

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

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

**RESPONSE OF THE ATTORNEY GENERAL IN OPPOSITION
TO PLAINTIFF'S MOTION TO COMPEL**

The Tennessee Attorney General and Reporter's sworn, verified answers to Plaintiff's discovery requests make clear that his Office has no knowledge or record of granting or denying Plaintiff's voter registration application and that the Office has no authority to do so. That should end the inquiry. In addition, by law, the Attorney General lacks any authority to grant or deny requests for voter registration.

Without identifying any facts to support her claim that the Attorney General actually was involved in the denial of her voter registration, and without any basis showing that he has such authority, Plaintiff contends that the Court should compel the Attorney General to provide different responses. This Court should deny Plaintiff's request. And this Court should reject Plaintiff's unprecedented view that she can name Attorney General as a defendant and compel him to disclose information relating to his role as legal counsel for the State of Tennessee.

BACKGROUND

Plaintiff applied for voter registration and restoration before her sentence expired.

In April 2019, Plaintiff filed a petition seeking the restoration of her citizenship rights. (Apr. 10, 2019 Pet., at 1 (Docket No. CT-1579-19).) In the petition, Plaintiff swore that her “[s]upervised probation or [p]arole expired” for her 2015 felony conviction. (*Id.* at 1, 3.)

Not so. Months later, the Shelby County Criminal Court ruled that Plaintiff’s sentence had not expired. (Att’y Gen.’s Mot. for Protective Order, Attach D., at MOSES-000253-54.) The Court of Criminal Appeals affirmed that ruling, further noting that Plaintiff’s sentence “was not scheduled to expire until April 29, 2022.” *Moses v. State*, W2019-01219-CCA-R3-CD, 2020 WL 4187317, at *2-4 (Tenn. Crim. App. July 20, 2020), *perm. app. denied* (Tenn. Dec. 4, 2020).

Yet two months after the Shelby County Criminal Court’s order, Plaintiff filled out a voter registration application, which required her to “MAIL OR HAND DELIVER [IT] TO [HER] COUNTY ELECTION COMMISSION.” (Attach. D, at MOSES-000251.) Along with that application, Plaintiff submitted a certificate of restoration to the county election commission. (*Id.* at MOSES-000220, MOSES-000250.) By email, Vicki Collins with the Shelby County Election Commission submitted Plaintiff’s certificate to the Secretary of State’s Division of Elections, noting that Plaintiff was “still on probation until 2020.” (*Id.* at MOSES-000220.) Later, the Division of Elections informed Ms. Collins that Plaintiff’s voting rights could not be restored because she “is permanently ineligible to vote due to her conviction.” (*Id.* at MOSES-000217.) That same day, the Division of Elections advised the Shelby County Election Commission that Plaintiff “cannot be restored at this time” because of Tenn. Code Ann. § 40-29-204. (*Id.* at MOSES-000218.)

At no time is there any indication that the Attorney General was part of that process.

The Attorney General’s verified answers demonstrate that neither he nor his Office has any knowledge or record of denying Plaintiff’s voting registration.

After the Court’s denial of his motion for judgment on the pleadings, the Attorney General answered Plaintiff’s discovery requests on November 22, 2024. (Ex. 1.) The Attorney General verified that his Office had no knowledge or record of any grant or denial of Plaintiff’s voter registration or restoration:

The Attorney General is an improper defendant in this matter and objects to providing any responses to Plaintiff’s discovery requests. Plaintiff alleges that she has ““been denied [voting] registration by Defendants[,]” including the Attorney General.” (August 23, 2024 Order, at 10.) Based solely on this “rather thin” allegation, the Court has concluded that the Attorney General is not entitled to be dismissed on a motion for judgment on the pleadings. (*Id.* at 10 & n.4, 11-12.)

The Attorney General makes clear: the Office of the Attorney General and Reporter has no knowledge or record of any grant or denial of Plaintiff’s voter registration or request for voter restoration by the Attorney General, any assistant attorney general, or any other employee of the Office of the Attorney General and Reporter. The Office of the Attorney General and Reporter does not have the legal authority to grant or deny Plaintiff’s voter registration or request for voter restoration. *See* Tenn. Code Ann. § 8-6-109; *see also id.* at § 2-2-139 (requiring an infamous criminal to submit proof of eligibility to register “to the administrator of elections in the county in which the person is seeking to register to vote”). Nor is the Office of the Attorney General and Reporter designated as a state agency with authority to serve as a voter registration agency. *See* Tenn. Code Ann. § 2-2-202. And even if it were, a county elections commission has the sole authority to grant or deny an infamous criminal’s voter registration application, including Plaintiff’s. *See* Tenn. Code Ann. §§ 2-2-125; 2-2-139; *Tenn. Conference of the NAACP v. Lee*, 105 F.4th 888, 893 (6th Cir. 2024) (detailing the process under Tenn. Code Ann. § 2-2-125 that county election officials “must follow” when rejecting applications for voter registration).

