

**IN THE CIRCUIT COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT AT MEMPHIS**

PAMELA MOSES,)	
)	
Plaintiff,)	
)	
v.)	No. CT-1579-19
)	Division I
)	
)	Judge Felicia Corbin-Johnson
MARK GOINS, TRE HARGETT, and)	Judge Suzanne S. Cook
JONATHAN SKRMETTI, in their official)	Judge Barry Tidwell
capacities,)	
)	
Defendants.)	

**MEMORANDUM OF LAW IN SUPPORT OF THE MOTION OF
DEFENDANT JONATHAN SKRMETTI FOR JUDGMENT ON THE PLEADINGS**

Defendant Jonathan Skrmetti, sued in his official capacity as the Tennessee Attorney General and Reporter, submits this memorandum of law in support of his motion for judgment on the pleadings under Tenn. R. Civ. P. 12.03. Plaintiff’s action challenges the constitutionality of Tennessee’s voter-restoration statutes, which bar certain infamous criminals from having their rights restored, and Plaintiff has included the Attorney General as a party defendant—along with two other State officials. But Plaintiff’s suit against the Attorney General is barred for two reasons. First, Plaintiff cannot overcome the Attorney General’s sovereign immunity, and the Court therefore lacks jurisdiction to consider any claim she asserts against him. Second, Plaintiff lacks standing to maintain her claims against the Attorney General. Accordingly, the Court should grant the Attorney General’s motion for judgment on the pleadings and dismiss him as a party.

BACKGROUND

Tennessee Law Governing Felon Disenfranchisement and Restoration.

The Tennessee Constitution authorizes the General Assembly to enact laws “excluding from the right of suffrage persons who may be convicted of infamous crimes.” Tenn. Const. art. IV, § 2; *see also* Tenn. Const. art. I, § 5 (“[E]lections shall be free and equal, and the right of suffrage, as hereinafter declared, shall never be denied to any person entitled thereto, except upon conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by court of competent jurisdiction.”). In exercising this explicit authority, the General Assembly mandates by statute that “[u]pon conviction for any felony, it shall be the judgment of the court that the defendant be infamous and be immediately disqualified from exercising the right of suffrage.” Tenn. Code Ann. § 40-20-112.

Nevertheless, the General Assembly has also provided some “recourse for those deprived of the right to vote based on conviction of an infamous crime.” *Falls v. Goins*, 673 S.W.3d 173, 179 (Tenn. 2023). Under Tenn. Code Ann. § 2-19-143(1), “[n]o person who has been convicted of an infamous crime, as defined by [Section] 40-20-112, in this state shall be permitted to register to vote or vote at any election unless such person has been pardoned by the governor, or the person’s full rights of citizenship have otherwise been restored as prescribed by law.” In 2006, the General Assembly enacted “provisions and procedures” to “govern restoration of the right of suffrage in this state to any person who has been disqualified from exercising that right by reason

of a conviction in any state or federal court of an infamous crime.” 2006 Tenn. Pub. ch. 860, § 1 (codified at Tenn. Code Ann. §§ 40-29-201 to -205).¹

Under Tenn. Code Ann. §§ 40-29-202 and -203, a person previously “rendered infamous and deprived of the right of suffrage by the judgment of any state . . . court” may “apply for a voter registration card and have the right of suffrage restored” after meeting certain statutory eligibility requirements, *id.* § 40-29-202(a)-(c), and may request “a certificate of voting rights restoration” as “sufficient proof that the person . . . is no longer disqualified from voting by reason of having been convicted of an infamous crime,” *id.* § 40-29-203(a), (c). Infamous criminals convicted of certain listed felony offenses, however, “shall never be eligible to register and vote.” Tenn. Code Ann. § 40-29-204. The list includes infamous criminals convicted of felony offenses under Title 39, Chapter 16, Part 5, that involve “Interference with Government Operations.” Tenn. Code Ann. § 40-29-204(1)-(3); *see also* Tenn. Code Ann. §§ 39-16-501 to -517 (listing offenses involving “Interference with Government Operations”).

