by rule, establish reasonable guidelines as to what constitutes a family member being unable to attend a hearing.
  - (e) The board shall notify the district attorney general and the sentencing court or their successors of the eligibility hearing in the manner provided for in § 40-28-107(c).
  - (f) If the board determines that a defendant should be released on parole, it shall furnish reasons for that decision to the district attorney general who prosecuted the defendant, the chief law enforcement official of the agency that prosecuted the case and the judge who tried that defendant or to their successors, upon their request.
  - (g) In determining whether an inmate should be granted parole, the board shall consider as a factor the extent to which the inmate has attempted to improve the inmate's educational, vocational or employment skills through available department of correction programs while

B-3

the inmate was incarcerated. The board shall have the right to deny parole to an inmate who has made no attempt to improve such skills while incarcerated.

**Credits**

1989 Pub. Acts, c. 591, § 6; 1990 Pub. Acts, c. 729, § 2; 1990 Pub. Acts, c. 980, § 34; 1992 Pub. Acts, c. 991, § 18; 1993 Pub. Acts, c. 235, § 1, eff. July 1, 1993; 1994 Pub. Acts, c. 730, § 2, eff. April 8, 1994; 2012 Pub. Acts, c. 727, § 58, eff. July 1, 2012.

**Editors' Notes**

**HISTORICAL AND STATUTORY NOTES**

2012 Pub. Acts, c. 727, § 58, substituted "board of parole" for "board of paroles".  
2012 Pub. Acts, c. 727, § 63, provides:

"SECTION 63. This act shall take effect July 1, 2012, the public welfare requiring it.  
Implementation of the act shall be fully accomplished on or before January 1, 2013."

**NOTES OF DECISIONS**

**In general**

Parole of Tennessee prisoners lies solely within discretion of state officials. West's Tenn. Code, § 40-35-503(b). Tarpley v. Traughber, 1996, 944 S.W.2d 394, rehearing denied, appeal denied. Pardon And Parole c. 47

**T. C. A. § 40-35-503, TN ST § 40-35-503**

Current with laws from the 2018 Second Reg. Sess. of the 110th Tennessee General Assembly, eff. through February 22, 2018, except for chapter 520. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

End of  
document

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ADMINISTRATIVE POLICIES  
AND PROCEDURES  
State of Tennessee  
Department of Correction

Index #: 704.01	Page 1 of 7
Effective Date: October 1, 2017	
Distribution: C	
Supersedes: 704.01 (5/1/17)	

Approved by: Tony Parker

Subject: STANDARDS OF OFFENDER SUPERVISION (PROBATION AND PAROLE)

- I. **AUTHORITY:** TCA 4-3-603, TCA 4-3-606, Title 40, Chapter 28, Part 6, TCA 40-35-303, TCA 40-35-313, TCA 39-13-524, TCA 39-13-526.
- II. **PURPOSE:** To supervise offenders in the community in a consistent and effective manner that will allow the agency to focus maximum resources on higher risk offenders.
- III. **APPLICATION:** Assistant Commissioner of Operational Support, Assistant Commissioner of Community Supervision, all Tennessee Department of Correction (TDOC) Community Supervision staff, and offenders.
- IV. **DEFINITIONS:**
  - A. **Compliance:** The degree to which an offender has adhered to the supervision requirements of his/her supervision level and the degree to which the probation/parole officer (PPO) has monitored the offender's performance.
  - B. **Contact Note Code:** The four character code entered to record a specific task into an offender's TOMIS case note history and document compliance with a standard.
  - C. **Day Reporting Center (DRC):** Facilities designed to provide highly structured programming (including cognitive behavioral treatment, educational service, substance abuse counseling) for high needs offenders on community supervision.
  - D. **Face to Face Contact (FAC):** Officer - Offender contact whether in the office or the field that is made person to person, where the officer visually confirms the person with whom he or she is conversing is the offender. Office contact (FACO), is when the offender is seen in the office by probation parole officer. Field contact (FACF), allows the officer to see the offender at any residence, the offender's employment site, group treatment, etc.
  - E. **Interstate Compact Offender Tracking System (ICOTS):** The system used by the Interstate Commission of Adult Offender Supervision to track offenders.
  - F. **Monitoring:** The act of observing, detecting, or recording actions, interactions, or documentation as it relates to the supervision of offenders.
  - G. **Offender Case Plan:** An individual series of tasks outlined for an offender to follow in order to successfully complete the special conditions of supervision and/or the needs identified by the risk and needs assessment tool adopted by the department.
  - H. **Risk and Needs Assessment:** A process utilized in determining the degree of risk an offender presents to the community, assessing the offender's needs for assistance and surveillance, and identifying the availability of resources.

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## Subject: STANDARDS OF OFFENDER SUPERVISION (PROBATION AND PAROLE)

- I. Sanction: A swift, certain, and proportionate response by the probation parole officer (PPO) to return the offender to compliance by use of accountability measures and programs.
- J. Supervision Codes: Three digit computer programming codes that are entered into the TOMIS conversation screen Supervision Plan (LCDF) which instructs TOMIS as to the requirements for different standards of supervision.
- K. Supervision Level: The category to which an offender is assigned which determines the standards of the offender's supervision requirements.
- L. Supervision Standards: The type and frequency of activity or contact that an officer schedules on behalf of each offender.
- V. POLICY: The Department shall supervise all offenders on supervision, including probation and parole, and in accordance with standards that ensure the public safety through the use of effective monitoring, sanctions, and rewards.

**VI. PROCEDURES:**

- A. Officers shall utilize the standards of supervision according to the supervision level as described throughout this policy.

1. Enhanced: This supervision classification includes the following supervision levels:

- a. Enhanced (IEN-TOMIS Supervision Code): This supervision level includes offenders ordered by the court to be placed under enhanced or intensive supervision, and offenders assessed as "criminally diverse" or "high violent" by the risk and needs assessment tool adopted by the department.
    - b. DRC Phase 1 (IDI-TOMIS Supervision Code): This supervision level includes offenders ordered to participate in the Day Reporting Center program by the Parole Board, sentencing court, or District Director. All DRC Phase 1 offenders shall be placed under this level of supervision.
    - c. The requirements for this class of supervision are:
      - (1) Face to face field or office contacts/three per month
      - (2) Home visit/one per month
      - (3) Supervision fee verification/one per month
      - (4) Special conditions verification/one per month
      - (5) Arrest check/one per month
      - (6) Employment verification/one per month
      - (7) Drug screen/one every six months

Tennessee Department of Correction  
Certificate of Completion



is hereby granted to

**DANIEL H. JONES**

to certify that he has completed 150 hours to satisfaction

**Pro Social Life Skills**

Granted: January 30, 2017

Rehabilitative Services GCI/PSLS Instructor

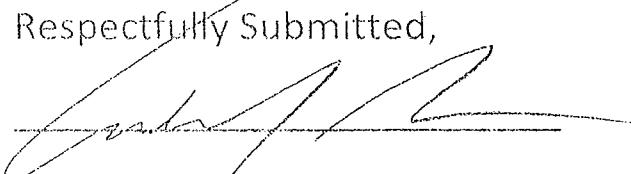
Tennessee Department of Correction



To the Board of Parole:

Mr. Daniel Jones has graduated the Pro Social Life Skills. During his time he has displayed the attitude, willingness, and desire for positive living. He is very enthusiastic and shows initiative to be successful in the program by participating and completing his assignments. I feel if Mr. Jones is granted parole he will be an active and productive member of society.

Respectfully Submitted,

  
CCII A. Jordan PSLS Instructor

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Admissions Department, P.O. Box 22573, Memphis, TN 38122  
(901) 382-8106 x 210, Fax (901) 382-0522

01/22/2018

aniel H. Jones # 443638

to inform you that will be accepted into our program upon release, provided you agree to abide by all of the rules and regulations set forth in the guidelines previously sent. You are required to secure your own transportation to our facility. Our program is a six month faith-based program, which includes assistance in getting employment, when and available. The conditions to this approval are that you commit to this program for six month a stipulation of time. This program is for those who are truly committed to making positive change in their life and are dedicated to that happen. We work directly with court and parole/probation officials to ensure that you fulfill the requirements of your parole through our program.

derstand that you are trying to secure admission in advance; however, in order for us to reserve your place, ust notify us as soon as you know your release date. You must do this prior to arriving at the Safe Harbor facility noted below. This is to confirm that we do have space available for you before you arrive.

to contact all court-officials associated with your case and to make known to us, upon intake, who all of your officials are, as we will work with them very closely.

ay bring up to 8 changes of clothing appropriate for community setting and work environments, your Bible, toiletry and dry items, all of which should be able to fit into one foot locker. You *may not* bring any electronics of any kind: iPods, MP3 players, Walkmans, cellular phones, or computers.

al is for you to graduate in six months: drug and alcohol free; independently employed; independently housed in a sober environment; and actively attending support community of your choice. Together, we can accomplish this. od of time, you must re-apply by filling out a new application. Your court, probation, and/or parole acceptance letter is valid for six months from the above date. After the officer has final approval on admission once. We are excited to be able to work with you through your transition and look forward to being a part of your success!

iffully,

Potter  
unity Liaison

is a waiting list.

#### Safe Harbor Locations:

Memphis, TN (Shelby County – Men Only)  
3630 Jackson Avenue, Memphis, TN 38108  
(901) 382-0966  
*State of Tennessee Parole Board Approved*

Clarksville, TN (Montgomery County – Men Only)  
108 Kraft Street, Clarksville, TN 37040  
(931) 503-2000  
*State of Tennessee Parole Board Approved*

Little Rock, AR (Pulaski County -- Men Only)  
4800 Confederate Blvd., Little Rock, AR 72206  
(501) 374-5399

*State of Arkansas Parole Board Approved*

X

Nashville, TN (Davidson County – Men Only)  
525 40<sup>th</sup> Avenue North, Nashville, TN 37209  
(615) 327-8106

*State of Tennessee Parole Board Approved*

B-7

*Updated: April 19, 2016*

Copy

239931

FILED  
2018 MAR 29 AM 10:28

IN THE DAVIDSON CIRCUIT COURT  
20TH JUDICIAL DISTRICT  
at NASHVILLE, TENNESSEE

*[Signature]* DC  
IN RE:  
DANIEL H. JONES,  
Plaintiff

Vs.

Governmental Tort Liability Action  
Action No. 18C7914

RICHARD MONTGOMERY; Chair, et. al.  
Tennessee Board of Parole  
Parkway Towers, Suite 1300  
404 James Robertson Parkway  
Nashville, Tennessee. 37243-0850  
Defendants

REQUEST FOR DECLARATION OF RIGHTS  
AND DECLARATORY JUDGMENT

Come this day the Plaintiff, Daniel H. Jones, *pro se*, pursuant to TCA §29-14-102(a), to respectfully move this court for a declaration of rights. Plaintiff will submit, with supporting indicia that an actual issue of fact exists with which this court may make a binding declaration of rights removing all uncertainty as to his cause of action, and thereafter, the issuance of declaratory judgment, *ex parte* Plaintiff; TCA §29-14-108 and 29-14-113.

*B-8a*

COPY

CIRCUIT COURT SUMMONS

NASHVILLE, TENNESSEE

STATE OF TENNESSEE  
DAVIDSON COUNTY  
20<sup>TH</sup> JUDICIAL DISTRICT

DANIEL H. TONES, #483638  
Turner Center Industrial Complex  
1499 R.W. Moore Memorial Hwy,  
Plaintiff

Vs.

Richard Montgomery Chair, et al.  
Tennessee Board of Parole  
Parkway Tower, Suite 1300  
104 James Robertson Parkway  
Nashville, TN 37243-0850  
Defendant

To the above named Defendant:

You are summoned to appear and defend a civil action  Complaint of Divorce  Petition filed against you in Circuit Court, 1 Public Square, Room 302, P.O. Box 196303, Nashville, TN 37219-6303 and your defense must be made within thirty (30) days from the date this Summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the Plaintiff's attorney at the address listed below. Also you are summoned to appear at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, and show cause \_\_\_\_\_

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in this complaint.

ISSUED: 3-29-18

RICHARD R. ROOKER

Circuit Court Clerk  
Davidson County, Tennessee

By: esther

Deputy Clerk

ATTORNEY FOR PLAINTIFF	
OR	
PLAINTIFF'S ADDRESS	Address

TO THE SHERIFF:

Please execute this summons and make your return hereon as provided by law.

RICHARD R. ROOKER

Circuit Court Clerk

Received this summons for this service this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_. 5-86

SHERIFF

If you have a disability and require assistance, please contact 862-5204.

