

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

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

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**MEMORANDUM AND ORDER**

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Before the Court<sup>1</sup> are the following motions: (1) the Second Motion to Dismiss of Defendants Mark Goins, in his official capacity as the Tennessee Coordinator of Elections, Tre Hargett, in his official capacity as the Tennessee Secretary of State, and Jonathan Skrmetti, in his official capacity as the Tennessee Attorney General and Reporter; (2) Plaintiff’s Motion for Partial Summary Judgment; and (3) Defendants’ Motion for Summary Judgment. Counsel for all sides appeared before the Court, via Zoom, on September 10, 2025, to present oral argument on these motions.<sup>2</sup> Also before the Court are (4) Plaintiff’s Second Motion for Partial Summary Judgment and (5) Defendants’ Motion for Partial Summary Judgment, which have been considered on the briefs.

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<sup>1</sup> This Court sits as a Three-Judge Panel pursuant Tenn. Code Ann. § 20-18-101, Tenn. Sup. Ct. R. 54, and the August 12, 2022 and September 19, 2023 Orders of the Tennessee Supreme Court.

<sup>2</sup> The parties also argued Plaintiff’s Motion for Leave to Amend her Second Amended Complaint, which we granted in part and denied in part in our September 16, 2025 order.

For the reasons that follow, Defendants’ Motions are **GRANTED IN PART**, with respect to Attorney General Skrmetti and Secretary Hargett, **AND DENIED IN PART** with respect to Coordinator Goins. Accordingly, all claims against Attorney General Skrmetti and Secretary Hargett are hereby **DISMISSED**. Additionally, Defendants’ Motions are **GRANTED** with respect to Plaintiff’s *facial* challenge under the jury-conviction requirement of the Free and Equal Elections Clause. As to the remaining issues in the parties’ Motions, the Court **RESERVES** ruling on them until after the trial scheduled to begin on January 20, 2026. *See Turner v. Lee*, No. 22-0287-IV, at \*19, ¶ 2 (Tenn. Ch. Ct., Davidson Cnty., Mar. 27, 2023). The Court finds that the parties will not be prejudiced because they are already prepared for the imminent trial and because it is a bench trial, meaning the Court will still be making its findings of fact and conclusions of law, so there is no risk of improperly exposing the trier of fact to evidence or arguments that should not be considered. *See id.*

### **BACKGROUND**

Plaintiff brings a constitutional challenge to the relevant portion of Tenn. Code Ann. § 40-29-102,<sup>3</sup> which states:

(b) The following persons shall never be eligible to have the right of suffrage restored and vote in this state:

...

(3) A person convicted on or after July 1, 2006, of

...

(B) Any violation of title 39, chapter 16, part 1, 4, or 5 designated as a felony or any violation containing the same elements and designated as a felony in any other state or federal court . . . .

Tenn. Code Ann. § 40-29-102(b)(3)(B). We discuss the procedural posture of this case below.

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<sup>3</sup> As discussed in this section, Plaintiff initially challenged prior versions of this statutory language in other statutes.

Plaintiff initiated this action on April 10, 2019, with a *pro se* Petition for Restoration of Citizenship Rights before the Shelby County Circuit Court. One week later, the Shelby County District Attorney’s office filed a Response to Plaintiff’s Petition, stating that she was currently still serving probation as part of her sentence and therefore ineligible for restoration of her rights pursuant to Tenn. Code Ann. §§ 40-29-101, *et seq.* State’s Resp. to Pet. for Restoration of Citizenship, at 1–2, Apr. 17, 2019. After a period in which several motions were filed in the months of May and June in the same year, the District Attorney’s Office came back in October and amended the State’s Response. State’s Am. Resp. to Pet. for Restoration of Citizenship, at 1, Oct. 17, 2019 [hereinafter “State’s Am. Resp.”]. Pointing to Plaintiff’s conviction for tampering with evidence under Tenn. Code Ann. § 39-16-503, the Amended Response indicated that Plaintiff was permanently ineligible to have her voting rights restored under Tenn. Code Ann. § 40-29-204(3)(B).<sup>4</sup> State’s Am. Resp., at 2–3.

Further litigation in the case was ultimately continued until February 2022. Order, at 1, Jan. 15, 2021. In June 2022, Plaintiff filed an Amended Petition that challenged Tenn. Code Ann. §§ 40-29-204, 40-20-112, and 40-29-105—which are (or were) respectively the statutes dealing with permanent felon disenfranchisement, general felon disenfranchisement, and the process for restoration of voting rights for convicted felons—as vague and overbroad. Am. Pet. for Full Restoration of Citizenship & Judicial Review, at 5, June 2, 2022 [hereinafter “Am. Pet.”]. The Amended Petition additionally challenged “ [t]he permanent disenfranchisement of Pamela Moses” under the Cruel and Unusual Punishment, Ex Post Facto, and Law of the Land Clauses. Am. Pet., at 5. The Amended Petition further charged that the State of Tennessee violated

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<sup>4</sup> The operative statutory provision with this same effect of permanent disenfranchisement is now Tenn. Code Ann. § 40-29-102(b)(3)(B).