Plaintiff’s Lawsuit

In 2015, Plaintiff pled guilty to, among other offenses, tampering with or fabricating evidence—a Class C felony under Tenn. Code Ann. § 39-16-503. *See State v. Moses*, No. W2015-01240-CCA-R3-CD, 2016 WL 4706707, at *1-2 (Tenn. Crim. App. Sept. 6, 2016) (affirming the denial of Plaintiff’s motion to withdraw her plea), *perm. app. denied* (Tenn. Jan. 23, 2017). After “an extensive plea colloquy,” the Shelby County Criminal Court concluded that Plaintiff entered her guilty plea “freely, voluntarily, and intelligently”; that the facts were sufficient to support her

¹ An infamous criminal must complete the “two-step statutory process” under Tenn. Code Ann. § 2-19-143 and Tenn. Code Ann. § 40-29-202 “before the right of suffrage is restored.” *Falls*, 673 S.W.3d at 183.

plea; and that Plaintiff understood the “direct and indirect consequences” of, and the sentence she would receive in exchange for, pleading guilty. *See Moses*, 2016 WL 4706707, at *2-3. On that basis, the criminal court accepted Plaintiff’s guilty plea and imposed an effective seven-year sentence on April 29, 2015. *See id.* at *2-4.

In 2019, Plaintiff, acting *pro se*, petitioned this Court for the restoration of her citizenship and voting rights. (Pet., 1-2.) In 2022, through counsel, Plaintiff sought and obtained leave to amend her petition (Mot. for Leave, 1; Joint Notice of Filing, 1-3, Ex. A), and on February 4, 2024, Plaintiff filed a Second Amended Complaint (“SAC”).²

In the SAC, Plaintiff claims that Tenn. Code Ann. §§ 40-29-204 and 40-29-105(c)(2)(B), which bar infamous criminals convicted of listed felony offenses from having their voting rights restored, violate various provisions of the Tennessee Constitution, both facially and as applied to her. (SAC, at 25-26, ¶ 78, at 29-39.)³ Plaintiff named as defendants, in their official capacities, the Tennessee Coordinator of Elections, the Tennessee Secretary of State, and the Tennessee Attorney General. (SAC, at 5, ¶¶ 17-19.) Plaintiff alleges that “Defendants” denied her request

² The Court granted Plaintiff leave to file the SAC on October 28, 2022, and the SAC became the “operative Complaint once filed of record” on February 2, 2024. (Oct. 28, 2022 Order, 1; Pl.’s Feb. 2, 2024 Notice of Filing, 1.) The Court’s September 2022 scheduling order directed Defendants to “respond to the Amended Petition no later than December 7, 2022” “[if] Petitioner’s Motion for Leave [wa]s granted.” (Sept. 20, 2022 Order, 1.) Noting that Plaintiff had not filed the SAC, Defendants filed a timely motion to dismiss “in accordance with the scheduling order out of an abundance of caution.” (Defs.’ Mem. in Support of Mot. to Dismiss, 5 n.2.) Plaintiff “officially rectifie[d]” her “inadvertent error” by filing the SAC on February 2, 2024. (Pl.’s Feb. 2, 2024 Notice of Filing, 1.) Plaintiff served the Secretary of State and Coordinator of Elections with the SAC on April 17, 2024. (Pl.’s Apr. 19, 2024 Returns of Service, 1.)

³ The SAC included additional claims, but on July 19, 2023, this Court dismissed Plaintiff’s cruel-and-unusual punishment claims (Counts Four and Eight), equal-protection claims (Counts Two and Nine), and procedural-due-process claims (Counts Five and Seven), as well as any claim challenging the provisions of the Tennessee Constitution. (July 19, 2023 Order, 32.)

for voter registration. (*Id.* at 5, ¶ 16.) But the SAC’s sole reference to the Attorney General alleges only that he has the “authority to issue opinions interpreting, but not changing the meaning of, Tennessee law.” (*Id.* at 5, ¶ 19.) The SAC asserts jurisdiction under the Declaratory Judgment Act, Tenn. Code Ann. §§ 29-14-101 to -113, and seeks both declaratory and injunctive relief. (*Id.* at 6, ¶ 20, at 39-41.)⁴

Defendants have answered the SAC, asserting, *inter alia*, that “Plaintiff lacks standing to assert her claims” against the Attorney General. (August 29, 2023 Answer to SAC, at 26; February 20, 2024 Answer to SAC, at 26.)⁵

Discovery ensued, but on April 29, 2024, Plaintiff moved to compel discovery, asserting—for the first time—that she is entitled to seek substantive relief against the Attorney General. (Pl.’s Mem. in Support of Mot. to Compel., 8-9.) The Attorney General has opposed the motion to compel, and now moves for judgment on the pleadings and seeks dismissal of any and all claims against him.

