

IN THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE

ABU-ALI ABDUR'RAHMAN )  
 )  
 Plaintiff, )  
 )  
 vs. ) No. 02-895-I  
 )  
 RICKY BELL, in his official capacity as )  
 the Warden of Riverbend Maximum )  
 Security Institution, and the )  
 TENNESSEE DEPARTMENT OF )  
 CORRECTION, )  
 )  
 Defendants. )

**MOTION TO DISMISS OR IN THE  
ALTERNATIVE FOR SUMMARY JUDGMENT**

The defendants, Warden Ricky Bell and the Tennessee Department of Correction, move pursuant to Tenn. R. Civ. P. 12.02 for dismissal of the petition for lack of jurisdiction. In the alternative, the defendants move pursuant to Tenn. R. Civ. P. 56 for summary judgment. The grounds for this motion are: (1) the Court lacks jurisdiction over a suit against the State or its officers under the Declaratory Judgment Act, § 29-14-101; the Court lacks jurisdiction over any petition for a declaratory judgment under Tenn. Code Ann. § 4-5-225 because plaintiff has not sought a declaratory order; and the petition is now moot as plaintiff will be permitted to reconsider his waiver. In support of this motion the defendants rely upon the contemporaneously filed memorandum of law and the affidavit of Donal Campbell.

Respectfully submitted,

PAUL G. SUMMERS  
Attorney General and Reporter

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing has been forwarded by first-class mail, postage prepaid, to: Bradley A. MacLean, STITES & HARBISON, PLLC., SunTrust Center, Suite 1800, 424 Church Street, Nashville, TN 37219 and to William P. Redick, Jr., 810 Broadway, Suite 201, Nashville, TN 37203 on this the \_\_\_\_\_ day of \_\_\_\_\_ 2002.

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STEPHANIE R. REEVERS  
Associate Deputy Attorney General