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22-6585

No.

In the Supreme Court of the United States

State of Tennessee, ex rel. David Jonathan Tulis
Petitioner

v.

Bill Lee
Governor, state of Tennessee

Rebekah Barnes
Administrator, Hamilton County health department

Respondents

On petition for writ of certiorari from the Tennessee court of appeals

Petition for writ of certiorari

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i.

Question presented

Destroying the jurisprudence of equity is contrary to the decision of every court providing equity relief for deprivation of fundamental rights. The deprivation in this case also relies on a state appeals court's misapplication of a properly stated rule of law for cases having adequate remedy at law for *discretionary* acts to the present matter without adequate remedy at law for *nondiscretionary* acts and not enjoying any relief, this challenge requiring review said by the state supreme court in its dismissal order to be not "frivolous." The question or the court:

Can Tennessee courts lawfully deny relief to press member petitioner where the governor and a local official by executive orders and directives chill and impede petitioner's enjoyment of his constitutionally secured religion, speech and press rights without due process, having based their orders upon the undetermined, unproven claim of disease labeled Covid-19.

ii.

Parties to the proceedings

Petitioner, on behalf of the state of Tennessee, operating in equity, is one of the people of Tennessee, not as a person or an individual, but a private man and member of the radio press, claiming all of his rights, whether antecedent or pursuant to the Tennessee constitution and its bill of rights or the constitution for the United States, and all unenumerated rights, as well as those recognized implicitly in these covenants, and demands remedy for the extraordinary irreparable harm done to protected and protectable rights by respondents (See Appendix A, Affidavit of harms to relator, TR p.42ff)

Respondents are (1) Bill Lee, governor of the State of Tennessee, having a fiduciary duty, assumed in taking the oath of office, to the laws of the state of Tennessee and to Tennesseans, such as the relator. He is sued in his official and private capacity; he issued the first state-wide Covid-19 emergency order, March 12, 2020, of many, pertaining to Hamilton County; and, (2) Rebekah Barnes, the county health department administrator who has taken employment subject to state of Tennessee laws, and limited thereby, sued in her official and private capacity.

iii.

Related proceedings

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii)

— *State ex rel. David Jonathan Tulis vs. Bill Lee, governor of Tennessee, et al*, Hamilton County chancery court, Part I, Case no. 20-0685. Judgment entered April 21, 2021

— *State ex rel. David Jonathan Tulis vs. Bill Lee, governor of Tennessee, et al*, Tennessee court of appeals, case no. E2021-00436-COA-R3-CV. Judgment entered May 23, 2022

iv.

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1. Tennessee supreme court order, Oct. 19, 2022, (1) denying writ of certiorari, and, (2) denying motion to reconsider denial of recusals

2. Court of appeals May 5 2022, order rejecting state of Tennessee ex rel.'s petition for equity and writ of mandamus

Petitioner hereinafter arranges the list chronologically:

3. Supreme court order, Nov. 3, 2020, denying petition for supervision and intervention and for writ of mandamus

4. Order Dec. 9, 2020, denying motion *pro confesso* on Barnes for ruling on record. TR p. 178
5. Chancery order, Dec. 9, 2020, granting Barnes more time to respond. TR. p. 181
6. Order Jan. 4, 2021, denying motion *pro confesso*, default judgment on Lee. TR p. 184
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8. Order Jan. 21, 2021, denying petition for equity and writ vs. Lee. TR p. 221
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18. Supreme court order, Sept. 9, 2022, denying motion for recusal No. 1
19. Supreme court order, Sept. 30, 2022, denying recusal motion No. 2

vii.

Opinions below

This cause generates the published opinion State ex rel. Tulis v. Lee, No. E202100436COAR3CV, 2022 WL 1612844 (Tenn. Ct. App. May 23, 2022), appeal denied (Oct. 20, 2022).¹

viii.