⁴ Plaintiff also asserts jurisdiction under Tenn. Code Ann. § 16-11-102. (SAC, at 6, ¶ 20.) But that statute merely discusses when a chancery court may exercise “concurrent” jurisdiction with a circuit court over civil causes of action, and when a chancery court is required to determine a case “upon the principles of a court of law.” *See* Tenn. Code Ann. § 16-11-102(a)-(b).

⁵ Defendants first answered the SAC following the Court’s order granting in part and denying in part their motion to dismiss. (August 29, 2023 Answer to SAC.) Once Plaintiff “officially” filed her SAC on February 2, 2024 (Pl.’s Feb. 2, 2024 Notice of Filing, 1), Defendants again answered her claims. (February 20, 2024 Answer to SAC.)

LEGAL STANDARD

A party may move for “judgment on the pleadings” once “the pleadings are closed but within such time as to not delay the trial.” Tenn. R. Civ. P. 12.03. The motion tests the “legal sufficiency” of a pleading and is reviewed under the same standard as a motion to dismiss for failure to state a claim upon which relief can be granted. *Harman v. Univ. of Tenn.*, 353 S.W.3d 734, 736 (Tenn. 2011). “Judgment on the pleadings is proper when the facts alleged in the complaint, even if proven, do not entitle the plaintiff to relief.” *Wood v. Davis*, M2013-00400-COA-R3-CV, 2014 WL 2567034, at *2 (Tenn. Ct. App. June 5, 2014) (citing *Waller v. Bryan*, 16 S.W.3d 770, 773 (Tenn. Ct. App. 1999)) (no perm. app. filed); see *Young v. Barrow*, 130 S.W.3d 59, 63 (Tenn. Ct. App. 2003). Accordingly, a court accepts “all the non-moving party’s factual allegations as true and draw[s] all reasonable inferences in that party’s favor.” *Lawson v. Hawkins Cnty.*, 661 S.W.3d 54, 58 (Tenn. 2023).

ARGUMENT

The allegations of the SAC do not entitle Plaintiff to relief from the Attorney General. Tennessee’s judiciary has long applied rules reflecting its “understanding of the intrinsic role of judicial power, as well as its respect for the separation of powers.” *Norma Faye Pyles Lynch Fam. Purpose LLC v. Putnam Cnty.*, 301 S.W.3d 196, 202-03 (Tenn. 2009). A court may hear a case only if a plaintiff demonstrates that both jurisdiction and standing are present. *Estate of Brown*, 402 S.W.3d 193, 198 (Tenn. 2013). With respect to her suit against the Attorney General, however, Plaintiff has not demonstrated jurisdiction or standing. Because the Attorney General has no role in enforcing the voter-restoration statutes Plaintiff challenges, the Attorney General enjoys sovereign immunity and Plaintiff lacks standing to sue him. The Attorney General is therefore entitled to judgment on the pleadings and dismissal of any and all claims against him.

I. Sovereign Immunity Bars Plaintiff's Claims against the Attorney General.

A court has subject-matter jurisdiction if it has the “lawful authority to adjudicate a controversy brought before it.” *Chapman v. DaVita, Inc.*, 380 S.W.3d 710, 712 (Tenn. 2012). “Subject matter jurisdiction confines judicial power to the boundaries drawn in constitutional and statutory provisions,” *Turner v. Turner*, 473 S.W.3d 257, 270 (Tenn. 2015), “and parties to litigation cannot confer or expand subject matter jurisdiction by consent or waiver,” *New v. Dumitrache*, 604 S.W.3d 1, 14-15 (Tenn. 2020). This “threshold inquiry” “may be raised at any time in court.” *Johnson v. Hopkins*, 432 S.W.3d 840, 844 (Tenn. 2013). Once raised, the “party asserting that subject matter jurisdiction exists” bears the “burden of proof.” *Chapman*, 380 S.W.3d at 712-13.

The doctrine of sovereign immunity bars courts from hearing claims against the State, its agencies, and its “officers acting in their official capacity.” *Colonial Pipeline Co. v. Morgan*, 263 S.W.3d 827, 848-50 (Tenn. 2008); *see also Cox v. State*, 399 S.W.2d 776, 778 (Tenn. 1965) (“A suit against a state official in his official capacity is a suit against the state.” (quotation omitted)). The doctrine is “embodied both in a state constitutional provision and in a statute.” *Smith v. Tenn. Nat’l Guard*, 551 S.W.3d 702, 708 (Tenn. 2018); *see also* Tenn. Const. art. I, § 17; Tenn. Code Ann. § 20-13-102(a). When sovereign immunity applies, it serves as a “subject matter jurisdictional bar.” *Recipient of Final Expunction Order in McNairy Cnty. Circuit Court Case No. 3279 v. Rausch*, 645 S.W.3d 160, 167 (Tenn. 2022).