Plaintiff's substantive due process rights, her procedural due process rights, and further failed to provide her with adequate notice of permanent disenfranchisement. Am. Pet., at 5. The District Attorney's Office subsequently filed a Response to the Amended Petition, which argued that permanent felon disenfranchisement neither amounts to a cruel and punishment nor violates due process under the Tennessee Constitution. Resp. to Am. Pet. for Full Citizenship & Judicial Review, at 3–6, June 28, 2022 [hereinafter "Resp. to Am. Pet."]. The Response further asserted that Plaintiff's remaining claims were not cognizable in the current civil proceeding but were appropriate for a post-conviction proceeding under Tenn. Code Ann. §§ 40-30-101, *et seq.* Resp. to Am. Pet., at 7.

Two days later, Plaintiff filed a Second Amended Petition that added then-Attorney General Herbert H. Slatery III as a respondent but raised the same constitutional challenges. Am. Pet. for Restoration of Citizenship & Judicial Review, at 1, June 30, 2022. Plaintiff subsequently acquired counsel who entered his appearance on July 13, 2022. Plaintiff's new counsel then filed notice that her case satisfied the criteria for appointment of a three-judge panel under Tenn. Code Ann. § 20-18-101. Notice of Satisfaction of Interim Tennessee Supreme Court Rule 54 as Amended (Appointment of Three-Judge Panel), at 1, Jul. 25, 2022. Ultimately, the Tennessee Supreme Court agreed and appointed a three-judge panel to hear and determine this action. Order, at 1, Aug. 12, 2022. Plaintiff then sought and was granted leave to replace her second Amended Petition with the Second Amended Complaint. *See* Mot. for Leave to Amend Pursuant to Rule 15 of the Tennessee Rules of Civil Procedure and Mem. in Supp., at 1, Sep. 13, 2022; Resp. in Opp'n to Mot. for Leave to Am., at 1, Sep. 30, 2022; Reply in Supp. of Mot. for Leave to Am., at 1, Oct. 7, 2022; Agreed Order Granting Petitioner Pamela Moses' Motion for Leave to Amend Her Amended Petition, at 1–2, Oct. 24, 2022.

The Second Amended Complaint, which was again amended as of our September 16, 2025 order, focused Plaintiff’s constitutional challenges against permanent felon disenfranchisement, particularly the statute that prescribed permanent disenfranchisement, Tenn. Code Ann. § 40-29-204, and the statute that provides the procedures for restoration of voting rights, Tenn. Code Ann. § 40-29-105. *See* 2d Am. Compl., at 39–41, Oct. 13, 2022. The Second Amended Complaint also swapped in the current Attorney General and added Coordinator Goins and Secretary Hargett as Defendants. 2d Am. Compl., at 1. Plaintiff ultimately seeks a declaration that Tennessee’s permanent felony disenfranchisement laws violated the Tennessee Constitution and an injunction against Defendants from enforcing them. 2d Am. Compl., ¶ 15. Her claims consisted of constitutional challenges, both facial and as-applied, brought against the Permanent Disenfranchisement Statutes—which Plaintiff defined as Tenn. Code Ann. §§ 40-29-105, -204—under the Free and Equal Elections Clause (Counts One and Six), Tenn. Const. art. I, § 5; the Equal Protection Guarantee (Counts Two and Ten, race-based discrimination; Counts Three and Nine, discrimination against convicted felons), Tenn. Const. art. I, § 8, art. XI, § 8; the Cruel and Unusual Punishment Clause (Counts Four and Eight), Tenn. Const. art. I, § 16; and the Due Process Guarantee or Law of the Land Clause (Counts Five and Seven), Tenn. Const. art. I, § 8. 2d Am. Compl., ¶¶ 87–143. The Due Process claims and the Free and Equal Elections claims were further subdivided under different theories. With respect to the Due Process Guarantee, Plaintiff advanced both procedural and substantive due process theories. 2d Am. Compl., ¶¶ 117–19, 124–30. With respect to the Free and Equal Elections Clause, Plaintiff advanced theories both of electoral manipulation and failure to adhere to the jury-conviction requirement. 2d Am. Compl., ¶¶ 87–94, 121–23.<sup>5</sup>

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<sup>5</sup> Defendants dispute whether Plaintiff ever advanced a jury-conviction theory under the Free and Equal Elections Clause prior to the summary judgment stage. We addressed this issue in our September 16, 2025 order and determined

In our order on Defendants’ First Motion to Dismiss, we dismissed<sup>6</sup> Plaintiff’s convicted-felon Equal Protection claims, her Cruel and Unusual Punishment claims, and her *procedural* Due Process claims. Order Granting in Part and Dismissing in Part Defendants’ Motion to Dismiss, at 32 [hereinafter “MTD Order”]. This left intact both her Free and Equal Elections claims, both her race-based Equal Protection claims, and the substantive due process components of her Due Process claims. *See* MTD Order, at 32.