Statement of jurisdiction

The Tennessee supreme court denies the state of Tennessee, on relation, a hearing for review, Oct. 19, 2022, (Appendix B, no. 1) from the court of appeals review (Appendix B, no. 2) of the “Petition in equity and for writ of mandamus,” letting stand a denial of constitutionally guaranteed remedy seeking, in the absence of adequate relief at law, extraordinary relief for the particularized harms of unwarranted “deprivation of any rights, privileges, or immunities secured by the Constitution and laws” under color, the imposition of unwarranted police power, or power derived through fraud.

The court has jurisdiction under Art. 3, Sect. 2, “In all Cases *** in which a State shall be Party, the supreme Court shall have original Jurisdiction”; or pursuant to the 14th amendment to the constitution that applies constitutional rights guarantees to the state of Tennessee and its people; or, thirdly, pursuant to 28 U.S.C. § 1257(a), insofar as the supreme court denies review and the Tennessee court of appeals renders final judgment and the matter in question is an executive order/cum “statute” by respondent-in-fraud Gov. Lee,

¹ The actual filed date of the CoA dismissal is Oct. 9, 2022. See Appendix B no. 2.

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where *** the validity of a statute [executive order] of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States. ²

The court has jurisdiction to consider the petition because it arises from state courts that refuse to relieve state of Tennessee, on relation, from abuse of guaranteed federal rights by government employees acting in personal capacity under color of law or in office legislating misconduct and acts of oppression, knowing and intentional, in breach of oath or terms of employment. The federal protected rights are those of press, freedom of speech and of religion under the first amendment, and others.

Having state courts require executive branch demonstration of a nonfraudulent exigency or necessity or lawful basis for a declared emergency is of the highest public interest and a compelling reason to accept jurisdiction.

² Emergency power law cited by respondent Lee in his March 12, 2020, executive order No. 14 includes this provision:

Pursuant to the authority vested in the governor under subdivision (a)(1), the governor may issue executive orders, proclamations, and rules and may amend or rescind them. **Such executive orders, proclamations, and rules have the force and effect of law.**

Tenn. Code Ann. § 58-2-107(a)(2) (TR, p. 35) (emphasis added)

Constitutional & statutory provisions involved

- ▶ The 1st amendment of the constitution for the United States, with its guarantees of a free press, free speech, and freedom of religion
- ▶ Tenn. const. Art. 1, sect. 17, on the duty of the courts to be open and not impose injustice by delay or to deny relief; art 1, sect. 3, rights of religious free conscience; and art. 1, sect. 19, on the rights of the press, for which petitioner is belligerent claimant in person
- ▶ Petitioner is seeking to have Tennessee courts uphold compliance with the first provision of the isolation and quarantine law requiring a determination be made as to the source or cause of a disease, specifically section (a)(1).

§ 68-5-104. Isolation or quarantine

(a)(1) It is the duty of the local health authorities, on receipt of a report of a case, or suspected case, of disease declared to be communicable, contagious, or one which has been declared by the commissioner of health to be subject to isolation or quarantine, to confirm or establish the diagnosis, to determine the source or cause of the disease and to take such steps as may be necessary to isolate or quarantine the case or premise upon which the case, cause or source may be found, as may be required by the rules and regulations of the state department of health.

1905 Acts, c. 519, §§ 3, 12; 1957 Pub.Acts, c. 14, §§ 1, 2; 1989 Pub.Acts, c. 591, § 112.

X.

Introduction

State of Tennessee, on relation, distills its case to a single page:

Jurisdiction State of Tennessee, on relation, seeks review to correct the deprivation to state and federally protected fundamental rights by Tennessee courts' denial of equity jurisprudence, despite the expressed intention for such relief in the petition of the cause titled, "Petition for equity and writ of mandamus," the relief suggested in the demand from such harms as fraud, unwarranted use of police power, dereliction of duty, acting under mere color of authority, the courts' denying relief despite the federal and state protected status of relator and the jurisprudence available to provide relief, guaranteed by both state and federal constitutions to state of Tennessee, on relation.