The sovereign-immunity bar has two exceptions. First, the General Assembly may exercise its “exclusive power to waive Tennessee’s sovereign immunity” and “prescribe the terms and conditions under which the State may be sued.” *Smith*, 551 S.W.3d at 708-09. Second, a plaintiff may sue a state officer “to prevent [him] from enforcing an allegedly unconstitutional

statute.” *Colonial Pipeline*, 263 S.W.3d at 850. Neither exception applies to Plaintiff’s action against the Attorney General here—Plaintiff has not invoked any statutory abrogation of sovereign immunity, and the SAC does not allege the Attorney General’s enforcement of an allegedly unconstitutional statute.

The General Assembly has not waived sovereign immunity for Plaintiff’s suit. For legislation to waive the State’s immunity, it must do so “in plain, clear, and unmistakable terms.” *Mullins v. State*, 320 S.W.3d 273, 283 (Tenn. 2010) (quotation omitted). Plaintiff has asserted jurisdiction under the Tennessee Declaratory Judgment Act (SAC, at 6, ¶ 20), but that Act does not waive sovereign immunity. *Colonial Pipeline*, 263 S.W.3d at 853; *see, e.g., Young Bok Song v. Tennessee Dep’t of Children’s Servs.*, No. M2010-01198-COA-R3CV, 2011 WL 2176488, at *3-4 (Tenn. Ct. App. June 1, 2011) (applying immunity), *perm. app. denied* (Tenn. Oct. 18, 2011). Plaintiff’s action has triggered application of the three-judge-panel statute, but that statute “does not waive the defense of sovereign immunity” either. Tenn. Code Ann. § 20-18-103(a).⁶

The *Colonial Pipeline* exception applies only to injunctive actions that challenge an official’s “authority to impose laws violative of the constitution.” 263 S.W.3d at 853; *see Stockton v. Morris & Pierce*, 110 S.W.2d 480, 483 (Tenn. 1937). This exception comports with the United States Supreme Court’s decision in *Ex parte Young*, 209, U.S. 123 (1908), and reflects the legal

⁶ For these same reasons, Tenn. Code Ann. § 1-3-121 would not waive the Attorney General’s sovereign immunity in this case—even if Plaintiff had invoked it. Section 1-3-121 creates a cause of action for an “affected person” challenging the “legality or constitutionality of a governmental action.” And Plaintiff has not alleged that the Attorney General has taken any “action” against her. *Cf. McNairy Cnty. Circuit Court Case No. 3279*, 645 S.W.3d at 168-69 (authorizing suit under Tenn. Code Ann. § 1-3-121 where the plaintiff challenged the “legality of the [state agency’s] action”).

fiction that “an officer acting pursuant to a statute that is unconstitutional and void does not act as an agent of the State.” *Colonial Pipeline*, 263 S.W.3d at 852-53.

This “narrow” exception does not apply to Plaintiff’s claims against the Attorney General, because the Attorney General is not an official “responsible for enforcing” an allegedly unconstitutional statute. *Id.* at 852 (quotation omitted); *see Whole Woman’s Health v. Jackson*, 595 U.S. 30, 39 (2021) (explaining that the *Ex parte Young* exception does not apply to State officials who do not enforce State laws). The Attorney General “lack[s] a ‘special relation to the particular statute’ and ‘[is] not expressly directed to see to its enforcement.’” *Russell v. Lundergan-Grimes*, 784 F.3d 1037, 1047 (6th Cir. 2015) (quoting *Ex parte Young*, 209 U.S. at 157). Plaintiff has not alleged that the Attorney General has enforced, is enforcing, or could enforce against her any of the statutes she challenges, and no provision in these statutes directs the Attorney General to enforce them. *See* Tenn. Code Ann. §§ 40-29-105, -204; *Colonial Pipeline*, 263 S.W.3d at 852-53. Nor does Tennessee law provide the Attorney General with a duty to enforce election and voter-restoration laws generally. *See* Tenn. Code Ann. § 8-6-109 (listing the duties of the Attorney General).