Service accepted on behalf of  
Defendant Richard Montgomery

**RETURN ON PERSONAL SERVICE OF SUMMONS**

Facility only

this April 17, 18

Paul C. Ney, Jr. Chief Deputy, 20

I hereby certify and return that on the APR 17 2018 day of

served this summons and complaint/petition on

**SERVED BY LEAVING COPY**

**W / ATTY, GEN. OFFICE**

failed to serve this summons within 30 days after its issuance because

in the following manner:

C Prater

Sheriff/Process Server

**RETURN ON SERVICE OF SUMMONS BY MAIL**

I hereby certify and return the on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ I sent, postage by registered return receipt mail or certified return receipt mail, a certified copy of the summons and a copy of the complaint in Docket No. \_\_\_\_\_ to the defendant, \_\_\_\_\_ On the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, I received the return receipt for said registered or certified mail, which had been signed by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_. Said return receipt is attached to this original summons and both documents are being sent herewith to the Circuit Court Clerk for filing.

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS

DAY OF \_\_\_\_\_, 20 \_\_\_\_\_

PLAINTIFF, PLAINTIFF'S ATTORNEY OR OTHER PERSON  
AUTHORIZED BY STATUTE TO SERVE PROCESS

NOTARY PUBLIC or DEPUTY CLERK

MY COMMISSION EXPIRES: \_\_\_\_\_

**NOTICE**

TO THE DEFENDANT(S):

Tennessee law provides a four thousand dollar (\$4,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter if necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trucks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

ATTACH

RETURN

RECEIPT

HERE

(IF APPLICABLE)

STATE OF TENNESSEE  
COUNTY OF DAVIDSON

I, Richard R. Rooker, Clerk of the Circuit Court in the State and County aforesaid, do hereby certify this to be a true and correct copy of the original summons issued in this case.

RICHARD R. ROOKER, CLERK

(To be completed only if  
copy certification required.)

By: \_\_\_\_\_ D.C. B-8c

FILED - 03.29.18

DAVIDSON COUNTY CIRCUIT COURT

NAR

(1) 1 JONES, DANIEL H. #443638  
Docket # 18C796 vs. PO CIVIL COMPLAINT 239931\*1  
(1) 1 MONTGOMERY, RICHARD, CHAIR ET AL

BALANCES: C: 284.50 J: I: TOT: 284.50

LINE DATE CODE DESCRIPTION NON-JURY COURT #: 2 DECLARATORY

1	03.29.18	POMC	PO CIVIL COMPLAINT	239931*1
2	03.29.18	E	EXHIBIT COLLECTIVE AS "DOC. 1-7" (TO COMPLAINT)	
3	03.29.18	AF	AFFIDAVIT (COPY OF INMATE'S TRUST ACCOUNT)	
4	03.29.18	SD	SUMMONS DAVIDSON CO-D1 W/C, E	
5	03.29.18	M	MOTION - OF P FOR LEAVE TO PROCEED IN FORMA PAUPERIS	
6	04.02.18	CN	COURT NOTIFICATION REQUIRED	
7	04.09.18	O	ORDER NON-COMPLIANCE W/REQUIREMENTS OF LAW	
8	04.18.18	CRD	CORRESPONDENCE RECEIVED FROM P1 RE: FILING FEE PAYMENTS	
9	04.18.18	AF	AFFIDAVIT (NOT NOTARIZED/WITH ORDER) OF DANIEL H. JONES	
10	04.20.18	CRS	LETTER SENT TO P - RE:CORRES - TCA CODE SENT	
11	04.20.18	R	RETURN OF SERVICE D1 SERVED RL-04-17-18	
12	05.07.18	M	MOTION - OF P FOR ISSUANCE OF SUMMONS	
13	05.07.18	E	EXHIBIT AS COPY RULE 4.01 CIV PROC(TO MT)	
14	05.17.18	M	MOTION - OF D FOR EXTENSION OF TIME TO RESPOND TO PLTFS REQUEST FOR DECLA	
15	05.17.18	NAP	NOTICE OF APPEARANCE (THOMAS J AUMANN) FOR D1	

B-8d

8D

IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

Jones, Daniel H. #443638 )  
Plaintiff )  
Vs. ) No. 18C796  
Montgomery, Richard, Chair et al )  
Defendant )  
)  
)  
)  
)  
)  
)

ORDER

The Plaintiff is a prison or workhouse inmate who has filed a civil action. The plaintiff/petitioner is required to comply with the requirements of T.C.A. 41-21-801 et seq. related to lawsuits by inmates. The inmate has not complied with the requirements of the law by:

Failing to file paupers oath.  
 Failing to file by affidavit the information required by T.C.A. 41-21-805.  
 Failing to file the partial payment of the filing fee as required by T.C.A. 41-21-807. The total filing fee is \$284.50.

The plaintiff/petitioner shall have twenty (20) days from the date of this order to comply with the requirements cited above or the case will be dismissed.

This the 9th day of April, 2018.

JUDGE

B-9c

cc: Daniel H. Jones #443638  
Turney Center Industrial (TCIX)  
1499 R.W. Moore Memorial  
Only, Tennessee 37140

Richard, Montgomery, Chair et al  
Tennessee Board of Parole  
404 James Robertson Pkwy, #1300  
Nashville, Tennessee 37243

Office of Attorney General  
Attn: Civil Rights and Claims  
P O Box 20207  
Nashville, Tennessee 37202

IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE

Jones, Daniel H. )  
 )  
 Plaintiff )  
 )  
 Vs. ) NO. 18C796  
 )  
 Montgomery, Richard, Chair et al) )  
 )  
 Defendant )

APR 21 2018  
DAVIDSON COUNTY, TENNESSEE  
CIRCUIT COURT  
CLERK'S OFFICE

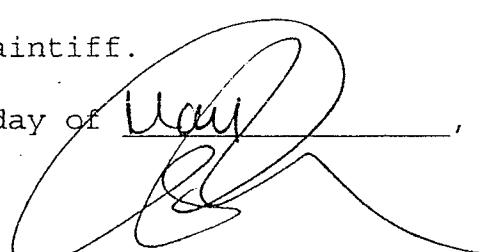
ORDER

This case is hereby dismissed pursuant to the Court's Order dated April 9, 2018. The Plaintiff has:

- Failed to file paupers oath.
- Failed to file by affidavit the information required by T.C.A. 41-21-805.
- Failed to file the partial payment of the filing fee as required by T.C.A. 41-21-807.

Costs are taxed to the plaintiff.

This the 21<sup>st</sup> day of May, 2018.

  
\_\_\_\_\_  
Judge

*B-96*

Cc: Daniel H. Jones #443638  
Turney Center Industrial (TCIX)  
1499 R.W.Moore Memorial  
Only, Tennessee 37140

Richard Montgomery , Chair et al  
Tennessee Board of Parole  
404 James Robertson Pkwy, #1300  
Nashville, Tennessee 37243

Office of Attorney General  
Attn: Civil Rights and Claims  
P O Box 20207  
Nashville, Tennessee 37202

# Davidson County

P. O. Box 196303  
Nashville, Tennessee 37219-6303



## RICHARD R. ROOKER

Circuit Court Clerk  
1 Public Square, Room 302  
615-862-5181  
Website: [circuitclerk.nashville.gov](http://circuitclerk.nashville.gov)

April 20, 2018

Mr. Daniel H. Jones, #443638  
T.C.I.X. - Main; 3B-221  
1499 R.W. Moore Memorial Hwy.  
Only, Tennessee 37140-4050

RE: Daniel H. Jones, #443638  
vs. Docket No. 18C796  
Richard Montgomery, Chair, et al.

Dear Mr. Jones:

Please be advised that our office received your correspondence dated 04.12.2018. Please find enclosed herein a copy of T.C.A. 41-21-807(b)(1) which applies to payment of filing fees on civil actions.

Thank you for your attention to this matter. Should you have any questions, feel free to contact our office at (615) 862-5181.

Sincerely,

Richard R. Rooker

RRR/dle

Enclosure

*B-10a*



To request an ADA Accommodation, please contact Dart Gore at (615) 880-3309.

STATEMENT OF DUE AND UNPAID COURT COSTS  
CIRCUIT COURT CLERK'S OFFICE  
DAVIDSON COUNTY, TENNESSEE

JONES, DANIEL H. #443638  
VS.

MONTGOMERY, RICHARD, CHAI

BILLING DATE: 08.15.18

DOCKET NUMBER: 18C796

IT IS ORDERED BY THE COURT THAT THE COSTS OF THIS CAUSE BE ADJUDGED AGAINST:

JONES, DANIEL H. #443638  
TURNER CNTR INDUSTRIAL COMPLEX  
1499 R.W. MOORE MEMORIAL HWY.  
ONLY, TN 37140

STATE TAX:	23.75
COUNTY TAX:	33.75
CLERK:	227.00
SHERIFF:	40.00
 TOTAL:	 324.50

PLEASE MAKE CHECK PAYABLE TO:

CIRCUIT COURT CLERK  
1 PUBLIC SQUARE, ROOM 302  
P.O. BOX 196303  
NASHVILLE, TN 37219-6303  
PHONE (615) 862-5181

Please return Yellow copy  
with your remittance.

PLEASE PAY THE TOTAL AMOUNT DUE WITHIN 30 DAYS. OTHERWISE, A GARNISHMENT MUST BE  
ISSUED IN ACCORDANCE WITH THE LAW WHICH WILL RESULT IN ADDITIONAL COST TO YOU.

CC003-CF-5/07

RETAIN THIS COPY FOR YOUR RECORDS

901-87

NO. \_\_\_\_\_

IN THE

UNITED STATES SUPREME COURT  
OCTOBER TERM, 2020

---

RE: DANIEL H. JONES,  
*Petitioner*

---

PETITION FOR AN EXTRAORDINARY WRIT TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
AT CINCINNATI, OHIO  
No. 19-5209

Appellant's initial Appendices  
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Richard R. Rooker  
Circuit Court Clerk  
1-Public Square, Room 302  
P.O. Box 196303  
Nashville, Tennessee 37219-6303

May 29, 2018

Re: Jones v. Montgomery, chair, et. al.,  
GTLA No. 18C-796

Mr. Rooker,

In receipt of this "Form-Order" dated for the 21<sup>st</sup> of May, 2018, as well as an earlier "Form-Order" dated for the 9<sup>th</sup> of April, 2018 (both are enclosed), neither of which have been "officially signed by a judge" are legally, legibly authorized.

In fact, it appears to be "your" scribbling (as compared to this identical scribbling on the return summons (also enclosed) at the base of both orders. And no Mr. Rooker, for two reasons you're not authorized to "indescriptively" sign orders--1.) Pursuant to TCA § 18-1-108 this is not a clerical duty, and 2.) Legislation prohibits such actions taken against litigants (inmates) who cannot afford to defray the cost of "filing" fees and has thoroughly demonstrated it by Law e.g. TCA § 41-21-807(a)(4)(enclosed).

Therefore, having now determined "you" to be in violation of your oath § 18-1-103 as well as the function of your clerical (not judicial) duties § 18-1-105, I'm compelled to have the district Attorney General to file and prosecute charges against you, § 18-1-304 forthwith and until the proceedings are finally terminated.

As the chief clerk, you should be well aware that signing form orders is not authorized as one of your duties, see specifically TCA § 18-4-203(a) and therefore, clearly now representing grounds for removal TCA § 18-1-301.

Respectfully submitted,



Daniel H. Jones, Plaintiff, #443638  
Turney Center Industrial Complex  
1499 R. W. Moore Memorial Highway  
Only, Tennessee 37140-4050

C: Herbert H. Slatery III,  
Attorney General and Reporter

Thomas J. Aumann, BPR# 034046  
Assistant Attorney General;  
Office of Attorney General  
Civil Rights and Claims Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207



✓ File/dhj.

Hon. Glenn Funk,  
District Attorney General  
20<sup>th</sup> Judicial District  
Davidson County Criminal Court  
408 2<sup>nd</sup> Ave. North. Suite 2120  
Nashville, Tennessee 37201

May 30, 2018

Re: Jones v. Montgomery, chair, et. al.,  
Tenn. Board of Parole  
GTLA No. 18C-796

Dear Mr. Funk,

This is to serve notice consistent with TCA § 18-1-304, and based upon Clerical Malfeasance (as attached hereto), that I would desire having charges brought against one of your chief clerks, i.e. Richard R. Rooker.

Mr. Rooker as shown here is performing duties he's not "authorized" to do and is interfering with my access to courts, as complained in my correspondence to him.

At every opportunity given to me to follow procedure in processing my action (as well as the Attorney General opposing me). Mr. Rooker has denied the both of us from having the court decide our motions, by summarily drafting and signing "form orders" he's not authorized to do; TCA § 18-4-203.

