

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

BRADLEY PATTON, on behalf of himself)
and others similarly situated,)
)
Plaintiff,)
)
v.)
)
MIKE FITZHUGH,)
in his official capacity as Sheriff of)
Rutherford County, Tennessee;)
)
MELISSA HARRELL,)
in her official capacity as Clerk of the)
Rutherford County Circuit and)
General Sessions Courts;)
)
JAMES TURNER,)
in his official capacity as Circuit Judge)
for the Sixteenth Judicial District;)
)
BARRY TIDWELL,)
in his official capacity as Circuit Judge)
for the Sixteenth Judicial District; and)
)
HOWARD WILSON,)
in his official capacity as Circuit Judge)
for the Sixteenth Judicial District,)
)
Defendants.)

No. 3:23-cv-00637

**Judge Campbell
Magistrate Judge Frensley**

**MOTION TO DISMISS BY SHERIFF MIKE FITZHUGH AND CIRCUIT COURT
CLERK MELISSA HARRELL**

COME NOW Defendants Sheriff Mike Fitzhugh, in his official capacity, and Circuit Court Clerk Melissa Harrell, in her official capacity (“County Defendants”), by and through counsel, and hereby submit this Motion to Dismiss and move for dismissal of Plaintiff’s Complaint (DE 1) pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction and Fed. R. Civ. P.

12(b)(6) for failure to state a claim. The County Defendants rely upon the Memorandum of Law filed contemporaneously herewith.

This Motion should be granted for the following reasons:

1. Plaintiff lacks standing to sue the County Defendants.
2. The *Younger* Abstention Doctrine bars jurisdiction over Plaintiff's claims against the County Defendants.
3. Plaintiff's claims against the County Defendants must be dismissed because the requirement of source hearing does not violate Plaintiff's substantive or procedural due process rights.
4. Plaintiff fails to state a claim upon which relief can be granted against the County Defendants because no policy of the County Defendants caused Plaintiff's alleged injuries.
5. Plaintiff is not entitled to a declaratory judgment because his underlying substantive claims against the County Defendants fail.
6. Plaintiff is not an appropriate class representative and, therefore, the proposed class action must be dismissed.
7. Further, in order to preserve the issue, Plaintiff cannot properly certify a class under Fed. R. Civ. P. 23.¹

WHEREFORE, PREMISES CONSIDERED, the County Defendants respectfully request that the Court decline to exercise jurisdiction over Plaintiff's claims, decline to certify Plaintiff's proposed class, dismiss Plaintiff's Complaint (DE 1) in full against the County Defendants with prejudice, assess all costs against Plaintiff, declare that the County Defendants

1. Assuming that Plaintiff's claims are not dismissed as against the County Defendants, the County Defendants reserve the right to submit further briefing and engage in any necessary discovery concerning any class certification issues.

are prevailing parties, and for such other further and general relief to which the County Defendants may be entitled.

Respectfully submitted,

HUDSON, REED & CHRISTIANSEN, PLLC

By: /s/ Nick C. Christiansen

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Attorneys for County Defendants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was sent to the following via the District Court's electronic filing system and/or U.S. Mail, postage prepaid, to:

Drew Justice
1902 Cypress Drive
Murfreesboro, TN 37130
drew@justicelawoffice.com

Mary Elizabeth McCullohs
Office of the Attorney General
P.O. Box 20207
Nashville, TN 37202-0207
mary.mccullohs@ag.tn.gov

this 8th day of September, 2023.

/s/ Nick C. Christiansen

NICK C. CHRISTIANSEN