

**IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
28TH JUDICIAL DISTRICT, GIBSON COUNTY**

STEPHEN L. HUGHES,)
DUNCAN O'MARA, ELAINE KEHEL,)
GUN OWNERS OF AMERICA, INC.,)
and GUN OWNERS FOUNDATION,)

Plaintiffs,)

v.)

BILL LEE, in his official capacity as the)
Governor for the State of Tennessee,)

JONATHAN SKRMETTI, in his official)
capacity as the Attorney General for the)
State of Tennessee,)

JEFF LONG, in his official capacity as)
the Commissioner of the Tennessee)
Department of Safety and Homeland)
Security,)

DAVID SALYERS, in his official capacity)
as the Commissioner of the Tennessee)
Department of Environment and)
Conservation,)

PAUL THOMAS, in his official capacity)
as the Sheriff of Gibson County,)
Tennessee,)

FREDERICK AGEE, in his official)
capacity as the District Attorney General)
for Crockett, Gibson and Haywood)
counties, and)
the STATE OF TENNESSEE,)

Defendants.)

No. 24475

Chancellor Mansfield
Chief Judge

Judge Burk

Judge Rice

**STATE DEFENDANTS' RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Defendants Governor Bill Lee, Attorney General Jonathan Skrmetti, Commissioner of the Tennessee Department of Safety and Homeland Security Jeff Long, Commissioner of the

Tennessee Department of Environment and Conservation David Salyers, District Attorney General Frederick Agee, and the State of Tennessee¹ (“State Defendants”) respond in opposition to Plaintiffs’ Motion for a Preliminary Injunction and/or Permanent Injunction.² Plaintiffs’ motion must be denied because this Court lacks jurisdiction to grant the relief requested.

BACKGROUND

Plaintiffs challenge the constitutionality of two criminal statutes: the “Guns in Parks” statute, Tenn. Code Ann. § 39-17-1311, and the “Basic Firearm Carry” statute, Tenn. Code Ann. § 39-17-1307. (Pfs.’ Mot., at 1; Amended Complaint, at 1, 30.) Their claim is based solely on article I, section 26 of the Tennessee Constitution. (Amended Complaint, at 1.) The relief sought by Plaintiffs is sweeping; they seek to enjoin “the [S]tate of Tennessee from enforcing or seeking to enforce” any part of the challenged statutes. (Pfs.’ Mot., at 1; Pfs.’ Memo., at 22.)

ARGUMENT³

This Court lacks jurisdiction, as a court of equity, to enjoin State Defendants from enforcing the challenged statutes. For over a century, the Tennessee Supreme Court has held “that courts of equity lack jurisdiction to enjoin the enforcement of a criminal statute that is alleged to

¹ On October 18, 2023, Plaintiffs filed a Notice of Voluntary Nonsuit consenting to “dismiss[al] without prejudice [of] the State of Tennessee as a specifically named party to this action” pursuant to Tenn. R. Civ. P. 41.01(1). Under Rule 41.01(3), “[a] voluntary nonsuit to dismiss an action without prejudice must be followed by an order of voluntary dismissal signed by the court and entered by the clerk.” Tenn. R. Civ. P. 41.01(3). To date, no such order has been served upon the State of Tennessee.

² Plaintiffs’ motion caption lists only Governor Lee and General Skrmetti as defendants, though Plaintiffs’ supporting memorandum seeks an injunction against “the State of Tennessee.” (Pfs.’ Memo, at 22.) Out of an abundance of caution, all State Defendants join in opposing this motion.

³ This response focuses on the threshold jurisdictional bar to relief. But Plaintiffs are also unlikely to succeed on the merits of their claims for the reasons set out in the Motions to Dismiss of Governor Lee, General Skrmetti, and the State of Tennessee, which are hereby incorporated by reference.

be unconstitutional.” *Clinton Books, Inc. v. City of Memphis*, 197 S.W.3d 749, 752 (Tenn. 2006); *J.W. Kelly & Co. v. Conner*, 122 Tenn. 339, 123 S.W. 622, 627 (1909) (“[T]he chancery court has no jurisdiction to enjoin pending or threatened prosecutions for violations of the criminal laws of the state. This proposition, as a rule of general application is unquestionably sound and well established in our jurisprudence.”). And the Court of Appeals follows that well-established precedent. *Storey v. Nichols*, 49 S.W.3d 288, 289 (Tenn. Ct. App. 2000) (“[A]n equity court has no jurisdiction to enjoin a pending or threatened criminal prosecution.”); *Tennessee Downs, Inc. v. William L. Gibbons*, 15 S.W.3d 843, 847 (Tenn. Ct. App. 1999) (“It is a well-established rule of equity jurisprudence that courts of equity have no jurisdiction to enjoin the enforcement of state criminal laws.”). The reason for this rule is plain: “Permitting a court of equity to interfere with the administration of this state’s criminal laws, which that court is without jurisdiction to enforce, would cause confusion in the preservation of peace and order and the enforcement of the State’s general police power.” *Clinton Books, Inc.*, 197 S.W.3d at 752; *J.W. Kelley & Co.*, 123 S.W. at 637.

This longstanding rule bars Plaintiffs’ requested relief. This Court, as a chancery court, is a court of equity. Tenn. Code Ann. § 16-11-101; *see J.W. Kelley & Co.*, 123 S.W. at 631 (equating the chancery courts with courts of equity) *Tennessee Downs, Inc.*, 15 S.W.3d at 847 (same). And both challenged statutes are criminal statutes. Each one creates “an offense” for specific proscribed conduct. *See* Tenn. Code Ann. §§ 39-17-1307(a)(1), -1311(a). Plaintiffs admit this; they claim standing based on their risk of criminal prosecution under the statutes. (Amended Complaint, ¶¶ 17-18; Pfs.’ Memo., at 5-7.)

That the Court, in this case, consists of a panel of three judges does not alter the jurisdiction of the Court. The General Assembly has delineated the judges who must “hear[] and determine[]”

certain civil actions, but it has not created a new court or altered the jurisdiction of existing courts. Tenn. Code Ann. § 20-18-101; Tenn. Sup. Ct. R. 54; *see* Tenn. Code Ann. § 20-18-103(a) (clarifying that the three-judge panel statute does not “create a cause of action independent of existing Tennessee or federal law”). Plaintiffs’ filings show as much. Their Amended Complaint and other filings do not suggest that this case is before a hybrid court that is some amalgamation of the three courts over which the three judges assigned to this case otherwise preside. Rather, their filings confirm that this case is “IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE.” (Amended Complaint, at 1; Pfs.’ Mot., at 1; Pfs.’ Memo., at 1.) And Plaintiffs assert jurisdiction under Tenn. Code Ann. §§ 16-11-101 to -102, which outline the jurisdiction and powers of chancery courts. (Amended Complaint, ¶ 15.)

Supreme Court precedent prohibits the requested injunctive relief in any form—preliminary or permanent. Plaintiffs’ sweeping request to enjoin the enforcement of a criminal statute must be denied.

CONCLUSION

For these reasons, Plaintiffs’ Motion should be denied.

Respectfully submitted,

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Attorney General and Reporter

/s/ Cody N. Brandon
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing was filed by fax with the clerk and served by mail with a courtesy copy sent by email, on this the 17th day of November 2023, upon:

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I further certify that, pursuant to the Court's order, courtesy copies of the foregoing were served by mail to:

Hon. Michael Mansfield
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/s/ Cody N. Brandon
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