Accordingly I am now compelled to have you invoke your power and authority in filing and bring charges against Mr. Rooker, § 18-1-304, in having him removed from office until such time as this Governmental Tort Liability Action has been adjudicated. It's also worthy to note that Mr. Rooker has persistently, since 2014 distorted my attempts to litigate other claims through this district which have not been fully adjudicated and can be proven by existing documentation.

Respectfully submitted,  
  
Daniel H. Jones, Plaintiff, #443638  
Turney Center Industrial Complex  
1499 R. W. Moore Memorial Highway  
Only, Tennessee 37140-4050

C: Herbert H. Slatery III,  
Attorney General and Reporter

Thomas J. Aumann, BPR# 034046  
Assistant Attorney General;  
Office of Attorney General  
Civil Rights and Claims Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207

Richard R. Rooker  
Circuit Court Clerk  
1-Public Square, Room 302  
P.O. Box 196303  
Nashville, Tennessee 37219-6303

✓ File/dhj.

CL

Hon. Glenn Funk,  
District Attorney General  
20<sup>th</sup> Judicial District  
Davidson County Criminal Court  
408 2<sup>nd</sup> Ave. North. Suite 2120  
Nashville, Tennessee 37201

1<sup>st</sup> Notice

June 6, 2018

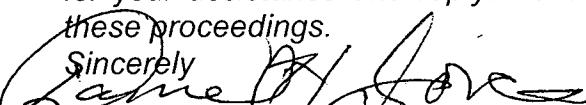
Re: Jones v. Montgomery, chair, et. al.,  
Tenn. Board of Parole  
GTLA No. 18C-796

Dear Mr. Funk,

With regard to my letter of May 30<sup>th</sup> concerning your clerk's misconduct, I'm going to need the name of the Judge whom this action was assigned to as well as both Orders having his signature on it, otherwise the records indicate that THIS ACTION IS "YET ONGOING", WHICH MOOTS AN APPEAL.

Please give me your cooperation providing me with this information, to which I am entitled, and, I will also kindly ask that you do so prior to the expiration of these presumed Order's due date for a Notice of appeal. I thank you for your assistance and reply. As it appears, Mr. Rooker's behavior is delaying these proceedings.

Sincerely

  
Daniel H. Jones Plaintiff, #443638  
Turney Center Industrial Complex  
1499 R. W. Moore Memorial Highway  
Only, Tennessee 37140-4050

C: Herbert H. Slatery III,  
Attorney General and Reporter

Thomas J. Aumann, BPR# 034046  
Assistant Attorney General;  
Office of Attorney General  
Civil Rights and Claims Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207

Richard R. Rooker  
Circuit Court Clerk  
1-Public Square, Room 302  
P.O. Box 196303  
Nashville, Tennessee 37219-6303

✓ File/dhj.

G-3

Glenn Funk,  
District Attorney General  
20<sup>th</sup> Judicial District  
Davidson County Criminal Court  
408 2<sup>nd</sup> Ave. North. Suite 2120  
Nashville, Tennessee 37201

2<sup>nd</sup> Notice

June 13, 2018

Re: Jones v. Montgomery, chair, et. al.,  
Tenn. Board of Parole  
GTLA No. 18C-796

Dear Mr. Funk,

With regard to my letter of first notice to you concerning your clerk's misconduct, as well as my recent letter requiring the Judge's name assigned to this docket, please be advised as illustrated in the attached and recent ruling, that in absence of the Judge's signature to these "bogus Orders", an appeal cannot be pursued until it is legally and legibly entered. Please comply with procedure; otherwise file the necessary charges removing this clerk that this action may follow through.

Please give me your cooperation providing me with this information, to which I am entitled, or, I am left with no choice but to challenge you and your office as well in a federal forum. This also indicates your negligence in this matter, and time, for me, is not a luxury.

Sincerely

  
Daniel H. Jones, Plaintiff, #443638

Turney Center Industrial Complex  
1499 R. W. Moore Memorial Highway  
Only, Tennessee 37140-4050

C: Herbert H. Slatery III,  
Attorney General and Reporter

Thomas J. Aumann, BPR# 034046  
Assistant Attorney General;  
Office of Attorney General  
Civil Rights and Claims Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207

Richard R. Rooker  
Circuit Court Clerk  
1-Public Square, Room 302  
P.O. Box 196303  
Nashville, Tennessee 37219-6303



WESTLAW

**§ 41-21-807. Payment of filing fees, court costs and other expenses by inmate; frivolous actions**

TN ST § 41-21-807 West's Tennessee Code Annotated Title 41. Correctional Institutions and Inmates Effective: August 11, 2010 (Approx. 2 pages)

West's Tennessee Code Annotated

Title 41. Correctional Institutions and Inmates

Chapter 21. Inmates

Part 8. Lawsuits by Inmates (Refs & Annos)

Effective: August 11, 2010

T. C. A. § 41-21-807

**§ 41-21-807. Payment of filing fees, court costs and other expenses by inmate; frivolous actions**

Currentness

(a) An inmate seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security for the fees, in addition to filing the affidavit required by § 41-21-805, shall submit a certified copy of the trust fund account statement, or the institutional equivalent, for the inmate for the six-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each facility at which the inmate is or was confined.

(b)(1) If an inmate brings a civil action or files an appeal in forma pauperis, the inmate shall be required to pay the full amount of the filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of twenty percent (20%) of the greater of the average monthly:

(A) Deposits to the inmate's account; or

(B) Balance in the inmate's account for the six-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the inmate shall be required to make monthly payments of twenty percent (20%) of the preceding month's income credited to the inmate's account. The agency having custody of the inmate shall forward payments from the inmate's account to the clerk of the court each time the amount in the account exceeds ten dollars (\$10.00) until the filing fees are paid.

(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

(4) In no event shall an inmate be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the inmate has no assets and no means by which to pay the initial partial filing fee.

(c) In no event shall an inmate bring a civil action or appeal a judgment in a civil action or proceeding under this section if the inmate has, on three (3) or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of this state or the United States that was dismissed on the grounds that it was frivolous, malicious or failed to state a claim upon which relief may be granted, unless the inmate is under imminent danger of serious physical injury.

**Credits**

1996 Pub Acts, c. 913, § 1, eff. May 8, 1996; 2001 Pub Acts, c. 76, § 2, eff. April 11, 2001.

**Editors' Notes**

**HISTORICAL AND STATUTORY NOTES**

2001 Pub Acts, c. 76, § 2, rewrote the section, which previously read:

"(a) The court shall order an inmate who has filed a frivolous or malicious claim to pay filing fees, court costs and any other related expenses in accordance with this section. The clerk of the court shall mail a copy of the court's order to the department or the county jail, as appropriate.

65

"(b) Pursuant to the court's order, the inmate shall be required to pay an amount equal to twenty percent (20%) of the preceding six (6) months' deposits and interest, if any, accruing to the inmate's trust account.

"(c) In each month following the month in which the first payment is made under subsection (b), the inmate shall pay an amount equal to ten percent (10%) of that month's deposits and interest for the trust account. Payments under this subsection shall continue from month to month until the total amount of costs listed in the court's order in subsection (a) are paid or until the inmate is released from confinement.

"(d) On receipt of a copy of an order issued under subsection (a), the department or county jail shall withdraw money from the trust account in accordance with subsections (b) and (c). The department or county jail shall forward the collected money to the clerk of the court on a monthly basis. If the amount to be forwarded to a court clerk under this section in a month is less than ten dollars (\$10.00), the department or county jail shall hold the money collected in a separate escrow account and shall forward the money to the court clerk when the total amount equals at least ten dollars (\$10.00).

"(e) With the filing of each claim, the inmate shall file a current certified copy of the inmate's trust account statement with the court. The statement shall reflect the balance of the account at the time the complaint is filed and activity in the account during the six (6) months preceding the date on which the complaint is filed. The court may request the department or county jail to furnish the information required under this subsection.

"(f) An inmate may authorize payment to the court clerk in addition to those payments required by this section.

"(g) At the time the inmate is released from confinement, the court may enter any additional orders requiring payment of filing fees, court costs, and any other expenses relating to past claims filed by the inmate.

"(h) The court may dismiss any claim if an inmate fails to pay filing fees, court costs or any other costs assessed under this section.

"(i) An inmate may not avoid the fees and costs assessed under this section by nonsuiting a party or by voluntarily dismissing the action."

NOTES OF DECISIONS

**Right to file subsequent actions**

Inmate was not entitled to file another claim at least until he finished paying off court costs from earlier action found to be both malicious and frivolous. T.C.A. §§ 41-21-807(h), 41-21-812. Davis v. Holland, 2000, 31 S.W.3d 574, appeal denied. Costs ~~plus~~ 128

**T. C. A. § 41-21-807, TN ST § 41-21-807**

Current through end of the 2018 Second Regular Session of the 110th Tennessee General Assembly.

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Document

## WESTLAW

EARL VANTREASE, JR. v. TENNESSEE BOARD OF PAROLE, ET AL. Additional Party Names: Tennessee Departm...  
 Court of Appeals of Tennessee. June 8, 2018 Slip Copy 2018 WL 2771966 (Approx. 2 pages)

2018 WL 2771966

Only the Westlaw citation is currently available.

SEE COURT OF APPEALS RULES 11 AND 12

Court of Appeals of Tennessee.

EARL VANTREASE, JR.

v.

TENNESSEE BOARD OF PAROLE, ET AL.

No. M2016-01384-COA-R3-CV

June 7, 2018

06/08/2018

**Appeal from the Circuit Court for Davidson County**

**No. 16C-365 Amanda Jane McClendon, Judge**

This is an appeal from an order dismissing one of several defendants. Because the order does not dispose of the plaintiff's claims against all of the defendants and because the trial court has not yet ruled on the plaintiff's Tenn. R. Civ. P. 59 motion to alter or amend, we dismiss the appeal for lack of a final judgment.

**Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed**

**Attorneys and Law Firms**

Earl Raymond Vantrease, Jr., Whiteville, Tennessee, pro se.

Thomas Jon Aumann, Nashville, Tennessee, for the appellee, Tennessee Board of Parole.

**Opinion**

FRANK G. CLEMENT JR., P.J., M.S., delivered the opinion of the Court, in which ANDY D. BENNETT and RICHARD H. DINKINS, JJ., joined.

**MEMORANDUM OPINION<sup>1</sup>**

**PER CURIAM**

<sup>1</sup> This appeal arises out of an inmate's complaint for damages and injunctive relief under 42 U.S.C. § 1983. The inmate, Earl Raymond Vantrease, Jr., names as defendants the Tennessee Board of Parole, the Tennessee Department of Correction, and numerous individuals. On May 31, 2016, the trial court entered an order dismissing the Tennessee Board of Parole on the grounds the Board is not a person subject to suit under 42 U.S.C. § 1983. Mr. Vantrease filed a motion to alter or amend the judgment on July 5, 2016. On the same date, Mr. Vantrease filed a notice of appeal "from any dismissal or adverse ruling." The notice acknowledges that it is "prematurely filed, at least until any adverse ruling on [the] motion to amend judgment, if any." The trial court never ruled on the motion to alter or amend and no further relevant activity occurred in the trial court until the trial court clerk transmitted the record to this court on June 6, 2018.

A party is entitled to an appeal as of right only after the trial court has entered a final judgment. Tenn. R. App. P. 3(a). A final judgment is a judgment that resolves all the claims between all the parties, "leaving nothing else for the trial court to do." *In re Estate of Henderson*, 121 S.W.3d 643, 645 (Tenn. 2003) (quoting *State ex rel. McAllister v. Goode*, 968 S.W.2d 834, 840 (Tenn. Ct. App. 1997)). An order that adjudicates fewer than all the claims between all the parties is subject to revision at any time before the entry of a final judgment and is not appealable as of right. Tenn. R. App. P. 3(a); *In re Estate of Henderson*, 121 S.W.3d at 645. In addition, the trial court retains jurisdiction to rule on a timely filed Tenn. R. Civ. P. 59 motion to alter or amend, and a notice of appeal filed prior to the trial court's ruling on such a motion is deemed premature. Tenn. R. Civ. P. 4(e). Here, the Tenn. R. Civ. P. 59 motion and the claims against several defendants remain pending. Mr. Vantrease is thus not yet entitled to an appeal as of right.

C.6

The appeal is hereby dismissed without prejudice to the filing of a new appeal once a final judgment has been entered. The case is remanded to the trial court for further proceedings consistent with this opinion. The trial court should enter an order disposing of the Tenn. R. Civ. P. 59 motion and any other pending issues as expeditiously as possible. The costs of the appeal are taxed to Earl Raymond Vantrease, Jr.