After a year of mostly discovery-related litigation, Attorney General Skrmetti sought his dismissal from the action based upon sovereign immunity and a lack of standing. Mot. of Jonathan Skrmetti for J. on the Pleadings, at 1, June 6, 2024. The Court disagreed, concluding that sovereign immunity did not insulate the Attorney General from this action and that Plaintiff had adequately pleaded sufficient facts to give rise to standing, and therefore denied the motion. Order Denying Defendant Attorney General Skrmetti’s Mot. for J. on the Pleadings, at 1, Aug. 23, 2024 [hereinafter “MJP Order”]. We cautioned Plaintiff, however, that the allegation against the Attorney General appeared “to be fairly thin” and would require “supporting proof in subsequent stages of this litigation.” MJP Order, at 10.

On May 2, 2025, Governor Bill Lee signed into law 2025 Tenn. Pub. Acts, ch. 298 (S.B. 407), which contained a number of amendments to the statutes relevant to this case. First and foremost, the bill repealed the existing Permanent Disenfranchisement Statutes and replaced them with a new version of Tenn. Code Ann. § 40-29-102. *See* Tenn. Pub. Acts, ch. 298, §§ 8–10.

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that this theory, while not expressly stated in the Second Amended Complaint, was fairly implied by the allegations made.

<sup>6</sup> We also dismissed Plaintiff’s apparent additional challenge to provisions of the Tennessee Constitution itself on the basis that she never brought any claim that relied upon the federal Constitution because the Tennessee Constitution cannot displace itself. Order Granting in Part and Denying in Part Defendants’ Motion to Dismiss, at 17–19, Jul. 19, 2023.

Those provisions are substantively the same as before. Additional amendments changing the process of restoration of voting rights, however, have been raised by Defendants as the basis for the instant Motion to Dismiss. *See* Defs.’ Mem. in Supp. of Mot. to Dismiss, at 2–5, June 5, 2025. In response to these amendments, the Court has allowed Plaintiff to make largely administrative amendments to her Second Amended Complaint. *See* Order Granting in Part and Denying in Part Mot. for Leave to Am., at 1, Sep. 16, 2025.

In their Motion for Summary Judgment, Defendants likewise seek dismissal of each Defendant on the basis of standing and mootness. They further seek the dismissal of all of Plaintiff’s claims on the merits. Plaintiff has additionally filed a Motion for Partial Summary Judgment on her Article I, Section 5 claims brought under her jury-conviction requirement theory.

## **LEGAL STANDARDS**

### **I. Motion to Dismiss**

Defendants move under Tennessee Rule of Civil Procedure 12.02(6), which provides for dismissal in the event of a “failure to state a claim upon which relief may be granted.” A motion made under Rule 12.02(6) “tests ‘only the legal sufficiency of the complaint, not the strength of the plaintiff’s proof or evidence.’” *Elvis Presley Enterprises, Inc. v. City of Memphis*, 620 S.W.3d 318, 323 (Tenn. 2021) (quoting *Webb v. Nashville Area Habitat for Human., Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011)); *Dobbs v. Guenther*, 846 S.W.2d 270, 273–74 (Tenn. Ct. App. 1992) (citing *Sanders v. Vinson*, 558 S.W.2d 838, 840 (Tenn. 1977)). As such, a plaintiff’s allegations<sup>7</sup> are taken as true. *Id.* (citing *Crews v. Buckman Labs. Int’l, Inc.*, 78 S.W.3d 852, 857 (Tenn. 2002)). And all inferences that the Court might reasonably draw from those allegations are drawn in the

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<sup>7</sup> “Legal arguments or legal conclusions couched as facts” are not factual allegations and therefore are not taken as true. *Estate of Haire v. Webster*, 570 S.W.3d 683, 690 (Tenn. 2019) (quoting *Moore-Pennoyer v. State*, 515 S.W.3d 271, 276 (Tenn. 2017)) (alterations and internal quotation marks omitted).

plaintiff's favor. *Webb*, 346 S.W.3d at 426 (quoting *Tigg v. Pirelli Tire Corp.*, 232 S.W.3d 28, 31–32 (Tenn. 2007)). Indeed, by the very act of filing a motion to dismiss, a defendant—*only* for the purposes of that motion—“admit[s] the truth of all of the relevant and material allegations contained in the complaint, but . . . assert[s] that the allegations fail to establish a cause of action.” *Elvis Presley Enterprises, Inc.*, 620 S.W.3d at 323 (quoting *Leach v. Taylor*, 124 S.W.3d 87, 90 (Tenn. 2004)). Accordingly, we are compelled to “grant a motion to dismiss only when it appears that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.” *Id.* (quoting *Crews*, 78 S.W.3d at 857).