The Tennessee Declaratory Judgment Act does provide that a party challenging a statewide statute must serve the Attorney General “with a copy of the proceeding” and that the Attorney General is “entitled to be heard.” Tenn. Code Ann. § 29-14-107(b). But Tennessee’s appellate courts have interpreted this provision to require only that a party provide *notice* of her constitutional challenge to the Attorney General, thus affording the Attorney General with an opportunity to determine whether to intervene in the case. *See In re M.L.P.*, 281 S.W.3d 387, 393-94 (Tenn. 2009) (concluding that a party waived his constitutional challenge when he “failed to notify the Tennessee Attorney General”); *State v. Superior Oil, Inc.*, 875 S.W.2d 658, 659-60

(Tenn. 1994) (stating that “the record clearly reflects that the district attorney general complied with . . . § 29-14-107 by giving notice to the Office of the State Attorney General that the constitutionality of a state law was being questioned”); *Tennison Bros., v. Thomas*, 556 S.W.3d 697, 731 (Tenn. Ct. App. 2017) (finding waiver for failure to notify Attorney General); *see also* Tenn. R. Civ. P. 24.04 & Advisory Comm’n Comment (extending the protection of § 29-14-107(b) to all actions by requiring notice to the Attorney General when State is not otherwise a party; “[i]f the Attorney General feels that the State’s interest so requires, he or she will be in a position to intervene or take other appropriate action”).

The Attorney General acknowledges the existence of some older cases suggesting that § 29-14-107 provides for the Attorney General “to be joined as a party to a suit” challenging a statute as unconstitutional. *See Shelby Cnty. Bd. of Comm’rs v. Shelby Cnty. Quarterly Court*, 392 S.W.2d 935, 940 (Tenn. 1965); *Cummings v. Beeler*, 223 S.W.2d 913 (Tenn. 1949); *but see Cummings v. Shipp*, 3 S.W.2d 1062, 1063 (Tenn. 1928) (holding that the statute requires only “that the Attorney General . . . be served with a copy of the proceeding”). Those decisions, however, deviate from the modern practice;⁷ moreover, they do not abrogate traditional sovereign immunity, *see Colonial Pipeline*, 263 S.W.3d at 853 (“The Declaratory Judgment Act does not contain an explicit waiver of sovereign immunity.”), or standing principles, *see Massengale v. City of E. Ridge*, 399 S.W.3d 118, 127 (Tenn. Ct. App. 2012) (“Standing must still be established in a declaratory judgment action.”), so as to make the Attorney General subject to suit as a *party*

⁷ *See* Tenn. R. Civ. P. 24.04, Advisory Comm’n Comment (citing *Shipp* and stating that “[t]he object of the statute [§ 29-14-107(b)] is to protect the public’s interest in the result of the suit” and that “Rule 24.04 extends this protection to actions of any type”). Tennessee courts routinely allow the Attorney General to intervene in actions involving private parties for the sole purpose of defending state statutes. *See, e.g., Turner*, 473 S.W.3d at 265.

defendant in any case challenging a statute’s constitutionality. At best, they support only the proposition that the Attorney General should be a party solely for the purpose of defending the constitutionality of the statute.

II. Plaintiff Lacks Standing to Sue the Attorney General.

For much the same reason that the Attorney General enjoys sovereign immunity from Plaintiff’s suit, Plaintiff also lacks standing to sue him.

Tennessee courts are limited to deciding “legal controversies,” *Norma Faye Pyles Lynch*, 301 S.W.3d at 203 (quotation omitted), requiring a “real and existing” dispute “between parties with real and adverse interests,” *West v. Schofield*, 468 S.W.3d 482, 490 (Tenn. 2015) (quotation omitted). To determine whether a legal controversy exists, “Tennessee courts use justiciability doctrines that mirror the justiciability doctrines employed by the United States Supreme Court and the federal courts.” *West*, 468 S.W.3d at 490 (quotation omitted). As with subject-matter jurisdiction, justiciability is a “threshold question.” *UT Med. Grp., Inc. v. Vogt*, 235 S.W.3d 110, 119 (Tenn. 2006). Justiciability encompasses several distinct doctrines, one of which is standing. *City of Memphis v. Hargett*, 414 S.W.3d 88, 96 (Tenn. 2013).