**All Citations**

Slip Copy, 2018 WL 2771966

**Footnotes**

1 Tenn. R. Ct. App. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

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Document

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MARIA M. SALAS  
CLERK & MASTER  
CHANCERY COURT



# Davidson County

VICKI BAILEY, OFFICE MANAGER

CHRISTY DANIEL, SUPERVISOR  
JULIE SPENCER, SUPERVISOR

1 PUBLIC SQUARE, SUITE 308  
NASHVILLE, TENNESSEE 37201  
(615) 862-5710  
[www.chanceryclerkandmaster.nashville.gov](http://www.chanceryclerkandmaster.nashville.gov)

November 27, 2018

Daniel H. Jones, #443638  
Turney Center Industrial Complex  
1499 R.W. Moore Memorial Highway  
Only, Tennessee 37140-4050

**Reference: Suit for Declaratory Judgment and Order**

Dear Mr. Jones,

The Office of the Clerk & Master is in receipt of your Suit for Declaratory Judgment and order.

Under Tennessee Law, "a clerk of court may not accept for filing another claim by the same inmate until prior fee, taxes, costs and other expenses are paid in full." Tenn. Code Ann. § 41-21-812. A review of court records show that you have outstanding fees/court costs of \$322.45 accrued in Chancery Court Case No. 10-0743-IV. I have enclosed a Bill of Costs for your review.

As your petition does not fall under the exception to the above statute, i.e., "a claim for injunctive relief seeking to enjoin an act or failure to act that creates a substantial threat or irreparable injury or serious physical harm," we are returning your papers in compliance with Tennessee law.

In addition, a copy of the Chancery Order Regarding Lawsuits by Inmates is enclosed for your review along with the documents sent to this court.

Yours very truly,

Deputy Clerk and Master

Enclosures



# BILL OF COSTS

CHANCERY COURT  
DAVIDSON COUNTY, TENNESSEE

11/27/2018

Daniel H. # 443638 Jones

vs Case No. 10-0743-IV

Avis Stone

<u>State Litigation Tax</u>		<u>0.00</u>
<u>County Litigation Tax</u>		<u>0.00</u>
<u>Security Litigation Tax</u>		<u>0.00</u>
<u>Clerk &amp; Master</u>		<u>278.45</u>
<u>Davidson County Sheriff</u>		<u>44.00</u>
<u>Special Officer</u>	<u>Davidson County Sheriff Fees</u>	<u>0.00</u>
<u>Filing Fee/Process Refund:</u>		<u>0.00</u>
<b>TOTAL</b>		<b>322.45</b>

## **PAYMENT DUE UPON RECEIPT**

Please return bill with remittance and place case number on check

Please make check payable to:

Clerk & Master  
One Public Square Suite 308  
Nashville, TN 37201  
615/862-5723  
Tax ID# 62-6000554

*C-8*

Sandra Garrett; Chair,  
Board of Professional Responsibility  
10 Cadillac Dr. Suite 220  
Brentwood, Tennessee 37027-5057

June 25, 2018

RE: Jones v. Montgomery, et, al.  
Tennessee. Board of Parole  
Docket No. 16C-796

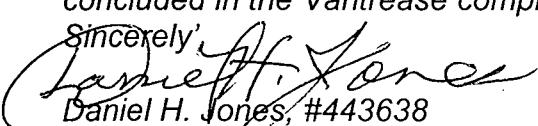
Dear Mrs. Garrett,

Please find enclosed and referencing the above styled action (Governmental Tort Liability Action---GTLA) against the Tennessee Board of Parole, sufficient indicia involving my GTLA in the Davidson County Circuit Court at Nashville.

The records clearly indicate acts of malfeasance on the part of the Chief Clerk (Mr. Richard R. Rooker) fraudulently creating "and signing" form-orders such as you see here (attached) dismissing my GTLA prior to "any Judge" resolving all the claims of the parties, and in according with procedure, i.e., T.R.C.P. 54.01, just as recently stated in the matter of Vantrease v. Tn. Board of Parole, (reference enclosed) and that will include the opposing counselor's pleadings as well. But, here you'll note that this "Ghost Judge" (see attached Orders) gives notice to the opposing counsel of record that his pleading will be returned to him in the event "he" doesn't defray the cost of filing his opposing motion, who also is a state agent.

Considering as well that I've diligently tried to enlist the district attorney general's help (Glenn Funk) , who has the authority to do so in removing this clerk, serving notice to both the [State] Attorney General, Herbert H. Slatery, as well as his assistant, T.J. Aumann. However and to date, to no avail. Thus, I now appeal to you and/or this Board for assistance in the matter of having my proceedings expedited and these bogus-orders vacated. Because in light of what this clerk is allowed to do, I can't even appeal the action, as there has been no judge of record to have presided over any of this action.

In closing, I ask that you'll have someone in your office to investigate my claims as well as this clerk's unprofessional conduct, as he has assumed, on his own, a judicial capacity where he has no authority. Lastly, to have an "active Judge" assigned to the GTLA and its proceedings expedited, as was the action concluded in the Vantrease complaint. I thank you for your cooperation.

Sincerely,  
  
Daniel H. Jones, #443638

Turney Center Industrial Complex  
1499 R.W.Moore Memorial Hwy.  
Only, Tenn. 37140-4050

C: filke/ dhj.



Board of Professional Responsibility  
of the Supreme Court of Tennessee

**CONSUMER ASSISTANCE PROGRAM**

Beverly P. Sharpe, Counsel  
Director of Consumer Assistance

10 CADILLAC DRIVE, SUITE 220  
BRENTWOOD, TENNESSEE 37027  
TELEPHONE: (615) 361-7500  
FAX: (615) 367-2480  
E-MAIL: cap@tbpr.org  
WEBSITE: www.tbpr.org

July 3, 2018

Mr. Daniel Henderson Jones - 00443638  
TCIX  
1499 RW Moore Memorial Hwy  
Only, TN 37140-4050

RE: Complaint Number: 57622c  
Attorney Name: Attorney Unknown

Dear Sir or Madam,

We received your recent letter about the clerk.

Our office has no authority over the clerk. We only regulate lawyers.

We hope this information is helpful. Please reference the complaint number above if writing our office about this matter. Thank you.

Sincerely,

  
Beverly P. Sharpe, Counsel  
Director of Consumer Assistance

Enclosure: CAP Brochure

BPS:kw

C-86

NO. \_\_\_\_\_

IN THE  
UNITED STATES SUPREME COURT  
OCTOBER TERM, 2020

---

RE: DANIEL H. JONES,  
*Petitioner*

---

PETITION FOR AN EXTRAORDINARY WRIT TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
AT CINCINNATI, OHIO  
No. 19-5209

APPENDIX

[1-4]

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Appellant's initial Appendices

"D"

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<i>Leave to Proceed In Forma Pauperis.....</i>	<i>D-3</i>
<i>Suit for Declartory Order &amp; Jugement .....</i>	<i>D-4</i>

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

IN RE APPLICATION OF T.C.A.

§41-21-812:

LAWSUITS FILED BY INMATES

vs.

EX PARTE

**COPY**

2009 APR -3 PM 2:49  
APR 3 2009  
CLERK'S OFFICE  
DAVIDSON COUNTY, TENNESSEE  
RECEIVED  
RECORDED  
SEARCHED  
INDEXED  
FILED  
D-1

CHANCERY ORDER  
REGARDING LAWSUITS BY INMATES

Pursuant to T.C.A. §41-21-812, copied below, the Clerk and Master is directed not to file another claim received by this office from an inmate until prior fees, taxes, costs and other expenses assessed to the inmate are paid in full. The Clerk and Master shall return the papers to the inmate at the address provided, along with a copy of this order. A copy of the first page of the claim or complaint will be kept as a record of the transaction.

**41-21-812. Filing of subsequent lawsuits not permitted until expenses paid.** - (a) Except as provided by subsection (b), on notice of assessment of any fees, taxes, costs and expenses under this part, a clerk of a court may not accept for filing another claim by the same inmate until such prior fees, taxes, costs and other expenses are paid in full. (B) A court may allow an inmate who has not paid any costs or expenses assessed against the inmate to file a claim for injunctive relief seeking to enjoin an act or failure to act that creates a substantial threat of irreparable injury or serious physical harm to the inmate. [Acts 1996, ch. 913, §1.]

It is so ORDERED.

Claudia C. Bonnyman  
Chancellor Claudia C. Bonnyman, Part I

Ellen Hobbs Lyle  
Chancellor Ellen Hobbs Lyle, Part III

Carol L. McCoy  
Chancellor Carol L. McCoy, Part II

Russell T. Perkins  
Chancellor Russell T. Perkins, Part IV

**D-1**

WESTLAW

EARL VANTREASE, JR. v. TENNESSEE BOARD OF PAROLE, ET AL. Additional Party Names: Tennessee Department of Corrections, et al. Court of Appeals of Tennessee. June 8, 2018 Slip Copy 2018 WL 2771966 (Approx. 2 pages)

2018 WI 2771966

Only the Westlaw citation is currently available.

SEE COURT OF APPEALS RULES 11 AND 12

Court of Appeals of Tennessee

EARL VANTREASE, JR.

TENNESSEE BOARD OF PAROLE, ET AL.

No. M2016-01384-COA-Rn-CW

June 7, 2018

06/08/2018

Appeal from the Circuit Court for Davidson County  
No. 16C-365 Amanda Jane McClendon, Judge

This is an appeal from an order dismissing one of several defendants. Because the order does not dispose of the plaintiff's claims against all of the defendants and because the trial court has not yet ruled on the plaintiff's Tenn. R. Civ. P. 59 motion to alter or amend, we dismiss the appeal for lack of a final judgment.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

## Attorneys and Law Firms

Earl Raymond Vanrease, Jr., Whiteville, Tennessee.

Thomas John Aumann, Nashville, Tennessee, for the plaintiff.

## Opinion

FRANK G. CLEMENT JR., P.J., M.S., delivered the opinion of the Court, in which ANDY D. BENNETT and RICHARD H. DAVIS, concurred.

## MEMORANDUM

BÉB CHIDHAM

<sup>1</sup> This appeal arises out of an inmate's complaint for damages and injunctive relief under 42 U.S.C. § 1983. The inmate, Earl Raymond Vantrease, Jr., names as defendants the Tennessee Board of Parole, the Tennessee Department of Correction, and numerous individuals. On May 31, 2016, the trial court entered an order dismissing the Tennessee Board of Parole on the grounds the Board is not a person subject to suit under 42 U.S.C. § 1983. Mr. Vantrease filed a motion to alter or amend the judgment on July 5, 2016. On the same date, Mr. Vantrease filed a notice of appeal "from any dismissal or adverse ruling." The notice acknowledges that it is "prematurely filed," at least until any adverse ruling on [the] motion to amend judgment, if any." The trial court never ruled on the motion to alter or amend and no further relevant activity occurred in the trial court until the trial court clerk transmitted the record to this court on June 6, 2018.

A party is entitled to an appeal as of right only after the trial court has entered a final judgment. Tenn. R. App. P. 3(a). A final judgment is a judgment that resolves all the claims between all the parties, "leaving nothing else for the trial court to do." *In re Estate of Henderson*, 121 S.W.3d 643, 645 (Tenn. 2003) (quoting *State ex rel. McAllister v. Goode*, 968 S.W.2d 334, 340 (Tenn. Ct. App. 1997)). An order that adjudicates fewer than all the claims between all the parties is subject to revision at any time before the entry of a final judgment and is not appealable as of right. Tenn. R. App. P. 3(a); *In re Estate of Henderson*, 121 S.W.3d at 645. In addition, the trial court retains jurisdiction to rule on a timely filed Tenn. R. Civ. P. 59 motion to alter or amend, and a notice of appeal filed prior to the trial court's ruling on such a motion is deemed premature. Tenn. R. Civ. P. 4(e). Here, the Tenn. R. Civ. P. 59 motion and the claims against several defendants remain pending. Mr. Vanterseis is thus not yet entitled to an appeal as of right.

D-2

The appeal is hereby dismissed without prejudice to the filing of a new appeal once a final judgment has been entered. The case is remanded to the trial court for further proceedings consistent with this opinion. The trial court should enter an order disposing of the Tenn. R. Civ. P. 59 motion and any other pending issues as expeditiously as possible. The costs of the appeal are taxed to Earl Raymond Vantrease Jr.