Tennessee appellate courts under color of law deny existence of any federally protected rights or that equity jurisprudence exists for relief in their violation. The courts do so by mistreating the equity relief action, under color of lawful authority; for instance, they use case law regarding litigants with a remedy at law as precedent, arbitrarily and capriciously confounding and denying the equity relief sought by the state of Tennessee, on relation, the cause of which having no adequate remedy at law, to say the state of Tennessee, on relation, is not entitled to equity relief to stop police power abuse, as stated fully in the petition that is required as a matter of equity principle to be taken true.

Reason to take case Every federal court in every circuit has decided contrary to the cause seeking relief in this case. They have accepted without judicial scrutiny that, contrary to law, police power can operate on a merely presumptive cause, one not enjoying demonstration of a nonfraudulent exigency, the singular expedient relief to which is the equity jurisprudence deprived without lawful warrant by the supreme court of Tennessee, and all federal courts, under color of lawful authority, contrary to law. ##

xi.

Statement of the case

Injured by law violations of respondent Bill Lee and local officials under a pretended medical state of emergency basis, petitioner files “Petition for equity and writ of mandamus” in Hamilton County chancery court Oct. 2, 2020. The trial court Jan. 21, 2021, grants motions to dismiss in twin orders (Appendix B, nos. 8, 9). The court rejects detailed motions to reconsider April 21, 2021 (Appendix B, nos. 16, 17). The case is briefed and orally argued before the state court of appeals. It denies relator’s claims Oct. 19, 2022 (Appendix B, No. 2). The state, on relation, timely files a petition for review with the state supreme court July 25, 2022.

The state, on relation, timely files a petition for review with the state supreme court July 25, 2022. Relator files a motion for recusal and disqualification against four of five justices Aug. 10, 2022, pointing out justices’ interest and insider knowledge of the case as signers of their own fraudulent emergency lockdown of the states’ courts. The court denies the motion Sept. 9, 2022 (Appendix B, No. 18). Tennessee on relation files an answer and a second motion for recusal upon all five justices, citing other grounds, Sept. 22, 2022. The court denies this motion Sept. 30, 2022 (App. B, No. 19). State of Tennessee, on relation, on Oct. 17, 2022, files a motion for reconsideration, including a notice of judicial department mass fraud (TR, p. 339) (Appendix B, no. 15), putting parties on awares of law breach. The supreme court Oct. 19, 2022, denies the motion for reconsideration. In the same order, it refuses to hear the case, stating, “[w]e also decline to deem the application for permission to appeal frivolous” (Appendix B, No. 1).

Appeal to the court is required to overturn the support of Tennessee courts for unwarranted police power committed by the respondents in dereliction of the nondiscretionary duties imposed upon them pursuant to T.C.A. § 68-5-104, or the

Tennessee constitution, committing, or acting by omission to commit, unwarranted statewide restraint of life, liberty and property in the erstwhile and supposed “Covid-19 pandemic response.” Police power cannot come into play upon a fraudulent supposition, without a determination or lawful basis for its exercise.

Creating an extraordinary disaster, on or about March 12, 2020, Gov. Bill Lee declares a communicable disease health emergency with executive order No. 14, with local official Rebekah Barnes’ office issuing Directive No. 1 of the Hamilton County health department, effective July 10, 2020, and taking various actions for flulike symptoms, given the name “COVID-19” disease. They act without benefit of due process or the fulfillment of law’s exactions; they have a public legal nondiscretionary duty under T.C.A. § 68-5-104 to “determine the source or cause of the disease” by finding the infectious agent, contagion or communicable source for the disease, the existence of which is merely presumptive.

The state supreme court approves the governor’s act a day later without legitimate lawful cause, acting *under color of* proper judicial opinion and administrative notice by closing the courts (No. ADM2020-00428, order suspending in-person court proceedings, March 13, 2020).

It is commonly known there is no test for the presumptive contagion or infectious agent of COVID-19 despite official misrepresentations or assurances to the contrary. With support of the courts, respondents act without bona fide demonstrable exigence or jurisdiction and by unwarranted and unconstitutional premature actions, arbitrary and capricious, even deadly, purported mitigation measures are causing irreparable harm and injustice, wreaking havoc on the relator, fellow Tennesseans and the state of Tennessee.³

³ Federal government data collected by the FDA at VAERS, the vaccine adverse event reporting system, indicates 104,400 people in Tennessee have perished from mRNA gene-editing treatments, and that 1.32 million have been injured. See [OpenVaers.com](https://openvaers.com).