## **II. Motion for Summary Judgment**

Summary judgment “shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Tenn. R. Civ. P. 56.04; *Lemon v. Williamson Cnty. Schs.*, 618 S.W.3d 1, 12 (Tenn. 2021). “Whether the nonmoving party is a plaintiff or a defendant—and whether or not the nonmoving party bears the burden of proof at trial on the challenged claim or defense—at the summary judgment stage, “[t]he nonmoving party must demonstrate the existence of specific facts in the record which could lead a rational trier of fact to find in favor of the nonmoving party.” *TWB Architects, Inc. v. Braxton, LLC*, 578 S.W.3d 879, 889 (Tenn. 2019) (quoting *Rye v. Women’s Care Ctr. of Memphis, M PLLC*, 477 S.W.3d 235, 265 (Tenn. 2015)) (alteration in original). “In adjudicating motions for summary judgment, courts must view the evidence in the light most favorable to the nonmoving party and resolve doubts concerning the existence of genuine issues of material fact in favor of the nonmoving party.” *Thompson v. Memphis City Sch. Bd. of Educ.*,

395 S.W.3d 616, 622 (Tenn. 2012) (citing *Martin v. Norfolk S. Ry.*, 271 S.W.3d 76, 83 (Tenn. 2008)).

## **FINDINGS OF FACT**

### **I. Undisputed Facts Presented by the Parties**

Unless otherwise noted, the following facts are not disputed by the parties and the Court adopts them as part of our Findings of Fact. Additional context provided in footnote, while relevant to our considerations, is not adopted as part of the Court’s Findings.

On April 29, 2015, Plaintiff pleaded guilty to and was convicted of tampering with evidence, in violation of Title 39, Chapter 16, Section 503 of the Tennessee Code.<sup>8</sup> Plaintiff has three felony convictions for (i) aggravated assault; (ii) tampering with evidence;<sup>9</sup> and (iii) forgery. Each of Plaintiff’s felony convictions was by guilty plea; none was by jury verdict. Plaintiff was removed from the voter rolls, preventing from registering to vote, and denied her ability to vote.<sup>10</sup> Plaintiff is unable to vote in Tennessee based upon felony convictions secured by guilty pleas rather than by a jury.

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<sup>8</sup> Plaintiff qualifies Defendants’ statement by disputing whether she pleaded guilty knowingly and voluntarily and whether her conviction was supported by the evidence.

<sup>9</sup> Defendants do not dispute this statement of fact but instead say it requires qualification: The Tennessee Court of Criminal Appeals concluded that Plaintiff pleaded guilty to the felony offense of “tampering with or fabricating evidence” because she “fabricated a judicial complaint form to the Tennessee Board of Judicial Conduct against the general sessions judge who previously held [Plaintiff] in criminal contempt.”

<sup>10</sup> Defendants assert this statement is in need of several qualifications:

As her evidence shows, Plaintiff was convicted of the felony of aggravated assault on July 31, 2000, but was not purged by Knox County until April 11, 2001. (Pl.’s Ex. Q.) Further, Plaintiff registered to vote in Shelby County on October 2, 2004, before she was purged again on March 11, 2014. (*Id.*) Plaintiff restored her voting rights from her aggravated assault conviction on March 28, 2014. (*Id.*) Plaintiff again registered to vote in Shelby County on April 1, 2014. (*Id.*)

On April 29, 2015, Plaintiff was convicted of felony tampering with or fabricating evidence and forgery in Shelby County. (*Id.*) After her convictions, Plaintiff voted in Shelby County on October 8, 2015, August 4, 2016, November 8, 2016, and on May 1, August 2, and November 6, 2018. (*Id.*) Plaintiff was purged by Shelby County on September 27, 2019. (*Id.*)

Kathryn Bowers was a State Senator from Shelby County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Senator Bowers was black. Thelma Harper was a State Senator in Davidson County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Senator Harper was black.

Larry Turner was a State Representative from Shelby County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Turner was black. Ulysses Jones was a State Representative from Shelby County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Jones was black. Barbara Ward Cooper was a State Representative from Shelby County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Cooper was black. Henri Brooks was a State Representative from Shelby County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Brooks was black. Joanne Favors was a State Representative from Hamilton County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Favors was black. Johnny Shaw was a State Representative from Bolivar, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Shaw was black. Edith Taylor Langster was a State Representative from Davidson County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Langster was black. Tommie Brown was a State Representative from Hamilton County, Tennessee, that sponsored Chapter 860 of the Tennessee Public Acts. Representative Brown was black. Mary Pruitt was a State Representative from Davidson County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Pruitt was black. Joe Towns, Jr., was a State Representative from Shelby County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Towns was black. Larry Miller was a State Representative from

Shelby County, Tennessee, that sponsored Chapter 860 of the 2006 Tennessee Public Acts. Representative Miller was black.