All Citations

Slip Copy, 2018 WL 2771966

Footnotes

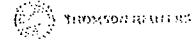
1 Tenn. R. Ct. App. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

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Document

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**IN THE DAVIDSON COUNTY CHANCERY COURT  
20TH JUDICIAL DISTRICT  
AT NASHVILLE, TENNESSEE**

**DANIEL H. JONES #443638,  
Plaintiff**

**Vs.**

**Civil No. \_\_\_\_\_**

**JIM PURVIANCE; Executive Director, &  
RICHARD MONTGOMERY; Chair, et, al  
Tennessee Board of Parole  
404 James Robertson Parkway  
Parkway Towers, Suite 1300  
Nashville, Tennessee. 37243-0850  
Defendants**

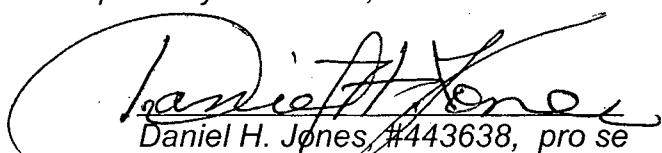
**MOTION FOR LEAVE TO PROCEED  
IN FORMA PAUPERIS**

*Come the Plaintiff, Daniel H. Jones, pro se, pursuant to TCA § 20-12-127 and respectfully moves the Court to proceed in forma pauperis.*

*As grounds for this motion, the Petitioner states that he is an inmate in the Tennessee Department of Corrections, and cannot defray the cost of this action, being defined by law as indigent, therefore, will attach herewith a certified account of his inmate trust fund account for the past six months.*

*ACCORDINGLY, herewith shall attach a true and accurate reflection of the Petitioner's inmate-trust fund account to substantiate his claim of poverty.*

*Respectfully submitted,*

  
Daniel H. Jones #443638, pro se

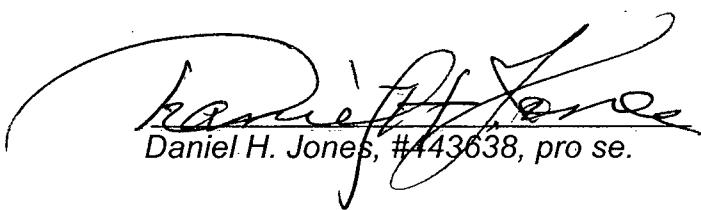
Turney Center Industrial Complex  
1499 R.W. Moore Memorial Hwy.  
Only, Tennessee. 37140-4050

*D-3*

**CERTIFICATION**

I hereby certify, that a true and correct copy of the foregoing Motion to proceed in forma pauperis and Complaint for Declaratory Judgment and Order has been forwarded via first class U.S. Mail, postage prepaid, to the Clerk & Master, Maria M. Salaas located at the Davidson County Chancery Court, 1-Public Square, Suite 308, Nashville, Tennessee. 37202. this 20<sup>th</sup> day Nov. 2018, and to the following"

Assistant Attorney General;  
Office of Attorney General  
Civil Rights & Claims division  
P.O. Box 20207  
Nashville, Tennessee. 37202-0207

  
Daniel H. Jones, #443638, pro se.

C: file/dhj.

**IN THE DAVIDSON COUNTY CHANCERY COURT  
20TH JUDICIAL DISTRICT  
AT NASHVILLE, TENNESSEE**

**DANIEL H. JONES #443638,  
Plaintiff**

**Vs.**

**Civil No. \_\_\_\_\_**

**JIM PURVIANC; Executive Director, &  
RICHARD MONTGOMERY; Chair, et, al  
Tennessee Board of Parole  
404 James Robertson Parkway  
Parkway Towers, Suite 1300  
Nashville, Tennessee. 37243-0850  
Defendants**

**SUIT FOR DECLARATORY  
JUDGMENT AND ORDER**

*This day comes the Plaintiff, Daniel H. Jones, pro se, pursuant to TCA § 4-5-103(a) via 4-5-225(a) &(c), to respectfully petition this Court for a declaratory judgment and order against the captioned defendants, whose course of action effectively threatens and/or interferes with, as well as impairs the legal rights of the plaintiff, as provided through . TCA § 40-35-503(g),*

**JURISDICTION-VENUE**

*For purposes of this suit, subject matter jurisdiction and venue shall be established with this Chancery Court via TCA § 4-5-225(a), and where otherwise not properly filed may be transferred upon the court's own motion to its prospective jurisdiction and venue; TCA § 16-2-107.*

*D-46*

## PARTIES

### I.

1.] PLAINTIFF; Daniel H. Jones, at all times relevant to this action was and is currently confined at the Turney Center Industrial Complex—Main, located at 1499 R.W. Moore Memorial Hwy, Only, Tennessee. 37140-4050, who will be the party violated.

2] DEFENDANTS; Jim Purviance, an Executive Director over the Chairman, Richard Montgomery, et.al., are agents of an Agency, i.e., the Tennessee Board of Parole who are directly responsible for the impairment of the plaintiff's legal rights, TCA § 4-5-225(a)&(c) whose decision(s) were adopted without compliance with the rules of procedure provided under this chapter, or, otherwise violates state and federal laws,e.g. TCA § 40-35-503(g) and 28 USC § 1343(3).being subjected to this chapter.

## AFFIRMATIVE ALLEGATIONS

### II.

Plaintiff will submit, that this court is one of record having subject-matter jurisdiction and venue over the parties involved and the issues at hand; TCA § 4-5-223(a).

### III.

In view of the plaintiff's apparent indifference, a declaratory judgment and ORDER is required over present rights, privileges, duties and liabilities, to forestall

further violations governing the separation of powers between the branches of government and in reference to his issue of facts and tortious-injuries., as permitted under TCA §29-20-108; Art.II, §2, Tenn. Constitution.

IV.

*Plaintiff alleges this court's judicial obligation in determining the defendants tort giving rise to his claims which extends beyond a discretionary function TCA §29-20-205(a)*

V.

*An actual controversy exist where the plaintiff will demonstrate a willful violation of legislation indicating the defendants' gross negligence exempting them from any such hypothetical speculation regarding and/or "avoiding" their duties toward the plaintiff's best interest: TCA §4-5-106(c).*

VI.

*Gross-negligence incidental to the claims made hereafter would, in this instance, terminate all uncertainty as to the extent of damage incurred due to the defendants' callous indifference causing tortious-injury by their act of encroachment, which waives any such comparative negligence on thisa plaintiff's part contributing to his indifference now necessitating other such joint relief in lieu of a binding declaratory judgment; TCA §29-14-108 & 110 as made feasible via §113.*

## VII.

### **Concise Statement Of Declaration**

On February 14, 2018, the Complainant (hereafter –“Jones”), came before the Tennessee Board of Parole (hereafter, “BOP”) to be considered for release, however, the Hearing Officer [Amber Lineberry] who is an agent of BOP, tendered such recommendations--absent any mandate providing for his program entries---and as per Jones’s request “at the hearing”--deferring Jones’s release for an extended five-year period [for his second time], prior to his next appearance before the Board ; See appendix, documents (hereafter doc.1), after which and pursuant to the full Board’s review these recommendations were adopted.

From that point, not being content with the full Board’s decision, the plaintiff sought a declaratory order from the agency’s Executive Director [Doc.2] and thereafter also denied, claiming exemption from further scrutiny.

Nonetheless, it is Jones’s contention, that the hearing officer failed to consider such **factors** submitted for her review by the **IPO** [inmate parole officer]; SEE Appendix, [doc. 3-6 ], which would have negated such a harsh and negative outcome. In addition to this, the same would have met the “legislative intent” for the standard criteria serving as a “character reference” in determining whether the inmate (Jones) would honor his parole contract without violating its term “if” released. See also TCA § 40-35-504(2), [doc. 3 & 4]

It is to be further construed that, the hearing officer’s deliberate neglect both “abused” and denied Jones’s right and opportunity in demonstrating an earnest attempt

*in procuring his release, TCA § 40-35-503(g), [doc. 3 &7 ], which statutorily rises "above a privilege". Lastly, Jones's position is that the full board also failed to rely on any standard of" high – medium--and/or minimum--risk factors [doc 4 ], serving any rational basis for their conclusion to Jones's fate. Therefore, under such circumstances' it is Jones's request to have the BOP rescind its recommendations for deferral and reinstate him for a **second look into his eligibility for release.***

### **RELIEF SOUGHT**

#### **viii**

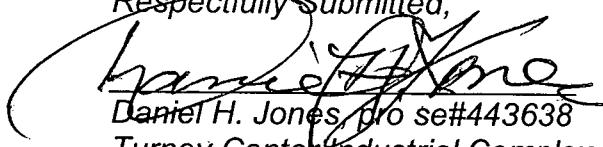
- 1.) *That proper process issue to the Respondents requiring answer to this request, and, within the time allowed by law.*
- 2.) *That this Agency declare the rights and obligations of those parties RELEVANT TO HIS COMPLAINT pursuant to TCA §4-5-223(1) and the Uniformed Disciplinary Procedures, 704.01 see also [doc.4].*
- 3.) *That the recommendations deferring his release restoring him to his "original" status for eligibility for parole release be required, and within a reasonable time.*
- 4.) *That **monetary damages** be assessed in the amount of fifty-five thousand dollars per year (\$55,000.00) for the prospective loss of financial success over a **five-year-period** after being released, serving as punitive punishment against these defendants for further detaining this plaintiff **without legal-cause** and in the face of his efforts to have provided a means in which to*

satisfy the requirements for his release: TCA §40-35-503(g) See also [doc.3,5,6,&7] ].

5.) That all such prospective [Court] costs be taxed to the defendants. Further, that this action is brought on for a Declaratory Order pursuant to the provisions of the T.C.A. § 4-5-223 to §4-5-225.

Finally, the Complainant will submit, and, in good-faith, that he have any such other relief to which he may prove entitlement, moreover that this action be scheduled for any and all, hearings, and full-Board Review.:TCA§4-5-223(1)(d).

Respectfully Submitted,

  
Daniel H. Jones, pro se#443638  
Turney Center Industrial Complex  
1499 R.W. Moore Memorial Hwy.  
Only, Tennessee 37140-4050

**PETITION FOR AN EXTRAORDINARY WRIT TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT  
AT CINCINNATI, OHIO**  
**No. 19-5209**

**APPENDIX**

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WESTLAW

Amendment V. Grand Jury Indictment for Capital Crimes; Double Jeopardy; Self-Incrimination; Due Process of Law; Takings without Just Compensation

USCA CONST Amend. V full text | United States Code Annotated | Constitution of the United States (Approx. 2 pages)

United States Code Annotated  
Constitution of the United States  
Annotated  
Amendment V. Grand Jury; Double Jeopardy; Self-Incrimination; Due Process;  
Takings

U.S.C.A. Const. Amend. V full text

Amendment V. Grand Jury Indictment for Capital Crimes; Double Jeopardy; Self-Incrimination; Due Process of Law; Takings without Just Compensation

Currentness

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

<Historical notes and references are included in the full text document for this amendment.>

<For Notes of Decisions, see separate documents for clauses of this amendment:>

<USCA Const. Amend. V--Grand Jury clause>

<USCA Const. Amend. V--Double Jeopardy clause>

<USCA Const. Amend. V--Self-Incrimination clause>

<USCA Const. Amend. V-- Due Process clause>

<USCA Const. Amend. V--Takings clause>

#### HISTORICAL NOTES

#### Proposal and Ratification

The first ten amendments to the Constitution were proposed to the Legislatures of the several states by the First Congress on September 25, 1789, and were ratified on December 15, 1791. For the states which ratified these amendments, and the dates of ratification, see Historical Notes under Amendment I.

U.S.C.A. Const. Amend. V full text, USCA CONST Amend. V full text  
Current through P.L. 116-53.

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E-1

**WESTLAW****Amendment VIII. Excessive Bail, Fines, Punishments**

USCA CONST Amend. VIII | United States Code Annotated | Constitution of the United States (Approx. 2 pages)

United States Code Annotated  
Constitution of the United States  
Annotated  
Amendment VIII. Excessive Bail, Fines, Punishments

U.S.C.A. Const. Amend. VIII

**Amendment VIII. Excessive Bail, Fines, Punishments**

Currentness

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**HISTORICAL NOTES****Proposal and Ratification**

The first ten amendments to the Constitution were proposed to the Legislatures of the several States by the First Congress on September 25, 1789, and were ratified on December 15, 1791. For the States which ratified these amendments, and the dates of ratification, see Historical notes under Amendment 1.

**Notes of Decisions (6575)**

U.S.C.A. Const. Amend. VIII, USCA CONST Amend. VIII

Current through P.L. 116-53.