Petitioner sues them given not even a yellow Post-It note is in evidence prior to suit exculpatory of their having considered the claims of the 1904 law on their use of police powers. This petition is filed to stop the abuse of unwarranted police power committed by the respondents, omitting predicate acts, these 837 days in dereliction of nondiscretionary duties under T.C.A. § 68-5-104.

The state of Tennessee's Petition in equity and for writ of mandamus, on relation, a verified complaint supported by an affidavit of facts, demands Tennessee courts halt, empty of all force and effect all respondents' wrongful acts done under color of authority and be declared void *ab initio*. He demands that they be found a fraud and waste upon the public treasury that respondents have a nondiscretionary duty to protect. The state, on relation, demands the court, as it asks of chancery when it filed suit Oct. 2, 2020, do anything else the court, with plenary equity restorative authority, deems serves the ends of justice to relieve relator, fellow citizens and state of Tennessee of ongoing wrongs, oppression and the threat of further arbitrary and capricious acts of police power exercise without warrant.

Given there is no adequate remedy at law, his evidence-supported extraordinary remedy of imperative and public cause demands the supreme court direct the Tennessee court of appeals or trial court quash all relevant emergency orders or administrative actions, official acts existing without the benefit of an objective determination for the infectious agent of contagion or communicable source.

The courts have allowed respondents to demur to the facts brought forth in the suit. They give a facial answer to fraud evidences rather than a factual response (TR p. 204). They admit and let the court presume, thereby, the evidence and the facts about relator's harm and evidence about respondents' disobedience to be true, all of which proofs state of

Tennessee, on relation, enters. Respondents don't challenge the state's facts, on relation, relator's person nor its affidavit of support.

They admit they are violating T.C.A. § 68-5-104. These violations are felony acts under T.C.A. § 39-16-402, official misconduct (TR pp. 316, 471, 478; also March 30, 2021, hearing transcript pp. 6, 26, 27, 49). State, on relation, warns that in a court of equity under authorities such as *Gibson's Suits in Chancery*, the Tennessee Bible on chancery equity, the court cannot justly maintain fraud or pretend not to see it.

The courts' allowing respondents to openly abrogate the law causes a problem impossible to overlook. Excused by the courts for disobedience, respondents throw away the only possible basis they might have for a purported "health" state of emergency, which is to say, vesting of authority by obedience to law.

Lee says that he is not under "*any* duty" (italics in original) (TR p. 137) to administer T.C.A. § 68-5-104 (effectively, because he has agents, he can disobey the law). It is well known mandamus operates to compel ministerial duty, not control discretion. The courts allow respondent Barnes to violate the statute after claiming "discretion" because the law in one provision (the fifth one) uses the phrase "as may be necessary," which defense voids the statute (TR p. 164). Each malefactor, with frivolous claims, constituting breach admission, thusly denies him- or herself basis for acting, which is to say, each *tosses away a lawful nonfraudulent exigency or legal basis or cause upon which to base an exercise of police power*. Tennessee courts hold that authority can vest in officials apart from obedience. This jurisprudential novelty abrogates free exercise of state of Tennessee's guaranteed press and religious rights, among others, on relation.

The petition says, "The respondents cannot declare an emergency or rely on emergency power without an objectively bona fide demonstrable exigency" (TR p. 11). Courts say state of Tennessee, on relation, has it wrong. They discern that policy power derived of

fraud, factually and procedurally admitted, divest a wholly immaterial relator of his protected fundamental rights, or divest him of the equity relief constitutionally guaranteed to him for a wrongful imposition of an unwarranted abuse of power under color of law, or in violation of oath of office or employment duties, or judicial mistreatment.

State of Tennessee refers the court to its relator's affidavit in support (TR p. 42ff). As the trial court pretermins the affidavit, relator enters it a second time (TR p. 469) and at a phone hearing reads the affidavit into the court record (TR p. 508) (Transcript, March 30, 2021, phone hearing, p. 9).