The doctrine of standing promotes the “proper—and properly limited—role of the courts in a democratic society” by requiring a plaintiff to have “three indispensable elements” to maintain her suit. *Am. Civil Liberties Union v. Darnell*, 195 S.W.3d 612, 619-20 (Tenn. 2006) (quotations omitted). *First*, a plaintiff must have an injury that is both “distinct and palpable,” rather than one that is “conjectural or hypothetical.” *Id.* *Second*, a plaintiff must demonstrate a “causal connection between the claimed injury and the challenged conduct.” *Id.* at 620. *Third*, a plaintiff must show that the “alleged injury is capable of being redressed by a favorable decision of the court.” *Id.* (quotation omitted). “And standing is not dispensed in gross;” a plaintiff must “demonstrate

standing for each claim” that she presses and “for each form of relief” that she seeks. *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021). That also requires a plaintiff to “allege how the requested relief against *each* of the defendants could redress [her] alleged injuries-in-fact.” *Universal Life Church Monastery Storehouse v. Nabors*, 35 F.4th 1021, 1031 (6th Cir. 2022). A plaintiff “bears the burden of establishing” standing “by the same degree of evidence as other matters on which [she] bears the burden of proof.” *Metro. Gov’t of Nashville & Davidson Cnty. v. Tenn. Dep’t of Educ.*, 645 S.W.3d 141, 149 (Tenn. 2022) (quotation omitted).

With respect to her suit against the Attorney General, Plaintiff cannot establish either the causal-connection or redressability prongs. To show a “causal connection,” Plaintiff must demonstrate “the existence of a ‘fairly traceable’ connection between the alleged injury and the defendant’s challenged conduct.” *Darnell*, 195 S.W.3d at 620 (quoting *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 (2006)); *see Hewitt v. Helms*, 482 U.S. 755, 761 (1987) (stating that a declaratory judgment can only “resol[ve] . . . a ‘case or controversy’” by the “settling of some dispute *which affects the behavior of the defendant towards the plaintiff*” (emphasis in original)). So, Plaintiff’s complaint must allege what the Attorney General “has done, is doing, or might do to injure” her. *Universal Life Church*, 35 F.4th at 1031.

As discussed above, Plaintiff alleges no such connection here. She merely asserts that the Attorney General has authority to issue opinions about the interpretation of Tennessee law. (SAC, at 5, ¶ 19.) Plaintiff has not explained how this duty has any connection to the enforcement of a statute barring her from registering to vote because of her conviction. *See* Tenn. Code Ann. § 40-29-204. And while Plaintiff generally alleges that “Defendants” denied her attempt to register to vote (SAC, at 5, ¶ 16), she does not specifically allege that the Attorney General has denied any such attempt—nor could she. The Attorney General’s duties are “limited to handling appeals,

reporting court decisions, offering advisory opinions, suing to recover public funds, and defending the constitutionality of state statutes.” *Universal Life Church*, 35 F.4th at 1032 (citing Tenn. Code Ann. § 8-6-109). Even if the Attorney General is meant to be among the “Defendants” to which Plaintiff makes reference in Paragraph 16, she can only establish standing by demonstrating “a realistic danger of sustaining a direct injury as a result of the statute’s operation or enforcement.” *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298 (1979). Where, as here, “a defendant has no role in enforcing the law at issue, it follows that the plaintiff’s injury allegedly caused by that law is not traceable to the defendant.” *Disability Rights S.C. v. McMaster*, 24 F.4th 893, 902 (4th Cir. 2022); *see also Universal Life Church*, 35 F.4th at 1032-33 (holding that the plaintiffs lacked standing against the Attorney General because he had no authority “to prosecute plaintiffs” under the challenged statute); *Okpalobi v. Foster*, 244 F.3d 405, 426 (5th Cir. 2001) (noting the “long-standing rule that a plaintiff may not sue a state official who is without any power to enforce the complained of statute”).

Similarly, Plaintiff also cannot show that a favorable court order against the Attorney General would redress her injuries. This prong requires a plaintiff to show that it is “likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (quotation omitted). But since the Attorney General has no connection to enforcing any of the statutes Plaintiff challenges, a favorable court order against the Attorney General “would have no effect on his conduct.” *McMaster*, 24 F.4th at 903; *see also Universal Life Church*, 35 F.4th at 1032-33.

* * *

For all these reasons, the Attorney General is not a proper party to this suit and must be dismissed.

CONCLUSION

For the reasons stated, the Court should grant the Attorney General's motion for judgment on the pleadings and dismiss him as a party.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 6th day of June, 2024, a true and exact copy of the foregoing document was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing report. Parties may access this filing through the Court's electronic filing system. Additionally, a copy of the foregoing has been electronically mailed to the following:

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