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## WESTLAW

AMENDMENT XIV. CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPOINTMENT OF REPR...  
 USCA CONST Amend. XIV-Full Text United States Code Annotated Constitution of the United States (Approx. 2 pages)

United States Code Annotated  
 Constitution of the United States  
 Annotated  
 Amendment XIV. Citizenship; Privileges and Immunities; Due Process; Equal  
 Protection; Apportionment of Representation; Disqualification of Officers; Public  
 Debt; Enforcement

U.S.C.A. Const. Amend. XIV-Full Text

AMENDMENT XIV. CITIZENSHIP; PRIVILEGES AND IMMUNITIES;  
 DUE PROCESS; EQUAL PROTECTION; APPOINTMENT OF  
 REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC  
 DEBT; ENFORCEMENT

Currentness

**Section 1.** All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

**Section 2.** Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

**Section 3.** No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

**Section 4.** The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

**Section 5.** The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

<Section 1 of this amendment is further displayed in separate documents according to subject matter,>

<see USCA Const Amend. XIV, § 1-Citizens>

<see USCA Const Amend. XIV, § 1-Privileges>

<see USCA Const Amend. XIV, § 1-Due Proc>

K-3

## United States Code Annotated

## Title 28. Judiciary and Judicial Procedure (Refs &amp; Annos)

## Part V. Procedure

## Chapter 123. Fees and Costs (Refs &amp; Annos)

**Unconstitutional or Preempted** Validity Called into Doubt by *Rolland v. Primesource Staffing*, L.L.C. 10th Cir.(Colo.) Aug. 07, 2007

Effective: April 26, 1996

28 U.S.C.A. § 1915

§ 1915. Proceedings in forma pauperis

Currentness

(a)(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.

(3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of--

(A) the average monthly deposits to the prisoner's account; or

(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.

(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.

E-4

§ 1983. Civil action for deprivation of rights

Currentness

<Notes of Decisions for 42 USCA § 1983 are displayed in six separate documents.  
Notes of Decisions for subdivisions I to IX are contained in this document. For  
additional Notes of Decisions, see 42 § 1983, ante.>

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

2-05

## United States Code Annotated

Title 28. Judiciary and Judicial Procedure (Refs &amp; Annos)

Part IV. Jurisdiction and Venue (Refs &amp; Annos)

Chapter 85. District Courts; Jurisdiction (Refs &amp; Annos)

28 U.S.C.A. § 1343

## § 1343. Civil rights and elective franchise

## Currentness

(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

- (1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
- (2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;
- (3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;
- (4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

(b) For purposes of this section--

- (1) the District of Columbia shall be considered to be a State; and
- (2) any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

E-6

18 U.S.C.A. § 242

§ 242. Deprivation of rights under color of law

Currentness

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

E-7

## Rule 62. Stay of Proceedings to Enforce a Judgment

## Currentness

**(a) Automatic Stay.** Except as provided in Rule 62(c) and (d), execution on a judgment and proceedings to enforce it are stayed for 30 days after its entry, unless the court orders otherwise.

**(b) Stay by Bond or Other Security.** At any time after judgment is entered, a party may obtain a stay by providing a bond or other security. The stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.

**(c) Stay of an Injunction, Receivership, or Patent Accounting Order.** Unless the court orders otherwise, the following are not stayed after being entered, even if an appeal is taken:

(1) an interlocutory or final judgment in an action for an injunction or receivership; or

(2) a judgment or order that directs an accounting in an action for patent infringement.

**(d) Injunction Pending an Appeal.** While an appeal is pending from an interlocutory order or final judgment that grants, continues, modifies, refuses, dissolves, or refuses to dissolve or modify an injunction, the court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights. If the judgment appealed from is rendered by a statutory three-judge district court, the order must be made either:

(1) by that court sitting in open session; or

(2) by the assent of all its judges, as evidenced by their signatures.

**(e) Stay Without Bond on an Appeal by the United States, Its Officers, or Its Agencies.** The court must not require a bond, obligation, or other security from the appellant when granting a stay on an appeal by the United States, its officers, or its agencies or on an appeal directed by a department of the federal government.

**(f) Stay in Favor of a Judgment Debtor Under State Law.** If a judgment is a lien on the judgment debtor's property under the law of the state where the court is located, the judgment debtor is entitled to the same stay of execution the state court would give.

**(g) Appellate Court's Power Not Limited.** This rule does not limit the power of the appellate court or one of its judges or justices:

(1) to stay proceedings--or suspend, modify, restore, or grant an injunction--while an appeal is pending; or

(2) to issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

**(h) Stay with Multiple Claims or Parties.** A court may stay the enforcement of a final judgment entered under Rule 54(b) until it enters a later judgment or judgments, and may prescribe terms necessary to secure the benefit of the stayed judgment for the party in whose favor it was entered

E-8

**§ 9. Rights of accused**

TN CONST Art. 1, § 9 West's Tennessee Code Annotated Constitution of the State of Tennessee (Approx. 2 pages)

West's Tennessee Code Annotated  
**Constitution of the State of Tennessee**  
Article I. Declaration of Rights (Refs & Annos)

**TN Const. Art. 1, § 9****§ 9. Rights of accused**

Currentness

That in all criminal prosecutions, the accused hath the right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof, to meet the witnesses face to face, to have compulsory process for obtaining witnesses in his favor, and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the County in which the crime shall have been committed, and shall not be compelled to give evidence against himself.

**Editors' Notes**

**WESTLAW****§ 10. Double jeopardy**

TN CONST Art. 1, § 10 | West's Tennessee Code Annotated | Constitution of the State of Tennessee (Approx. 2 pages)

West's Tennessee Code Annotated  
Constitution of the State of Tennessee  
Article I. Declaration of Rights (Refs & Annos)

TN Const. Art. 1, § 10

**§ 10. Double jeopardy**

Currentness

That no person shall, for the same offence, be twice put in jeopardy of life or limb.

**Notes of Decisions (376)**

Const. Art. 1, § 10, TN CONST Art. 1, § 10

Current through the 2018 general election. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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E-ZB

TN Const. Art. 2, § 1

**§ 1. Separation of powers; branches of government**

Currentness

The powers of the Government shall be divided into three distinct departments: the Legislative, Executive, and Judicial.

NOTES OF DECISIONS

**In general**

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**TN Const. Art. 2, § 2**

**§ 2. Separation of powers; persons belonging to different branches**

Currentness

No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted.

E-12

**WESTLAW****§ 17. Remedies in courts, suits against state**

TN CONST Art. 1, § 17 West's Tennessee Code Annotated Constitution of the State of Tennessee (Approx. 2 pages)

West's Tennessee Code Annotated  
Constitution of the State of Tennessee  
Article I. Declaration of Rights (Refs & Annos)

TN Const. Art. 1, § 17

**§ 17. Remedies in courts, suits against state**

Currentness

That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Suits may be brought against the State in such manner and in such courts as the Legislature may by law direct.

**Notes of Decisions (186)**

Const. Art. 1, § 17, TN CONST Art. 1, § 17

Current through the 2018 general election. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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## NOTES TO DECISIONS

## ANALYSIS

1. In general.
2. Jurisdiction.

## 1. In General.

Shelby County board of commissioners was such a person as to be entitled to maintain declaratory judgment suit for declaration of powers and duties in controversy with quarterly county court. Shelby County Bd. of Comm'r's v. Shelby County Quarterly Court, 216 Tenn. 470, 392 S.W.2d 935 (1965).

The Declaratory Judgments Act, codified in this section, imposes stricter requirements than those imposed generally by Tenn. R. Civ. P. 19.01 and 19.02; while joinder may not be required under rules 19.01 and 19.02, it is clearly required in a suit for declaratory relief pursuant to § 29-14-107(a). Huntsville Util. Dist. v. General Trust Co., 839 S.W.2d 397 (Tenn. Ct. App. 1992).

Because of the nature of declaratory relief,

the Declaratory Judgments Act, this section, makes it incumbent that every person having an affected interest be given notice and an opportunity to be heard before declaratory relief may be granted. Huntsville Util. Dist. v. General Trust Co., 839 S.W.2d 397 (Tenn. Ct. App. 1992).

## 2. Jurisdiction.

The Declaratory Judgment Act does not give trial courts jurisdiction to issue declaratory judgments against the commissioner of revenue. L.L. Bean, Inc. v. Bracey, 817 S.W.2d 292 (Tenn. 1991).

This act does not authorize suits against state entities such as the Tennessee board of paroles (now board of probation and parole) or the Tennessee department of correction, and the chancery court lacks subject matter jurisdiction over such a suit. Watson v. Tennessee Dep't of Cor., 970 S.W.2d 494 (Tenn. Ct. App. 1998). *Not really. See W.A. + S.O.N. at 497 [3]. Parole Bd. Yes, but T.D.C. only requires Pet. for Dec. Order.*

**29-14-102. General power of courts.** — (a) Courts of record within their respective jurisdictions have the power to declare rights, status, and other legal relations whether or not further relief is or could be claimed.

(b) No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for.

(c) The declaration may be either affirmative or negative in form and effect; and such declaration shall have the force and effect of a final judgment or decree. [Acts 1923, ch. 29, § 1; Shan. Supp., § 4726a1; Code 1932, § 8835; T.C.A. (orig. ed.), § 23-1102.]

**Section to Section References.** This section is referred to in § 29-14-106.

**Textbooks.** Gibson's Suits in Chancery (7th ed., Inman), §§ 8, 548.

Pritchard on Wills and Administration of Estates (4th ed., Phillips and Robinson), §§ 385, 696.

Tennessee Jurisprudence, 15 Tenn. Juris., Injunctions, § 21.

**Law Reviews.** Constitutional Law — Bemis Pentecostal Church v. State: The Validity of Tennessee's Campaign Disclosure Act, 18 Mem. St. U. L. Rev. 324 (1989).

Negligence — Res Ipsa Loquitur — Single-automobile Accident, 33 Tenn. L. Rev. 238.

The Tennessee Court System — Chancery Court (Frederic S. Le Clercq), 8 Mem. St. U. L. Rev. 281.

**Cited:** Caldwell & Co. v. Lea, 152 Tenn. 48, 272 S.W. 715 (1925); Warren v. Commerce Union Bank, 152 Tenn. 67, 274 S.W. 539 (1924); Schaffler v. Handwerker, 152 Tenn. 329, 278 S.W. 967 (1925); Pettit v. White County, 152 Tenn. 660, 280 S.W. 688 (1925); Lindsey v. Drane, 154 Tenn. 458, 285 S.W. 705 (1926);

Whitthorne v. Truner, 155 Tenn. 303, 293 S.W. 147 (1927); State Bd. of Exmrs. for Architects & Eng'rs v. Standard Eng'g Co., 157 Tenn. 157, 7 S.W.2d 47 (1928); Bristol v. Bank of Bristol, 159 Tenn. 647, 21 S.W.2d 620 (1929); First Nat'l Bank v. Harry E. Chapman Co., 160 Tenn. 72, 22 S.W.2d 245 (1929); State ex. rel. Barham v. Graham, 161 Tenn. 557, 30 S.W.2d 274 (1930); Dowler v. Georgia Enters., Inc., 162 Tenn. 59, 34 S.W.2d 445 (1931); City of Johnson City v. Clinchfield R.R., 163 Tenn. 332, 43 S.W.2d 386 (1931); Memphis Cotton Exch. v. Pope, 13 Tenn. App. 518 (1931); Selmer v. Allen, 166 Tenn. 476, 63 S.W.2d 663 (1933); Nashville, C. & St. L. Ry. v. Walters, 294 U.S. 405, 55 S. Ct. 486, 79 L. Ed. 949 (1935); Anderson v. Carter County, 172 Tenn. 114, 110 S.W.2d 321 (1937); Williams v. Coldwell, 172 Tenn. 214, 111 S.W.2d 367 (1937); Union Planters Nat'l Bank & Trust Co. v. Beeler, 172 Tenn. 317, 112 S.W.2d 11 (1938); City of Chattanooga v. Tennessee Elec. Power Co., 172 Tenn. 524, 112 S.W.2d 385 (1938); Nashville Trust Co. v. Stokes, 174 Tenn. 1, 118 S.W.2d 228 (1938); Hanover v. Boyd, 173 Tenn. 426, 121 S.W.2d 120 (1938); Curry v.

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**WESTLAW****§ 29-14-108. Fact issues**

TN ST § 29-14-108 West's Tennessee Code Annotated | Title 29. Remedies and Special Proceedings (Approx. 2 pages)

West's Tennessee Code Annotated  
Title 29. Remedies and Special Proceedings  
Chapter 14. Declaratory Judgments (Refs & Annos)

T. C. A. § 29-14-108

**§ 29-14-108. Fact issues****Currentness**

When a proceeding under this chapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

**Credits**

1923 Pub.Acts, c. 29, § 9.

Formerly Shannon's Code Supp., § 4726a9; 1932 Code, § 8843; § 23-1108.