Because the sole basis for retaining the Attorney General in his official capacity as a defendant in this matter is whether the Attorney General denied Plaintiff’s voter registration, the Attorney General objects to providing any responses to Plaintiff’s requests that do not relate to that specific allegation. And because neither law nor fact supports Plaintiff’s allegation that the Attorney General denied her registration to vote, he is an improper defendant in this matter and has no relevant or discoverable information regarding her suit.

Additionally, the Attorney General serves as the executive head of Tennessee's legal department. Tenn. Code Ann. § 8-6-102. As part of those duties, the Attorney General is tasked with directing the legal business of the State, its officers, officials, departments, agencies, boards, commissions, and other State instrumentalities, including providing legal advice and directing the business of all civil litigated matters. Tenn. Code Ann. § 8-6-109. To the extent Plaintiff seeks information concerning trial strategy, mental impressions, work product, privileged attorney-client communications, or information falling under the legislative privilege doctrine, the Attorney General objects to such requests on the grounds that it seeks information protected from discovery and beyond the scope of Tenn. R. Civ. P. 26.02(4).

(Ex. 1, at PDF 2-4, 11-13.) He also answered that he had "no information responsive" to the discovery requests. (Ex. 1.)

Plaintiff, on the other hand, has provided no proof for claiming that the Attorney General was involved in denying her voter registration.

Plaintiff now seeks a Court order compelling the Attorney General to change his responses. (Dec. 6, 2024 Mem. in Support of Pl.'s Mot. to Compel (Pl.'s Mot), at 1.) That order would require the Attorney General to disclose privileged, confidential information as legal advisor to the State of Tennessee. For the following reasons, this Court should deny her request.

ARGUMENT

I. The Attorney General's Answers Are Proper.

The Attorney General's answers show that his Office has no record or knowledge of Plaintiff's registration or restoration requests. Nor does his Office have any authority to consider them. Plaintiff claims that these answers are improper, but she fails to point to any evidence showing otherwise.

The Tennessee Rules of Civil Procedure require a party served with interrogatories to answer them "separately and fully in writing under oath." Tenn. R. Civ. P. 33.01. Additionally, a party must provide written responses to a request for documents and specify any objections. Tenn. R. Civ. P. 34.02. Here, the Attorney General's answers satisfy both Rules. In answering Plaintiff's interrogatories, the Attorney General verified that his answers were "true and correct to the best of" his "knowledge, information, and belief." (Ex. 1, at 10, 20.) And he provided the same answers to Plaintiff's request for production of documents. (Ex. 1, at 21-23, 31-33.)

Plaintiff argues that the Rules of Civil Procedure require parties "to search for or produce non-privileged information." (Pl.'s Mot. at 17.) Plaintiff assumes that the Attorney General has "non-privileged information" relating to her claims. He does not. The Attorney General has no role in the registration or restoration process. (Ex. 1.)

All the information Plaintiff seeks from the Attorney General falls squarely within his duties to represent the State. Tenn. Code Ann. § 8-6-109(b)(1), (5). As his verified answers confirm, that information is "protected from discovery and beyond the scope of" Rule 26.02. (Ex. 1.) The Court should not tolerate Plaintiff's attempt to indirectly seek discovery from a State official by naming their legal counsel as a defendant. *See Pagliara v. Pagliara*, 614 S.W.3d 85,

88 (Tenn. Ct. App. 2020) (“Attorney-client privilege belongs to the client and may be waived by the client.”).

II. Plaintiff’s Motion to Compel is Improper.

The Tennessee Rules of Civil Procedure permit a party to apply for a court order compelling another to “answer an interrogatory submitted under Rule 33.” Tenn. R. Civ. P. 37.01(b). A party may also move for an order requiring a party to “respond” to a request for production of documents. Tenn. R. Civ. P. 34.02. A trial court’s decision on pretrial discovery decisions is entrusted to its discretion. *West v. Schofield*, 460 S.W.3d 113, 120 (Tenn. 2015). A trial court abuses that discretion if it applies an incorrect legal standard, reaches an illogical conclusion, renders a decision based on a clearly erroneous assessment of the evidence, or employs reasoning that causes an injustice to the complaining party. *Id.*

Here, the Attorney General responded to all of Plaintiff’s discovery requests. (Ex. 1.) Plaintiff’s “disagreement with the substance of” those answers “does not constitute a basis for a successful motion to compel.” *Williamson v. Univ. of Louisville*, No. 3:20-cv-00266-DJH-rse, 2023 WL 206741, at *1-2 (W.D. Ky. Feb. 16, 2023) (Edwards, M.J.) (collecting cases). None of Plaintiff’s assertions provide the Court with any reason to doubt the Attorney General’s answers that are both verified and track his statutory authority.