## **II. Facts Disputed by the Parties and the Court's Findings Pertaining Thereto**

1. Statement: Ms. Moses was injured when the application to register to vote that she submitted in September 2019 was denied and her injury is ongoing as she has been unable to vote in any election in Tennessee since that time. (citing September 3, 2019 Letter from Mark Goins to Linda Phillips and September 4, 2019 Letter from Shelby County Election Commission to Pamela Moses.)

Response: Defendants dispute this statement as not supported by the record because the letters communicate the fact that Plaintiff was permanently ineligible to vote under Tennessee law because of her conviction. *See* Pl's R. 56.03 Statement of Add'l Facts, Exs. N, O.

Finding: The Court finds Ms. Moses has produced evidence tending to support this assertion.

2. Statement: Ms. Moses's 2019 voter registration application was denied because of the decision of Defendant Mark Goins—in his capacity as an agent of Defendant Hargett—that she was not eligible to register to vote or to vote. (citing September 3, 2019 Letter from Mark Goins to Linda Phillips and September 4, 2019 Letter from Shelby County Election Commission to Pamela Moses, and Tenn. Code Ann. § 2-11-201(a).)

Response: Defendants first object that this is an improper conclusion of law rather than a statement of fact. *See* Tenn. R. Civ. P. 56.03; *Falls v. Goins*, 673 S.W.3d 173, 178 23 (Tenn. 2023). Defendants next argue that the statement is not supported by the record because the letters cited simply communicate that Plaintiff was permanently ineligible to vote under Tennessee law due to her conviction. *See* Pl's R. 56.03 Statement of Add'l Facts, Exs. N, O. To date, Plaintiff

has not received a pardon from the governor or had her right of suffrage restored as prescribed by law. *See* Moses Dep., at 61–62.) And if Ms. Moses is a resident of Shelby County, the Shelby County Election Commission is the body charged with reviewing and deciding upon her application to register to vote. *See* Pl’s R. 56.03 Statement of Add’l Facts, Ex. O; Tenn. Code Ann. § 2-2-125.

Finding: The Court finds Ms. Moses has produced evidence tending to support this assertion.

3. Statement: Ms. Moses 2019 voter registration application was denied, in part, because the Attorney General has advised that Tennesseans can be disenfranchised on the basis of a felony conviction regardless of whether the conviction was secured by a jury or a guilty plea, and Defendants Hargett and Goins relied upon the Attorney General’s guidance in denying Pamela Moses’s voter registration application. (citing the Deposition of Mark Goins, the Deposition of Beth Henry-Robertson, the Division Deposition, and Attorney General Opinion No. 20-02 (Feb. 25, 2020).)

Response: Defendants dispute that this statement is supported by the record. The cited Attorney General Opinion provides an opinion as to whether “a law restoring the voting rights of convicted felons who have entered into a payment plan for restitution, child support, and court costs” would be “constitutionally suspect if it also provided for the revocation of those restored voting rights when a convicted felon fails to abide by the terms of the payment plan.” *See* Tenn. Op. Atty. Gen. No. 20-02, 2020 WL 1077741, at \*1, \*4 (Tenn. A.G. Feb. 25, 2020). Even if that Opinion did support Plaintiff’s assertion, the Tennessee Supreme Court has concluded that “a conviction for any felony results in ‘immediate[] disqualifi[cation] from exercising the right of suffrage.” *Falls v. Goins*, 673 S.W.3d 173, 179 (Tenn. 2023) (quoting Tenn. Code Ann. § 40-20-

112). Moreover, the cited depositions do not contain any indication that either the Secretary of State or the Coordinator of Elections sought or relied upon the legal advice from the Attorney General regarding Plaintiff's request to restore her voting rights or her request to register to vote. *See* Goins Dep., at 32, 62; Henry-Robertson Dep., 126–27, 130; Division Dep., at 53. Furthermore, if Ms. Moses is a resident of Shelby County, the Shelby County Election Commission is the body charged with reviewing and deciding upon her application to register to vote. *See* Pl's R. 56.03 Statement of Add'l Facts, Ex. O; Tenn. Code Ann. § 2-2-125.

Finding: The Court accepts this statement *arguendo* for purposes of its discussion on standing.

4. Statement: The circumstantial evidence indicates that the Attorney General was likely consulted with respect to Pamela Moses's prior voter registration application and the aftermath of her attempting to register to vote. (citing the same as Statement No. 24.)

Response: Defendants provide the same response as to Statement No. 24.