THE COURT: Sir. Mr., Mr. Tulis. You are not going to read your entire affidavit again into the record. It's filed.

MR. TULIS: It has not --

THE COURT: It's in the record, sir. There is --

MR. TULIS: But, Your Honor, you have ignored this record, and the respondents' attorneys have, in bad faith, smeared the glass in such a way that it is invisible to you and illegible to you. But I would like to -- I insist on entering my affidavit

into the record in this hearing, Your Honor. It has to be in the record.

The court refuses to allow state of Tennessee, on relation, to continue re-entering the facts of harm into the record. Pretermining the facts of citizen harm, whereby state of Tennessee, on relation, might have standing is an abuse of discretion for which petitioner demands relief repeatedly, the record shows.

Within a month of filing, state of Tennessee, on relation, comes to understand how broken its judicial system is, with denial of his Tenn. const. Art. 1, sect. 17, rights to "open" courts and to justice "without *** delay," with the mandamus law at T.C.A. § 29-25-101 giving right to "forthwith" equity. On Nov. 2, 2020, state of Tennessee visits the supreme court in Nashville and demands the clerks direct him to an available justice for an immediate hearing. No justice is available for a meeting. He delivers the chancery

record and a two-page demand letter invoking managerial, administrative and supervisory authority over chancery.

Chancellor Fleenor has refused to act in a clear dereliction of duty. The court has no authority to refuse my timely and factual filings. *Mandamus creates a nonoptional duty on the court to order a respondent to fulfill a nonoptional duty.* If Lee is liable for performance of 68-5-104, there should be no stink or hesitancy from Judge Fleenor -- or from this court, as she appears to have gone rogue -- to order obedience, and for Lee to be ordered to cease all activity outside the scope of this law or contravention to it.

The petition for supreme court intervention of chancery mismanagement and disobedience to mandamus law is thrice denied (Appendix B, Nos. 3, 7 and 14).

The state of Tennessee, on relation, makes several demands in the complaint, in equity, including reformation of a regulation that grants influence of advisory opinions. Its petition for equity and writ of mandamus, in a trial court with plenary equity authority, demands:

All reasonable presumptions should be indulged in favor of the validity of the action of the legislature and the duly constituted health authorities. While it is acknowledged that rules and regulations to protect the public health will not be disturbed by the courts, respondents' violating the legislature's appropriate methods, such as T.C.A. 68-5-104, are not so police-power privileged that this court can allow them to remain undisturbed while they, without lawful warrant, irreparably harm Tennesseans under the color of protecting their health.

These officials are not to use the color of their offices for private gain, such as advancing a private agenda, or aiding or abetting an enemy, or even pretending to save the state under color of a health crisis.

The respondents, or each of them, act in flagrant disregard of the law, their fiduciary, the trust of the people, and to their oath of office.

Ultimately, no matter what the excuses of respondent(s) are, they are not to cause the disaster being suffered by the people of Tennessee or the state of Tennessee.

(TR p. 38) (internal numbers omitted)

The jurisprudential heresy in Tennessee that allows crime in office unabated and the rejection of black-letter law affects many parts of the law, just like a heresy in one Christian doctrine requires revision of almost every other (“You can’t fix just one thing”). State courts, rejecting equity and the rule of law, intending to uphold bias and policy for respondents, befoul the mandamus remedy by shifting the focus from harm to the law to harm upon the relator.

1. If state of Tennessee, on relation, is required to meet the excruciating standards for standing as imposed in this case, the court of appeals has effectively abolished the remedy outside of authority, to the harm of state of Tennessee and the people.
2. Courts have taken sides in a conflict over mandamus typified by *State ex. rel. Latture v. Frazier*, 86 S. W. 319, 320 (Tenn. 1905) which holds that mandamus cannot be used to compel the governor to “perform any act.” This position is no grief to relator’s cause, except insofar that this position cannot be so broadened as to delete a case such as this one the moment of filing. A governor in criminal breach of statute and constitution cannot escape judicial branch intervention, regardless of juristic custom or doctrine violating federal rights.⁴

⁴ Tennessee rulings giving governors a shield from mandamus that doesn’t account for a scale-proportionality problem. Up ’til now, mandamus cases deal with policy disputes administrative or political in nature. The state’s case, on relation, deals with mass crime, mass death, an abrogation of the constitution and criminal acts, including official misconduct and terrorism (TR p. 23). The courts confuse two assertions of judicial authority. (A) The concept of compelling a governor to perform a duty and, (B) that of holding a governor to account for crime. Because they cannot do the first, they hold they cannot do the second.

