

JUL 14 2022

HOWARD G. HOGAN

IN THE CHANCERY COURT OF KNOX COUNTY, TENNESSEE

PART II

KEITH MICHAEL CURD,)
)
 Petitioner,)
)
 v.)
)
 STATE OF TENNESSEE, *ex rel.*)
 TENNESSEE BUREAU OF)
 INVESTIGATIONS, and HERBERT)
 H. SLATERY III, Attorney General)
 and Reporter,)
)
 RESPONDENTS.)
)

No. 203727-2 ✓
 Notice of Entry Requested

ORDER

This matter is on the RESPONDENTS’ MOTION TO DISMISS submitted by Herbert H. Slatery III, Attorney General and Reporter for the State of Tennessee, and the Tennessee Bureau of Investigation (“TBI”) (collectively “Respondents”) on March 28, 2022. The motion seeks to dismiss the claims set out in the amended petition filed by Keith Michael Curd (“Petitioner”) on February 22, 2022. This matter was heard on May 16, 2022 before a panel of three judges (the “Panel”). Considering the motion as well as the accompanying memoranda and responses thereto, the Panel is of the opinion that the motion is well taken with respect to Respondents’ arguments

that Petitioner cannot join both an original action and an appellate action in the same case. The amended petition in this matter seeks judicial review of a decision of the TBI and a declaration that a state statute is unconstitutional. The judicial review aspect of the petition is in the nature of an administrative appeal, and the declaratory judgment aspect is in the nature of an original action. Under the applicable caselaw, the two cannot coexist in the same case. Furthermore, the Panel is of the opinion that the thrust and gravamen of the amended petition is for judicial review of the TBI's decision to deny Petitioner's request for removal from the Sex Offender Registry ("SOR"). Petitioner's declaratory judgment action does not seek a declaration that the statute at issue is facially unconstitutional. Beyond mere conclusory statements, Petitioner's declaratory judgment action fails to state a claim to challenge the constitutionality of the amendment to the statute at issue.

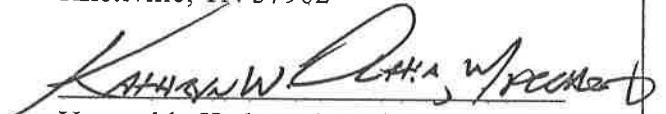
ACCORDINGLY, it is ORDERED, ADJUDGED, and DECREED that the RESPONDENTS' MOTION TO DISMISS is GRANTED in part and DENIED in part. Specifically, the motion is granted with respect to the declaratory judgment action, and that action is hereby dismissed without prejudice. The motion is denied with respect to all other matters.

This matter will proceed on Petitioner's administrative appeal action presided over by Chancellor Clarence E. Pridemore, Jr. The Panel will remain empaneled if further action by the panel is necessary in this case but will not participate in the administrative appeal action.

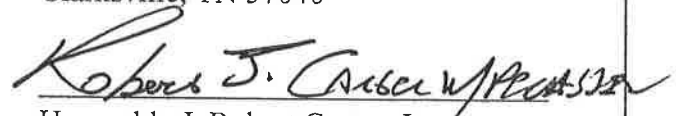
ENTERED this 14th day of July, 2022.



Chancellor Clarence E. Pridemore, Jr.,
Chief Judge
Knox County Chancer Court
City-County Building
400 W. Main Street
Knoxville, TN 37902



Honorable Kathryn W. Olita
Montgomery County Courts Center
2 Millennium Plaza, Suite 451
Clarksville, TN 37040



Honorable J. Robert Carter, Jr.
Shelby County Justice Complex
201 Poplar Avenue, Room 519
Memphis, TN 38103

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have placed a true and accurate copy of the foregoing Order in the U. S. Mail, postage prepaid, to the parties listed below.

This 21st day of July, 2022.

Danielle Lane, Three-Judge Panel Coordinator
Tennessee Administrative Office of the Courts
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Deputy Clerk