Finding: The Court accepts this statement *arguendo* for purposes of its discussion on standing.

5. Statement: The Attorney General plays a key role in deciding whether to challenge the efforts of disenfranchised persons to regain their voting rights. (citing to the Deposition of Beth Henry-Robertson and the Attorney General's Responses to Plaintiff's Third Set of Interrogatories.)

Response: Defendants assert this statement is not supported by the record as Plaintiff's citation is to pages that were not provided as part of the attached exhibit. *See generally* Henry-Robertson Dep. (Pl's R. 56.03 Statement of Add'l Facts, Ex. C). Furthermore, the Attorney General's Responses show only that (1) outside of his statutory duties to provide legal "representation for the State of Tennessee and its officials, the Attorney General does not perform

activities relating to felony disenfranchisement, the eligibility or ineligibility of felons to register to vote, and/or voting rights restoration,” and (2) that “the Attorney General has not directed, and does not direct, any State of Tennessee official too deny a felony offender’s application to register to vote and/or restore his or her voting rights.” Def. Skrmetti’s Objs. & Resps. to Pl’s 3d Set of Interrogatories, at 4–5, 8, Mar. 17, 2025.

Finding: The Court accepts this statement *arguendo* for purposes of its discussion on standing.

6. Statement: If the Court directs Defendants to permit Ms. Moses to register to vote and vote in Tennessee elections, then Ms. Moses could apply to register to vote, Defendant Goins acting on behalf of Defendant Hargett would inform the county administrator of elections that she is eligible to vote despite having been convicted of an infamous crime, her application would be approved, and Ms. Moses would thereafter be able to vote in Tennessee elections without petitioning the circuit court for restoration of her voting rights. (citing the Deposition of Mark Goins, the Division Deposition, and Tenn. Code Ann. §§ 2-2-139(b), (c), 2-11-201(a).)

Response: Defendants first object that this is an improper conclusion of law rather than a statement of fact. *See* Tenn. R. Civ. P. 56.03; *Falls v. Goins*, 673 S.W.3d 173, 178 23 (Tenn. 2023). Defendants next argue that the statement is not supported by the record because the citations show only that the county “election commission reinstates” a person that “was improperly purged,” not Defendants. *See* Division Dep., at 51. *See generally* Goins Dep.

Finding: While whether the Court may do as this statement provides is a conclusion of law, the Court finds that Plaintiff has produced evidence tending to support the availability of relief.

7. With respect to the remaining statements of fact provided in connection with all four of the motions for summary judgment, the Court reserves its ruling as to each of those statements.

### **CONCLUSIONS OF LAW**

All three dispositive motions are analyzed herein together. The Court recognizes that there are differing legal standards and burdens of proof at play will distinguish between them as necessary.

#### **I. Standing**

In Tennessee, “the province of a court is to decide, not advise, and to settle rights, not to give abstract opinions.” *Norma Faye Pyles Lynch Family Purpose LLC v. Putnam Cnty.*, 301 S.W.3d 196, 203 (Tenn. 2009) (quoting *State v. Wilson*, 70 Tenn. (2 Lea) 204, 210 (1879)). One doctrine utilized by our courts to ensure the appropriate exercise of judicial power is standing. *See id.* “Courts use the doctrine of standing to determine whether a litigant is entitled to pursue judicial relief as to a particular issue or cause of action.” *City of Memphis v. Hargett*, 414 S.W.3d 88, 97 (Tenn. 2013) (citing *ACLU of Tenn. v. Darnell*, 195 S.W.3d 612, 619 (Tenn. 2006); *Knierim v. Leatherwood*, 542 S.W.2d 806, 808 (Tenn. 1976)). It is “rooted in the traditional understanding of a case or controversy.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). “Grounded upon ‘concern about the proper—and properly limited—role of the courts in a democratic society,’ the doctrine of standing precludes courts from adjudicating ‘an action at the instance of one whose rights have not been invaded or infringed.’” *Darnell*, 195 S.W.3d at 619–20 (quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975); *Mayhew v. Wilder*, 46 S.W.3d 760, 767 (Tenn. Ct. App. 2001)). Standing thus presents a threshold issue. *Fisher v. Hargett*, 604 S.W.3d 381, 396 (Tenn. 2020)

(citing *City of Memphis*, 414 S.W.3d at 96) (“The question of standing is one that ordinarily precedes a consideration of the merits of a claim.”).

The doctrine also directs the court to focus on the party bringing the lawsuit rather than the merits of the claim. *Fisher*, 604 S.W.3d at 396 (“The proper focus of a determination of standing is a party’s right to bring a cause of action, and the likelihood of success on the merits does not factor into such an inquiry.”); see also *Metro. Gov’t of Nashville & Davidson Cnty. v. Tenn. Dep’t of Educ.*, 645 S.W.3d 141, 149 (Tenn. 2022) (quoting *Warth*, 422 U.S. at 500) (“While standing ‘often turns on the nature and source of the claim asserted,’ it ‘in no way depends on the merits’ of the claim.”).