Plaintiff contends that the Attorney General must “identify[]” or “track[]” infamous criminals because he “moved to intervene” in a restoration of citizenship proceeding. (Pl.’s Mot. at 10-12 (referencing Pl.’s Exs. J and K).) But Plaintiff misreads her own exhibits. They show that the “State of Tennessee, by and through the Attorney General,” moved to alter the Davidson County Criminal Court’s order in that proceeding, a proceeding where the State was a party. (Pl.’s Mot., at Exs. J-K; *see also* Ex. 2 (Reply in Support of the Motion of the State), at 4 (arguing that

the State had “no need for intervention” because it was a party to the proceedings).) That notion is unremarkable. The Attorney General has the express statutory duty to direct the State’s litigation.¹ Tenn. Code Ann. § 8-6-109(b)(1). Plaintiff cannot trivialize the Attorney General’s legal representation for the State as amounting to “identifying” or “tracking” offenders. By that logic, Plaintiff could serve subpoenas on various Tennessee Circuit and Criminal Courts asking judges how they “track” or “identify” offenders who appear before them.

Plaintiff next asserts that the Attorney General must have information “related to” Tenn. Code Ann. § 40-29-204 and § 40-29-105(c)(2)(B) because he has issued publicly available opinions referencing them. (Pl.’s Mot. at 12.) The Attorney General must provide “written *legal* opinions” on “all matters submitted by” State officials “in the discharge of their official duties,” which are then “made available for public inspection.” Tenn. Code Ann. § 8-6-109(b)(6) (emphasis added). Plaintiff makes no claim that these publicly available opinions are unavailable to her. More to the point, the Attorney General’s legal opinions lack any connection to Plaintiff’s constitutional challenge to her statutory ineligibility to restore her voting rights under Tenn. Code Ann. § 40-29-204. (Second Am. Compl., at 29-39.)

Plaintiff also suggests that she is entitled to the drafts those opinions (Pl.’s Mot. at 12 n.6), but that cannot be right. Plaintiff sent Defendants various letters and emails regarding her opinions on Defendants’ discovery responses, and she did not produce any nonfinal drafts of them. To be

¹ The cases listing the Attorney General as counsel for the State in restoration proceedings are legion. *E.g. Sutton v. State*, No. M2024-00760-COA-T10B_CV, 2024 WL 3308169 (Tenn. Ct. App. July 5, 2024); *State v. DeDreux*, No. E2021-00786-COA-R3-CV, 2022 WL 1115017 (Tenn. Ct. App. Apr. 14, 2022); *Moffitt v. State*, No. W2018-01108-COA-R3-CV, 2018 WL 6333620 (Tenn. Ct. App. Dec. 4, 2018); *State v. Dixon*, No. W2017-01051-COA-R3-CV, 2018 WL 1168693 (Tenn. Ct. App. Mar. 6, 2018).

sure, no one would credibly suggest that those drafts are anything other than confidential and privileged (much less relevant to the merits of this action). But that does not change merely because the Attorney General provides the State with legal advice.

Finally, Plaintiff asserts that the Attorney General must have information “regarding or related to [her]” because she named the Attorney General as a defendant. (Pl.’s Mot. at 13.) But the Attorney General’s answers show otherwise. (Ex. 1.) Plaintiff also contends that the Secretary of State’s and Coordinator of Election’s “decisions regarding felony disenfranchisement” are “traced or otherwise linked to the Attorney General’s Office.” (Pl.’s July 23, 2024 Suppl. Submission, at 2.) By her own claims, the Attorney General’s information about Plaintiff is intertwined with his duty to represent those officials. That Plaintiff seeks the Court to compel the Attorney General to provide information relating to his legal representative role is the exact reason he argued that her requests may lead to the disclosure of “mounds of documents, communications, and depositions.” (Aug. 30, 2024 Mem. in Support of Mot. to Stay, at 4.)

Plaintiff says that because the Attorney General answered that he has no information means that she can demand that he tell her what steps he took to respond to her requests. (Pl.’s Mot. at 5, 7.) Plaintiff is not entitled to that information. Her “[s]peculation of wrongdoing [is] not enough” to seek “discovery on discovery.” *Culliver v. BP Exploration & Produc. Inc.*, No. 3:21-cv-4942-MCR-htc, 2022 WL 19568966, at *1-2 (N.D. Fla. Nov. 29, 2022) (Cannon, M.J.) (collecting cases). Nor can Plaintiff’s disagreement with the Attorney General’s responses. *See id.* Simply put, Plaintiff is not entitled to an order compelling the Attorney General to provide different responses.

CONCLUSION

For the reasons stated, the Court should deny Plaintiff's motion to compel.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 11th day of December, 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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