**Editors' Notes****HISTORICAL AND STATUTORY NOTES****Uniform Law**

This section is based upon § 9 of the Uniform Declaratory Judgments Act. See Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

**Notes of Decisions (8)**

T. C. A. § 29-14-108, TN ST § 29-14-108

Current with laws from the 2019 First Reg. Sess. of the 111th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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**WESTLAW****§ 29-14-110. Relief**

TN ST § 29-14-110 West's Tennessee Code Annotated Title 29. Remedies and Special Proceedings (Approx. 2 pages)

West's Tennessee Code Annotated  
Title 29. Remedies and Special Proceedings  
Chapter 14. Declaratory Judgments (Refs & Annos)

**T. C. A. § 29-14-110****§ 29-14-110. Relief**

## Currentness

- (a) Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper.
- (b) The application therefor shall be by petition to a court having jurisdiction to grant the relief.
- (c) If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

**Credits**

1923 Pub. Acts, c. 29, § 8.

Formerly Shannon's Code Supp., § 4726a8; 1932 Code, § 8842; § 23-1110.

**Editors' Notes****HISTORICAL AND STATUTORY NOTES****Uniform Law**

This section is based upon § 8 of the Uniform Declaratory Judgments Act. See Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

**Notes of Decisions containing your search terms (0)**[View all 4](#)**T. C. A. § 29-14-110, TN ST § 29-14-110**

Current with laws from the 2019 First Reg. Sess. of the 111th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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T. C. A. § 29-14-113

**§ 29-14-113. Construction of law**

Currentness

This chapter is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and is to be liberally construed and administered.

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**T. C. A. § 29-20-102**

**§ 29-20-102. Definitions**

**Currentness**

As used in this chapter, unless the context otherwise requires:

- (1) "Claim" means any claim brought against a governmental entity or its employee as permitted by this chapter;
- (2) "Employee" means and includes any official (whether elected or appointed), officer, employee or servant, or any member of any board, agency, or commission (whether compensated or not), or any officer, employee or servant thereof, of a governmental entity, including the sheriff and the sheriff's employees and, further including regular members of voluntary or auxiliary firefighting, police, or emergency assistance organizations;

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**WESTLAW****§ 29-20-103. Applicability**

TN ST § 29-20-103 | West's Tennessee Code Annotated | Title 29. Remedies and Special Proceedings | Effective: July 9, 2012 (Approx. 2 pages)

West's Tennessee Code Annotated  
Title 29. Remedies and Special Proceedings  
Chapter 20. Governmental Tort Liability  
Part 1. General Provisions (Refs & Annos)

Effective: July 9, 2012

T. C. A. § 29-20-103

**§ 29-20-103. Applicability**

## Currentness

(a)(1) Any governmental entity may exempt itself from this chapter by action of its legislative body if such action is taken by January 1, 1975; provided, that §§ 7-31-103, 7-31-112, 7-51-202 (repealed) and 7-51-203, shall apply to any governmental entity exempting itself from this chapter.

(2) Any governmental entity exempting itself from this chapter may by resolution of its governing body elect at any time to come under this chapter, provided, that this chapter would only apply to claims or actions arising after the effective date of such resolution.

(b) After January 1, 1976, this chapter shall apply to all governmental entities as defined herein, provided that as to those governmental entities exempting themselves, as provided for in the preceding subsection, this chapter will only apply to claims or actions arising after January 1, 1976.

(c) Nothing in this chapter shall be deemed to deprive any person of any cause of action or damages to which they are otherwise entitled arising under the federal Civil Rights Acts of 1871 and 1964, as amended.

**Credits**

1973 Pub.Acts, c. 345, § 31; 1974 Pub.Acts, c. 780, § 1; 1975 Pub.Acts, c. 252, § 1; 1987 Pub.Acts, c. 405, § 9.

Formerly § 23-3303.

**Notes of Decisions (6)**

T. C. A. § 29-20-103, TN ST § 29-20-103

Current with laws from the 2019 First Reg. Sess. of the 111th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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Effective: April 11, 2013

T. C. A. § 29-20-107

**§ 29-20-107. Public officers and employees; torts; regional transportation authority**

Currentness

(a) Any person who is not an elected or appointed official or a member of a board, agency or commission shall not be considered an employee of a governmental entity for purposes of this chapter unless the court specifically finds that all of the following elements exist:

(1) The governmental entity itself selected and engaged the person in question to perform services;

(2) The governmental entity itself is liable for the payment of compensation for the performance of such services and the person receives all of such person's compensation directly from the payroll department of the governmental entity in question;

(3) The person receives the same benefits as all other employees of the governmental entity in question including retirement benefits and the eligibility to participate in insurance programs;

(4) The person acts under the control and direction of the governmental entity not only as to the result to be accomplished but as to the means and details by which the result is accomplished; and

(5) The person is entitled to the same job protection system and rules, such as civil service or grievance procedures, as are other persons employed by the governmental entity in question.

(b) A governmental entity's reservation of the right to approve employment or terminate employment by any contract, agreement or other means or such entity's ability to control or direct a person not otherwise in the regular employ of such entity shall not operate to make a person an employee of such entity for the purpose of the immunity granted by this chapter unless such person otherwise qualifies as an employee according to this section.

(c) No governmental entity may extend the immunity granted by this chapter to independent contractors or other persons or entities by contract, agreement or other means, nor shall the doctrine of borrowed servants operate to make any person a governmental entity employee for the purpose of immunity who does not otherwise meet all of the elements set out in this section.

(d) A regular member of a voluntary or auxiliary firefighting, police or emergency assistance organization of a governmental entity shall be considered to be an employee of that governmental entity for purposes of this chapter without regard to the elements set forth in subsection (a).

(e) Persons who are employed in part-time, seasonal, or probationary positions by a governmental entity shall not be disqualified by subdivision (a)(3) or (a)(5) from the immunity granted by this chapter if they receive the same benefits or are subject to the same job protection system and rules as other persons employed by that government in comparable part-time, seasonal, or probationary positions.

(f) Agreements between governmental entities entered into pursuant to the Interlocal Cooperation Act, title 12, chapter 9, or as otherwise duly authorized by law, may confer or determine the status of an employee for purposes of this chapter on persons without regard to the elements set forth in subsection (a). Such agreements may provide, but are not, limited to, agreements that an employee of a governmental entity, including, but not limited to, police officers shall be assigned to another governmental entity to serve a particular purpose. The agreement may provide which of the governmental entities shall be liable for the acts of such person who shall continue to be considered as an employee for purposes of this chapter.

(g)(1)(A) Notwithstanding any provision of this chapter to the contrary, non-governmental independent contractors or other persons or entities that contract with or enter into any

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f the state should be  
ceedings. *Buena Vista  
v. Board of Election*  
98, 116 S.W.2d 1008

the attorney general to  
any declaratory judg-  
the constitutionality of  
re is before the court.  
Tenn. 151, 223 S.W.2d

its as between board of  
and quarterly county  
sought to test constitu-  
tutes involved, attor-  
ller were not necessary  
y Bd. of Comm'r's v.  
ly Court, 216 Tenn. 470,

I was an indispensable  
taint voters of a county  
relief from alleged  
members of the county  
ssioners by the general  
erly county court. *Dodd*  
291 (E.D. Tenn. 1967).

declaratory judgment to  
ality of Public Acts 1949,  
cial election on calling of  
ion which act had been  
stitutional by the attor-  
nd the comptroller were  
e act required spending  
ings v. *Beeler*, 189 Tenn.  
1949).

roperty owner and tax-  
r a declaratory judgment  
franchise of defendant  
far as selling natural gas  
ot maintain bill where he  
tatives of city as defen-  
Nashville Gas & Heating  
4 S.W.2d 459 (1946).

istrator.  
identity of distributees of  
e made so as to bind a  
not a party. *Sadler v.*  
33, 36 S.W.2d 891 (1931).

ation.  
on defendant utility dis-  
e act by means of service  
and by publication in a  
claratory judgment that  
stitutional was invalid  
ner or officer for utility  
ley v. *Rock Gardens Util.*  
212 S.W.2d 657 (1948).  
ndholders were necessary  
tory judgment action, at-

tacking the constitutionality of legislation of  
local application changing the method of filling  
vacancies on the board of commissioners of a  
utility district contrary to a bond covenant,  
which did not join as parties any customer of  
the utility district or any of its bondholders.  
*Huntsville Util. Dist. v. General Trust Co.*, 839  
S.W.2d 397 (Tenn. Ct. App. 1992).

#### 8. —Trustee.

Trustee holding title to property and the  
pledgee of notes secured by a trust deed are  
necessary parties to a declaration respecting  
the validity of the conveyance. *Harrell v. American*  
*Home Mtg. Co.*, 161 Tenn. 646, 32 S.W.2d  
1023 (1930).

#### 9. —County Officials.

In suit to declare rights as between board of  
county commissioners and quarterly county  
court it was not necessary to join county em-  
ployees who would only be incidentally af-  
fected. *Shelby County Bd. of Comm'r's v. Shelby*  
*County Quarterly Court*, 216 Tenn. 470, 392  
S.W.2d 935 (1965).

#### 10. —Nonjoinder.

Nonjoinder of necessary parties is fatal on  
the question of "justiciability" which, in a suit  
for a declaratory judgment, is a necessary con-  
dition of judicial relief. *Wright v. Nashville Gas*  
*& Heating Co.*, 183 Tenn. 594, 194 S.W.2d 459  
(1946); *Coleman v. Henry*, 184 Tenn. 550, 201  
S.W.2d 686 (1947).

#### 11. Defendant — Duty to Defend.

If proper parties are before the court in  
proceeding for a declaratory judgment the de-  
fendants are not required to defend, as it is the  
duty of the court to declare the rights of the  
parties if the proper parties are before the  
court. *Cummings v. Beeler*, 189 Tenn. 151, 223  
S.W.2d 913 (1949).

**Collateral References.** 22 Am. Jur. 2d De-  
claratory Judgments §§ 65, 79-86.

1 C.J.S. Actions § 18.

Massachusetts or business trust, action by  
trustees of. 88 A.L.R.3d 704.

Parties defendant. 87 A.L.R. 1244.

#### 12. Relief Granted.

#### 13. —Private Act Validity.

An election commissioner is entitled to a  
declaratory judgment as to validity of a private  
act regulating election hours. *Wallace v.*  
*Lewallen*, 186 Tenn. 411, 210 S.W.2d 684  
(1948).

#### 14. —Dental Practice.

Suit is maintainable by board of dental ex-  
aminers to ascertain the right of dental stu-  
dents to practice under the supervision of their  
instructors and to charge for their services.  
*Powers v. Vinsant*, 165 Tenn. 390, 54 S.W.2d  
938 (1932).

#### 15. —Utility Rates.

One may maintain a suit in chancery for a  
judgment against the public utilities commis-  
sion, where it was attempting to enforce rates  
claimed to deprive of property rights. Tennessee  
see *E. Elec. Co. v. Hannah*, 157 Tenn. 582, 12  
S.W.2d 372 (1928).

#### 16. Complainant's Interest.

Suit by taxpayer to test constitutionality of  
an act amending the charter of the city of  
Elizabethton was properly dismissed for want  
of averment that the city government under the  
amended act would impose an additional tax  
upon complainant. *Perry v. City of*  
*Elizabethton*, 160 Tenn. 102, 22 S.W.2d 359  
(1929).

Bill by taxpayer and property owner for a  
declaratory judgment that public utility could  
not sell natural gas under its charter and  
franchise could not be maintained where bill  
failed to show that he had a special interest  
involved and that enjoining of sale of natural  
gas would be a benefit to property owners or  
taxpayers of the city. *Wright v. Nashville Gas &*  
*Heating Co.*, 183 Tenn. 594, 194 S.W.2d 459  
(1946).

Parties plaintiff. 87 A.L.R. 1243.

Statute or ordinance, interest necessary to  
maintenance of declaratory determination of  
validity of. 174 A.L.R. 549.

Declaratory judgment. 291-306.

**29-14-108. Issues of fact.** — When a proceeding under this chapter  
involves the determination of an issue of fact, such issue may be tried and  
determined in the same manner as issues of fact are tried and determined in  
other civil actions in the court in which the proceeding is pending. [Acts 1923,  
ch. 29, § 9; Shan. Supp., § 4726a9; Code 1932, § 8843; T.C.A. (orig. ed.),  
§ 23-1108.]