3. The court of appeals says because state of Tennessee's demand, on relation, for equity is "based on" its petition for mandamus, the court can ignore intention and demand for equity relief (CoA opinion, p. 18).

The case is procedurally ripe for review. The lawsuit is filed Oct. 2, 2020, and is litigated in Tennessee courts 747 days. State of Tennessee, on relation, aggressively fights for federal and state rights, but motions *pro confesso* are denied (Appendix B, nos. 4, 6). Demands for immediate resolution are denied as chancery grants more time (Appendix B, no. 5). Among other abuses, the trial court treats a motion to strike as an answer (denying relator right to answer); the court enters an order granting delay 9 minutes before relator enters timely filed objection; and sticks relator with the county's legal bill over his objection. Bellicosity for guaranteed rights gets nowhere in demands for mask-free in person hearings forthwith under federal rights protection (Appendix B, nos. 10-13).

The controversy is live as petitioner seeks protection from future irreparable harms. Respondent-in-fraud Lee ends his state of emergency in 2021. But he reserves the illicit powers he seized March 12, 2020: "Should our state face any future surges," he says, "we will consider temporarily reinstating this tool," Twitter and other media (Nov. 19, 2021, 9:30 a.m., of record in the state appeals court). Further, petition demands remedies such as revision of regulations giving weight to foreign "appropriate medical experts[']" recommendations:

► By *rectification, reformation, or whatever this equity court may find just*, ensure the Rules reflect the legislative intent, purpose, function, etc., of T.C.A. § 68-5-104, consistent with the Tennessee constitution which the respondent(s) fraudulently, or through other wrong, breach without such correction.

(TR p. 39) (emphasis in original)

The court has jurisdiction because petitioner has a justiciable cause, an authentic controversy and personal standing to obtain relief. He suffers concrete, particularized harm to his person suffered by no other person in the state in the same way. His affidavit in support of the petition, pursuant to T.C.A. § 29-25-101, mandamus, details five harms (TR, p. 42ff) and is a *body of facts uncontradicted, unimpeached, material and credible, securing standing*. The affidavit more than meets the fraud-on-the-court standard shoved into this case from *ACLU v. Darnell*, 195 S.W.3d 612 (2006) (TR p. 213, 228, 232, 410, 412) and *Spokeo Inc. v. Robins*, 136 S.Ct. 1540 (2016) (TR pp. 212ff, 229, 230, 314, 315, 415).

Being particularly and uniquely harmed, he has a personal interest in respondents' obedience to state law. State of Tennessee, on relation, has duty — and right — to seek relief from unwarranted abuse of power has standing to sue in its people's courts for relief, the receipt of which would be a public benefit. Denied equity and relief in state courts, state of Tennessee, on relation, has no other remedy except securing the guarantee of equity and equal protection under the law from the court.

With no notice the petition is inadequate or insufficient together and in breach of the legislatively mandated forthwith immediate disposal, per T.C.A. § 29-25-102, mandamus, due every equity action, or that protected fundamental rights deserve – state of Tennessee, on relation, is further deprived of lawful due process or means to seek other immediate relief, while the judicial branch delays the denial of equity under color of authority, contrary to law, depriving justice, as anticipated in the petition (TR pp. 18, 19; p. 25 ¶ 121-123),⁵ the undue influence obstruction of justice admitted to by the parties and the

⁵ While it claims no such power by separation of powers evasion, the judicial branch of this state, on its own motion, failed in its inherent power and duty to check that a co-equal branch of the government had followed the law, the conduct or omission of which created the disaster and irreparable harms to the state of Tennessee and its people, wrought by respondents under color of a pandemic without warrant.

court, the petition together with the evidence of particularized harm, taken true and un rebutted with evidence and preserved for review.

xii.