Our jurisprudence recognizes two categories of standing that govern who may bring a civil cause of action: non-constitutional standing and constitutional standing. Non-constitutional standing focuses on considerations of judicial restraint, such as whether a complaint raises generalized questions more properly addressed by another branch of the government, and questions of statutory interpretation, such as whether a statute designates who may bring a cause of action or creates a limited zone of interests. Constitutional standing, the issue in this case, is one of the “irreducible . . . minimum” requirements that a party must meet in order to present a justiciable controversy.

*City of Memphis*, 414 S.W.3d at 98 (citations & footnote omitted). Constitutional standing requires a plaintiff to establish three elements:

1) a distinct and palpable injury; that is, an injury that is not conjectural, hypothetical, or predicated upon an interest that a litigant shares in common with the general public; 2) a causal connection between the alleged injury and the challenged conduct; and 3) the injury must be capable of being redressed by a favorable decision of the court.

*Fisher*, 604 S.W.3d at 396 (citing *City of Memphis*, 414 S.W.3d at 97).

Here, Defendants argue Plaintiff lost standing to sue the Secretary of State and the Coordinator of Elections upon the enactment of Chapter 298 because it shifted responsibility for the application of the enforcement of the challenged provisions to the Tennessee Circuit Court,

away from those Defendants. Defendants continue to assert that Plaintiff never had standing to sue Attorney General Skrmetti because did not enforce or otherwise apply the previous version of the challenged provisions, nor does he now under Chapter 298. Thus, Defendants argue, Plaintiff cannot put forth evidence of a causal connection or redressability with respect to Defendants.

A. *Attorney General Skrmetti*

Plaintiff's statements of fact and their supporting evidence fail to establish any causal link between the Attorney General and her alleged injuries. While the Attorney General renders legal advice to the other Defendants and local officials, some of which may have concerned Plaintiff and the facts underlying the instant action, that is not enough to support any sort of enforcement responsibility on his part. That enforcement lies elsewhere and cannot be fairly traced through the giving of legal advice that may or may not affect the decision-making of others. Nor does Attorney General Skrmetti's role representing the State of Tennessee and its officials in voter restoration proceedings constitute enforcement of the challenged statute. The record shows that "the Attorney General has not directed, and does not direct, any State of Tennessee official to deny a felony offender's application to register to vote and/or restore his or her voting rights."

Thus, Plaintiff has failed to establish a causal connection between Attorney General Skrmetti's conduct and her alleged injuries. Similarly, she has failed to establish that a favorable judgment against the Attorney General would provide any relief to her injuries because an injunction against Attorney General Skrmetti from further enforcement of the challenged statute would have no effect. Accordingly, Defendants' Motions with respect to the Attorney General are **GRANTED**, and Attorney General Skrmetti is hereby **DISMISSED** as a defendant from this case.

B. *Secretary Hargett*

Plaintiff has similarly failed to establish a causal connection, and therefore also that her injuries are redressable by a favorable decision, between Secretary Hargett and her alleged injuries. Plaintiff has not demonstrated that the Secretary of State takes no role in granting or denying a potential voter's application for registration beyond his supervision of the Coordinator of Elections. Supervisory authority is not enough to establish a causal relationship between Secretary Hargett and Plaintiff's allegedly unconstitutional denial of her right to vote. *See Universal Life Church Monastery Storehouse v. Nabors*, 35 F.4th 1021, 1031–32 (6th Cir. 2022) (citations omitted) (“We need specific, plausible allegations about what the Governor has done, is doing, or might do to injure plaintiffs. Without them, plaintiffs have shown no basis on which they can seek an injunction—an in personam decree coercing the Governor to act or refrain from acting—or a declaratory judgment, the ‘real value’ of which is to influence the future ‘behavior of the defendant towards the plaintiff.’ To the extent plaintiffs have been injured, in other words, they have not explained how the Governor caused the injury.”); *see also Woods v. Rausch*, No. 21-0018-II, at \*8 (Tenn. Ch. Ct., Davidson Cnty., Nov. 30, 2021) (holding Governor Lee's role as head of the executive branch did not constitute a direct role in the enforcement of an allegedly unconstitutional statute in the context of sovereign immunity). Accordingly, with respect to Secretary Hargett, Defendants' Motions are **GRANTED**, and the Secretary of State is **DISMISSED** from this case.