**Cross-References.** Trial by jury allowed,  
Tenn. R. Civ. P. 57.

**Textbooks.** Pritchard on Wills and Adminis-

tration of Estates (4th ed., Phillips and  
Robinson), §§ 385, 696.

**Law Reviews.** Ancillary Rights of the In-

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**WESTLAW**

§ 29-20-201. Sovereign immunity; legislative findings exceptions; flooded road warning sign or barricade  
TN ST § 29-20-201 · West's Tennessee Code Annotated · Title 29. Remedies and Special Proceedings · Effective: July 1, 2008 (Approx. 2 pages)

West's Tennessee Code Annotated

Title 29. Remedies and Special Proceedings  
Chapter 20. Governmental Tort Liability  
Part 2. Removal of Immunity

Effective: July 1, 2008

T. C. A. § 29-20-201

**§ 29-20-201. Sovereign immunity; legislative findings exceptions; flooded road warning sign or barricade**

Currentness

(a) Except as may be otherwise provided in this chapter, all governmental entities shall be immune from suit for any injury which may result from the activities of such governmental entities wherein such governmental entities are engaged in the exercise and discharge of any of their functions, governmental or proprietary.

(b)(1) The general assembly finds and declares that the services of governmental entity boards, commissions, authorities and other governing agencies are critical to the efficient conduct and management of the public affairs of the citizens of this state. Complete and absolute immunity is required for the free exercise and discharge of the duties of such boards, commissions, authorities and other governing agencies. Members of boards, commissions, authorities, and other governing agencies must be permitted to operate without concern for the possibility of litigation arising from the faithful discharge of their duties.

(2) All members of boards, commissions, agencies, authorities, and other governing bodies of any governmental entity, created by public or private act, whether compensated or not, shall be immune from suit arising from the conduct of the affairs of such board, commission, agency, authority, or other governing body. Such immunity from suit shall be removed when such conduct amounts to willful, wanton, or gross negligence.

(c) When immunity is removed by this chapter any claim for damages must be brought in strict compliance with the terms of this chapter.

(d) Notwithstanding this chapter or any other law to the contrary, a governmental entity that places and properly maintains a clearly visible and adequate flood warning sign or barricade at a flooded road area shall be immune from suit for any injury resulting from a violation of § 55-10-205(c). The immunity from suit shall be removed when the governmental entity's conduct amounts to willful, wanton, or gross negligence. It shall be deemed gross negligence if an authorized government employee signaled the motor vehicle operator that it was safe to drive past the sign or barricade and the operator or any passengers in the operator's motor vehicle were injured or killed in the flooded road area due to the employee's signaling the motor vehicle to drive past the sign or barricade.

**Credits**

1973 Pub.Acts, c. 345, § 3; 1986 Pub.Acts, c. 726, §§ 1, 2; 2008 Pub.Acts, c. 986, § 2, eff. July 1, 2008.

Formerly § 23-3307.

**Editors' Notes**

**HISTORICAL AND STATUTORY NOTES**

2008 Pub.Acts, c. 986, § 2, added subsec. (d), relating to sovereign immunity in regards to a flooded road area.

2008 Pub.Acts, c. 986, § 3, provides:

"This act shall take effect July 1, 2008, the public welfare requiring it, and shall apply to all offenses committed on or after such date."

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Effective: July 9, 2012

T. C. A. § 29-20-307

**§ 29-20-307. Exclusive jurisdiction; nonjury trial**

Currentness

The circuit courts shall have exclusive original jurisdiction over any action brought under this chapter and shall hear and decide such suits without the intervention of a jury, except as otherwise provided in § 29-20-313(b); provided, that in counties having a population of more than eight hundred fifty thousand (850,000), according to the 2000 federal census or any subsequent federal census, the general sessions court shall have concurrent original jurisdiction with such circuit court over any action brought under this chapter; and provided further, that the jurisdiction conferred upon the general sessions court by this section shall not extend beyond the jurisdictional dollar limit provided in § 16-15-501(d) for such general sessions courts in civil cases generally.

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**WESTLAW****§ 29-20-308. Venue**

TN ST § 29-20-308 : West's Tennessee Code Annotated, Title 29. Remedies and Special Proceedings (Approx. 2 pages)

West's Tennessee Code Annotated  
Title 29. Remedies and Special Proceedings  
Chapter 20. Governmental Tort Liability  
Part 3. Claims Procedure

**T. C. A. § 29-20-308****§ 29-20-308. Venue**

## Currentness

(a) Suits filed under this chapter may be brought in the county in which such governmental entity is located or in the county in which the incident occurred from which the cause of action arises.

(b) A governmental entity operating in more than one (1) county shall be deemed to be located in the county where its principal office is found.

**Credits**

1973 Pub.Acts, c. 345, § 17; 1980 Pub.Acts, c. 828, § 3.

Formerly § 23-3320.

**Notes of Decisions containing your search terms (0)**[View all 3](#)**T. C. A. § 29-20-308, TN ST § 29-20-308**

Current with laws from the 2019 First Reg. Sess. of the 111th Tennessee General Assembly. Pursuant to §§ 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code and, until then, may make editorial changes to the statutes. References to the updates made by the most recent legislative session should be to the Public Chapter and not to the T.C.A. until final revisions have been made to the text, numbering, and hierarchical headings on Westlaw to conform to the official text.

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Effective: July 9, 2012

T. C. A. § 29-20-313

**§ 29-20-313. Multiple defendants**

Currentness

(a) When one (1) or more defendants to a lawsuit claim to be employees of a governmental entity as defined by § 29-20-107 and are therefore entitled to the governmental immunity granted by this chapter, it shall be a question of fact whether the defendant or defendants claiming immunity are such employees. If the trier of fact determines that the defendant claiming immunity is not a governmental entity employee, the lawsuit as to that defendant shall proceed like any other civil case. If the trier of fact determines that the defendant claiming immunity is a governmental entity employee, the lawsuit as to that defendant shall proceed in accordance with this chapter.

(b) When suit is brought in circuit court in a case in which there are multiple defendants, one (1) or more of which are a governmental entity or entities or governmental entity employee or employees whose liability or lack thereof is to be determined based upon this chapter and one (1) or more of which are not such governmental entity or entities or governmental entity employee or employees, the case shall be heard and decided by a jury upon the demand of any party. Nothing in this section shall be construed to abridge the right of any party to a trial by jury otherwise granted by the state or federal constitution or any statute.

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the court for the trial of impeachments. [Code 1858, § 4965; Shan., § 6926; Code 1932, § 11466; impl. am. Acts 1979, ch. 68, § 3; T.C.A. (orig. ed.), § 40-115; Acts 1993, ch. 115, § 4.]

**Section to Section References.** This section is referred to in § 65-31-112.

**Textbooks.** Tennessee Jurisprudence, 17 Tenn. Juris., Jurisdiction, § 22.

**Attorney General Opinions.** After a finding of "not guilty by reason of insanity" in a trial in general sessions court, the court has jurisdiction to order the 60 to 90 day evaluation required by T.C.A. § 33-7-303, but only in misdemeanor cases where the defendant waives in

writing an indictment, presentment, grand jury investigation, and jury trial and the district attorney general does not object, OAG 01-041 (3/19/01).

**Cited:** City of Knoxville ex rel. Roach v. Dossett, 672 S.W.2d 193 (Tenn. 1984); State v. Booher, 978 S.W.2d 953 (Tenn. Crim. App. 1997); Tennessee Downs, Inc. v. Gibbons, 15 S.W.3d 843 (Tenn. Ct. App. 1999).

#### NOTES TO DECISIONS

##### 1. Municipal Courts.

While ordinarily the jurisdiction of municipal courts is limited to cases involving violations of municipal ordinances, it may be extended by

the legislature to cases arising under state law. Moore v. State, 159 Tenn. 468, 19 S.W.2d 233 (1929).

**Collateral References.** Courts vested with criminal jurisdiction  $\leftrightarrow$  110.85-89.

**40-1-108. Original jurisdiction of circuit and criminal courts.** — The circuit and criminal courts have original jurisdiction of all criminal matters not exclusively conferred by law on some other tribunal. [Code 1858, § 4967; Shan., § 6928; Code 1932, § 11467; T.C.A. (orig. ed.), § 40-116.]

**Textbooks.** Tennessee Criminal Practice and Procedure (Raybin), §§ 16.55, 24.10.

Tennessee Jurisprudence, 8 Tenn. Juris., Criminal Procedure, § 20; 17 Tenn. Juris., Jurisdiction, § 22.

**Law Reviews.** The Tennessee Court System — Circuit Court (Frederic S. Le Clercq), 8 Mem. St. U.L. Rev. 241.

The Tennessee Court System — Criminal Court (Frederic S. Le Clercq), 8 Mem. St. U.L. Rev. 319.

**Cited:** State v. Coolidge, 915 S.W.2d 820 (Tenn. Crim. App. 1995), overruled on other grounds, State v. Troutman, 979 S.W.2d 271 (Tenn. 1998); State v. Booher, 978 S.W.2d 953 (Tenn. Crim. App. 1997); Tennessee Downs, Inc. v. Gibbons, 15 S.W.3d 843 (Tenn. Ct. App. 1999); Dash v. Carlton, — S.W.3d —, 2002 Tenn. Crim. App. LEXIS 768 (Tenn. Crim. App. Sept. 11, 2002).

#### NOTES TO DECISIONS

##### ANALYSIS

1. Soldiers — Civil War.
2. Judicial immunity.

##### 1. Soldiers — Civil War.

Officers and soldiers of the United States army in Tennessee during the Civil War were not subject to the laws or amenable to the tribunals of the hostile country. *Coleman v. Tennessee*, 97 U.S. 509, 24 L. Ed. 1118 (1878).

##### 2. Judicial Immunity.

Trial judge enjoyed judicial immunity from an inmate's 42 U.S.C. § 1983 suit for wrongful incarceration. The judge was acting within his jurisdiction under T.C.A. §§ 16-10-102, 40-1-108 when he revoked the inmate's probation and incarcerated him for driving under the influence. *Friedman v. Brown*, — S.W.3d —, 2003 Tenn. Crim. App. LEXIS 416 (Tenn. Ct. App. May 14, 2003).

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WESTLAW

§ 41-21-807. Payment of filing fees, court costs and other expenses by inmate; frivolous actions  
TN ST § 41-21-807 West's Tennessee Code Annotated : Title 41. Correctional Institutions and Inmates : Effective: August 11, 2010 (Approx. 2 pages)

West's Tennessee Code Annotated  
Title 41. Correctional Institutions and Inmates  
Chapter 21. Inmates  
Part 8. Lawsuits by Inmates (Refs & Annos)

Effective: August 11, 2010

T. C. A. § 41-21-807

**§ 41-21-807. Payment of filing fees, court costs and other expenses by inmate; frivolous actions**

Currentness

(a) An inmate seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security for the fees, in addition to filing the affidavit required by § 41-21-805, shall submit a certified copy of the trust fund account statement, or the institutional equivalent, for the inmate for the six-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each facility at which the inmate is or was confined.

(b)(1) If an inmate brings a civil action or files an appeal in forma pauperis, the inmate shall be required to pay the full amount of the filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of twenty percent (20%) of the greater of the average monthly:

(A) Deposits to the inmate's account; or

(B) Balance in the inmate's account for the six-month period immediately preceding the filing of the complaint or notice of appeal.

(2) After payment of the initial partial filing fee, the inmate shall be required to make monthly payments of twenty percent (20%) of the preceding month's income credited to the inmate's account. The agency having custody of the inmate shall forward payments from the inmate's account to the clerk of the court each time the amount in the account exceeds ten dollars (\$10.00) until the filing fees are paid.

(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

(4) In no event shall an inmate be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the inmate has no assets and no means by which to pay the initial partial filing fee.

(c) In no event shall an inmate bring a civil action or appeal a judgment in a civil action or proceeding under this section if the inmate has, on three (3) or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of this state or the United States that was dismissed on the grounds that it was frivolous, malicious or failed to state a claim upon which relief may be granted, unless the inmate is under imminent danger of serious physical injury.

**Credits**

1996 Pub Acts, c. 913, § 1, eff. May 8, 1996; 2001 Pub Acts, c. 76, § 2, eff. April 11, 2001.

**Editors' Notes**

**HISTORICAL AND STATUTORY NOTES**

2001 Pub Acts, c. 76, § 2, rewrote the section, which previously read:

"(a) The court shall order an inmate who has filed a frivolous or malicious claim to pay filing fees, court costs and any other related expenses in accordance with this section. The clerk of the court shall mail a copy of the court's order to the department or the county jail, as appropriate.

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