Reasons for granting the petition

The oversight of this court is required to stop the destruction of nationally honored equity jurisprudence or due process of law allowing that official fraud, dereliction of duty, judicial mistreatment, undue influence, justices' personal interest or bias, or as otherwise originally petitioned, have become policy to big to fail, causing irreparable harm to the state of Tennessee, its relator, or those similarly situated, deprived of protected constitutional fundamental rights, and the guarantees of the Tennessee constitution. Under respondents' hands, ministerial trust obligations are denied, and Tennessee cannot maintain equal footing among the several states. It cannot be overstated. This matter of denial and deprivation of fundamental rights and federal and state constitutional guarantees, and the method of their destruction, of public record and notice, creates a constitutional crisis if not brought to lawful resolution immediately in the interest of justice.

The judicial branch has taken part in the panic and mass illegality. Chief Justice Jeff Bivins' July 9 "executive order" about face masks in governmental buildings that happen to contain courts creates an unprecedented and arbitrary power that is not judicial and not internally administrative to that branch, a power imposing an command on parties such as county commissions and clerks in a shared building who are not involved in any judicial case and whose offices are not within the judicial branch, further infringing political or other fundamental rights of the general public accessing their government instrumentalities.

The judicial branch failed to identify the dereliction of the executive branch to obey legislative enactments, such as the duty imposed by 68-5-104.

Petition for equity and writ of mandamus [TR p. 25]

This case is one of first impression, dealing with existential questions of form of government — of state respect for citizens' liberty, the rule of law and the role of judiciary to correct erring counter-parties in a tripartite system.

Tennessee's judiciary has gone entirely off the rails, joining in the fraud this case lays on the laps of respondents.

Tennessee courts have acted prejudicially in the entirety of this case, pursuing judicial policy in alliance with respondents rather than upholding the division of power and maintaining the independence of the courts to fight crime in office and correct error or wrong in other branches. Petitioner raises the matter of fraud on the court; lawyers and judges appear to be on the same team as against the constitution, the black-letter law forbidding their phony state of emergency, and the inherent named and unenumerated rights of the people of Tennessee defended by petitioner.

The record shows, the “non-frivolous” case preserves for review the denial of justice under color of law relying upon **simultaneous and contradictory** inconsideration by Tennessee courts that are required by equity principles to care about the intention of the state of Tennessee, on relation. The courts have displaced relator from his case that they have falsified in pursuit of law-breaking fraud and policy, the law and constitutional rights be damned. Through the courts' incongruous false implications, (1) irreparable harm to protected fundamental rights offers no basis for immediate equity relief, (2) concrete and particularized wrongs or harms are pretermitted, and, (3) the state of Tennessee, on relation, has an adequate remedy at law — somewhere — and, (4) courts ignore intention of the relator and convert the cause into an at-law case, pretending he is demanding money damages for past harm when record shows he is seeking equity to stop extraordinary official abuses and future ones.

Ally of respondents-in-fraud, the courts reject equity jurisprudence that is said to requiring public servants to eschew fraud, oppose evasion of justice, logic, reason and to obey immediate requirement for forthwith relief not enjoyed by state of Tennessee, on relation, in this action requiring another equity feature from the court, that justice be done as originally petitioned, with the plenary equity power of this court.

The refusal of four justices to disqualify highlights the partnership with respondents. That the courts uphold the official misconduct of their governor ally in the March 12, 2020, state of emergency shows how leavened the lump has become. The leaven is belief in *unitary government* free to operate without a predicate nonfraudulent exigency or cause. The chief justice refuses to recuse even though he has a fraught relationship with petitioner, very personal. Justice Roger Page maintains a false imprisonment and false arrest policy as a hedge to keep the Tennessee Judicial Conference secret. He arrested petitioner Nov. 6, 2021, covering the conference by right. He refuses to disqualify, aware a lawsuit is likely. Petitioner is suing him as of Nov. 9, 2022, in federal court.⁶

⁶ David Jonathan Tulis v. Orange, U.S. district court, middle Tennessee district, case no. 3:22-cv-00911

xiii.