C. *Coordinator Goins*

The enforcement role of Coordinator Goins is another matter. Plaintiff has provided evidence tending to show the Coordinator of Elections' direct role in her alleged injuries by advising the local election commissioner of her ineligibility to have her voting rights restored, which establishes a causal connection for purposes of standing. Similarly, Plaintiff has provided

evidence tending to show that Coordinator Goins could be directed to advise the local election commission that she is eligible to have her voting rights reinstated. For now, that is sufficient to establish redressability and confer standing. Accordingly, with respect to standing to sue the Coordinator of Elections, Defendants' Motions are **DENIED**.

## **II. Mootness**

A case is considered moot “if it no longer serves as a means to provide some sort of judicial relief to the prevailing party.” *Shaw v. Metro. Gov’t of Nashville & Davidson Cnty.*, 651 S.W.3d 907, 916–17 (Tenn. 2022) (quoting *Norma Faye Pyles Lynch Family Purpose LLC v. Putnam Cnty.*, 301 S.W.3d 196, 204 (Tenn. 2009)). A “case will ordinarily be dismissed as moot [when] it is no longer possible for the court to grant any effectual relief.” *Id.* (citing *Ne. Fla. Chapter of the Associated Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656, 669–70 (1993) (O’Connor, J., dissenting)),

Given the changes made to the challenged statutory provisions as discussed above, Defendants argue Plaintiff cannot come forth with any evidence Defendants will be the ones who actually apply the statute to her and thus she cannot gain “effectual relief” from them. Through approached under a separate legal doctrine, the issue here is ultimately the same—whether Defendants enforce the challenged statutory provisions and whether Plaintiff can obtain any relief from them. We reach the same conclusions as before. As Attorney General Skrmetti and Secretary Hargett are already dismissed from this case, this issue pretermitted in his case, however, we again hold it is possible for Plaintiff to obtain relief from the remaining Defendant so we hold that her claims are not moot. With respect to mootness, Defendants' Motions are **DENIED**.

### III. Plaintiff's Claims

Plaintiff brings facial and as-applied challenges to the Permanent Disenfranchisement Statutes under the Free and Equal Elections Clause, the Tennessee Constitution's Guarantee of Substantive Due Process, and the Tennessee Constitution's Guarantee of Equal Protection. With respect to the Jury-Conviction, as we explained in our Order Granting in Part and Denying in Part Plaintiff's Motion for Leave to Amend, Plaintiff cannot establish that the Permanent Disenfranchisement Statutes are unconstitutional in every application because we have taken notice that at least one criminal defendant has been or may be convicted of a jury by one of the felonies for which permanent disenfranchisement has been prescribed in Tennessee. *See* Order Grant'g in Part and Deny'g in part Pl.'s Mot. for Leave to Am., at 5, §§ V, VI, Sep. 16, 2025; *see also* *Fisher v. Hargett*, 604 S.W.3d 381, 398 (Tenn. 2020) (quoting *Lynch v. City of Jellico*, 205 S.W.3d 384, 390 (Tenn. 2006)) (explaining that in making a facial challenge a plaintiff "must establish that no set of circumstances exist under which the Act would be valid"). This is likewise true for Plaintiff's substantive due process claim to the extent she seeks to base it on the requirement of a jury conviction before a citizen may be disenfranchised. *See* Order Grant'g in Part and Deny'g in part Pl.'s Mot. for Leave to Am., at 5, § V. Accordingly, Plaintiff's facial challenge to the Permanent Disenfranchisement Statutes under the jury-conviction requirement of the Free and Equal Elections Clause is **DISMISSED**.

As discussed at the outset of this order, the Court is **RESERVING** judgment on Plaintiff's remaining claims—the as-applied challenge based on the jury-conviction requirement and the additional challenges, facial and as applied, brought under the Free and Equal Elections Clause, the Guarantee of Substantive Due Process, and the Guarantee of Equal Protection—until after the

bench trial in this matter set to begin January 20, 2026. *See Turner v. Lee*, No. 22-0287-IV, at \*19, ¶ 2 (Tenn. Ch. Ct., Davidson Cnty., Mar. 27, 2023).

**CONCLUSION**

For the foregoing reasons, Defendants’ Motions are **GRANTED IN PART** with respect to Attorney General Skrmetti, Secretary Hargett, and Plaintiff’s facial challenge premised upon the jury-conviction requirement. All claims against Attorney General Skrmetti and Secretary Hargett are **DISMISSED**. Plaintiff’s facial challenge premised upon the jury-conviction requirement as against Coordinator Goins is also **DISMISSED**. The Court is **RESERVING** its rulings on Plaintiff’s Motions and, in all other respects, Defendants’ Motions until after trial.

**It is so ORDERED.**

/S/ JUDGE FELICIA CORBIN JOHNSON, CHIEF JUDGE

/S/JUDGE SUZANNE COOK

/S/JUDGE BARRY TIDWELL

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing document shall be emailed to the attorneys of record on this 12<sup>th</sup> day of January 2026.

/S/ Judge Felicia Corbin Johnson