Conclusion

Actus legis nemini facit injuriam. The act of the law does no one an injury. 5 Co. 116 (*Bouvier's Maxims*). Conversely, *violation* of law brings harm.

This case, first of its kind for leaving no stone unturned, challenges officials' first wrong, that of breach of state law on erstwhile epidemic police powers. The case serves to deny *promiscuous, nonparticularized, nonindividualized mitigation police power the federal circuits appear to accept*. Petitioner's fight to preserve his rights and end abuse of state of Tennessee requires he demand right to due process and that any police power aimed at him, ostensibly, be particularized, individualized, made personally to show cause or evidence for a wrong attributed to him or based on a nonfraudulent exigency. In other words, due process.

Protecting this case's federal press and religion rights lets the court correct lower courts' approval of presumptive bases for use of police power in a pretended and unlawful state of emergency. Emergency powers are suitable to earthquake, flood, explosions, tornado or fire. They are not lawful based on a presumptive agent of contagion (e.g., Covid-19), which requires a case by case disposition under due process of law.

State courts have used artifice in their obstruction of justice of the state, on relation, and ultimately destroy equity jurisdiction itself, whether it be in wrongly calling as precedent cases not applicable to petition, holding two or more contrary fabricated views at the same time and not applicable to evidence, or not applying those fabrications to their logical end, denying all lawful due process the law requires to be disposed forthwith, failing to honor clearly established equity principles to abate existing harm and for-certain future irreparable harm, contorting settled principles of law, etc.; or as state of

Tennessee, on relation, will show in brief, the courts deny justice, contrary to their trust duties and obligations, or relationship to the Tennessee constitution refusing to consider the harm they have accepted upon relator and those similarly situated.

Petitioner asks the court to consider the promise of the guarantee of Art. 4, sect. 4, of “a republican form of government and shall protect each of them against invasion.” Respondent Lee, his judicial *aides de camp* overthrow the republican form of government in a panic the circumstances of which are exactly the reason Tennesseans have a constitution to begin with. A constitution exists for times such as those facing public authority in late 2019 and early 2020, one of rumor, intense corporate propaganda, media fog bombing, pretended oracular claims from Washington and other foreign capitals, government censorship and interference with cheap, proven remedies for the presumptive Covid-19 and much other commerce.

In such context, it behooves governors and local officials to act circumspectly, warily, skeptically, and to lodge themselves within their state laws where they can safely act and do no harm. In their law, as in T.C.A. § 68-5-104, they find their nondiscretionary duty, and the concomitant limits to their power. Taking the case will let the court remind governors they are not free to destroy the people and their rights to keep them from getting a flu with a less-than-half-a-percent mortality rate. The court is urged to seize this cause to re-establish the liberty the people of Tennessee deserve. Unwarranted police power is a continuing enemy of the American people. This case lets the states’ people perfect liberty to themselves in their dealings with their governors and their health state establishments, and petitioner asks the court issue the writ of certiorari in this case.

Respectfully submitted,


David Jonathan Tulis

Certification of word count: Petitioner hereby certifies the petition word count from statement of jurisdiction on down, excluding appendices, is 4,945 words, according to his Google Docs account.

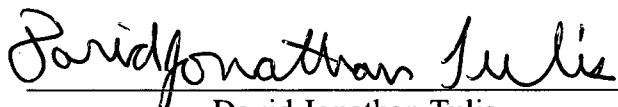
XIV.

CERTIFICATE OF SERVICE

David Jonathan Tulis certifies that a true and exact copies of this petition for writ of certiorari and the incorporated-by-reference supporting affidavit *in forma pauperis* are being (1) hand delivered to the local respondent's attorney in person, or (b), is sent by first-class mail to the parties below with sufficient postage on them as to carry each to its destination on this 17th day of January 2023.

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