

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III

ERNEST FALLS & ARTHUR)	
BLEDSOE,)	
)	
Plaintiffs,)	
)	
vs.)	No. 20-704-III
)	
MARK GOINS, TRE HARGETT, &)	
HERBERT SLATERY, III, in their)	
official capacities.)	
)	
Defendants.)	

**MEMORANDUM AND FINAL ORDER DENYING PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT AND NECESSARILY GRANTING
SUMMARY JUDGMENT TO THE DEFENDANTS**

This lawsuit was filed by persons convicted in other states of felonies, who have been released from prison and have had their rights of citizenship restored by those states. The matter in dispute is that the Defendants have denied the Plaintiffs' voter registration because they have not provided evidence from these other states that the Plaintiffs have paid any outstanding court costs and/or restitution related to the felony convictions. The Defendants' basis for denial of voter registration is Tennessee Code Annotated sections 40-29-201 *et seq.* which require payment of costs by a felon with restored rights before the felon can vote. The Plaintiffs claim this statutory obligation only applies to felons seeking restoration of their rights from the State of Tennessee, and they are not in this category because their rights were restored by other states. The Plaintiffs therefore assert

that they are not required to provide evidence from these other states concerning payment of costs associated with their felony convictions before they are entitled to register to vote under Tennessee law. The Defendants assert a contrary statutory construction. Thus, the issue to be decided is whether Tennessee Code Annotated section 2-19-143(3) automatically re-enfranchises the Plaintiffs when the states of their convictions restore their citizenship rights, or do they also need to comply with the requirements of Tennessee Code Annotated section 40-29-202.

The case is presently before the Court on the Plaintiffs' Motion for Summary Judgment.

After considering the record, the law and filings of Counsel, it is ORDERED that the Plaintiffs' Motion for Summary Judgment is denied. Moreover, because that denial is based upon construction of Tennessee statutes and a determination as a matter of law, the denial of summary judgment to the Plaintiffs necessarily results in the Defendants prevailing. It is therefore ORDERED that summary judgment is entered for the Defendants, and the case is dismissed with prejudice. Court costs are taxed to the Plaintiffs.

The undisputed facts and conclusions of law on which this decision is based are as follows.

Standard of Review for Summary Judgment

Summary judgment should be granted when “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. When the moving party does not bear the burden of proof at trial, that party may show that it is entitled to judgment as a matter of law by either “affirmatively negating an essential element of the nonmoving party’s claim” or by “demonstrating that the nonmoving party’s evidence at the summary judgment stage is insufficient to establish the nonmoving party’s claim or defense.” *Rye v. Women’s Care Ctr. of Memphis, M PLLC*, 477 S.W.3d 235, 264 (Tenn. 2015). To survive summary judgment, the nonmoving party “must do more than simply show that there is some metaphysical doubt as to the material facts” and must instead “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.” *Id.* at 265.

The above standard is the one the Court has applied. In this case, the facts on which summary judgment depends are undisputed and are listed below. The dispute, instead, is statutory construction, as a matter of law, which is appropriate for summary judgment.

Undisputed Facts

The following facts were undisputed by each side in the exchange of statements of material facts. These undisputed facts are the ones the Court relies upon in denying summary judgment to the Plaintiffs and granting summary judgment to the Defendants.

Plaintiff Ernest Falls moved to Tennessee and has been a resident of Grainger County, Tennessee for the past two years. In 1986, Mr. Falls was convicted of involuntary manslaughter in Virginia. On February 4, 2020, Plaintiff Falls received an order from the Governor of Virginia restoring his rights of citizenship. On June 4, 2020, Plaintiff Falls submitted a voter registration application to the Grainger County Election Commission and indicated on that form that he previously had been convicted of a felony. On June 22, Plaintiff Falls received notice from Grainger County's Administrator of Elections that his voter registration was denied because he did not provide evidence that he owes no court costs or restitution for his Virginia conviction.¹

Plaintiff Arthur Bledsoe moved to Tennessee in 1997 or 1998 and has been a resident of Blount County for over twenty years. Before moving to Tennessee, Plaintiff Bledsoe was convicted of several felonies involving possession of marijuana and

¹ In their Complaint the Plaintiffs provide facts and exhibits about how initially Director Goins construed the statutes in issue in line with the Plaintiffs' position. Then, the Defendants changed course upon receiving an Attorney General's Opinion, and it is the position stated in the Attorney General's Opinion that is asserted by the Defendants in this lawsuit. These facts, however, appear to be provided in the Complaint for context and have not been developed as a legal grounds for relief. Also, these facts were not included in the Plaintiffs' Statement of Undisputed Material Facts. Accordingly, these facts have not been considered herein by the Court in deciding the Motion For Summary Judgment. *See generally Sneed v. Bd. of Prof'l Responsibility of Supreme Court*, 301 S.W.3d 603, 615 (Tenn. 2010) ("It is not the role of the courts, trial or appellate, to research or construct a litigant's case or arguments for him or her, and where a party fails to develop an argument in support of his or her contention or merely constructs a skeletal argument, the issue is waived.").

paraphernalia in North Carolina and completed his sentence in 1999, and his rights of citizenship in that state were restored pursuant to N.C. Gen. Stat. § 13-1. The Tennessee Division of Elections utilized the North Carolina Department of Public Safety’s Offender Public Information website to locate the county of his convictions. Plaintiff Bledsoe has unpaid court costs for at least one of his convictions. On August 11, 2020, Plaintiff Bledsoe resubmitted his application to register to vote because it was claimed that his prior voter registration form was not received by Blount County.

Parties’ Positions

The Tennessee Constitution provides that “the right of suffrage . . . shall never be denied to any person entitled thereto, except upon a conviction by a jury of some infamous crime, previously ascertained and declared by law, and judgment thereon by a court of competent jurisdiction.” Tenn. Const. art. I, § 5. It likewise provides that every voter that meets the constitutional qualifications “shall be entitled to vote in all federal, state, and local elections held in the county or district in which such person resides” except that “[l]aws may be passed excluding from the right of suffrage persons who may be convicted of infamous crimes.” Tenn. Const. art. IV, § 1, 2.

While Tennessee has enacted laws providing for felony disenfranchisement, it has also in the same scheme enacted laws to restore the right to vote to citizens with convictions. These laws apply to individuals with in-state, federal, and out-of-state

convictions for “infamous” crimes and crimes that would be infamous under Tennessee law. *See* Tenn. Code Ann. § 2-19-143.

For those with out-of-state convictions, Tennessee law provides three distinct pathways for rights restoration. First, the individual may be “pardoned or restored to the rights of citizenship by the governor or other appropriate authority of other such state.” *See* Tenn. Code Ann. § 2-19-143(3). Second, the individual may have their “full rights of citizenship . . . otherwise . . . restored in accordance with the laws of such other state.” *See id.* Third, the individual may have their “full rights of citizenship . . . otherwise . . . restored in accordance with . . . the laws of this state [Tennessee].” *See id.*

Upon application of this statutory scheme to the record, the undisputed facts are that the Plaintiffs have had their right to vote restored under the first and second pathways respectively, and the Defendants are denying Plaintiffs the right to vote in Tennessee because they have not demonstrated their compliance with the requirements of Tennessee Code Ann. § 40-29-201, *et seq.*

The Plaintiffs contend that sections 40-29-201, *et seq.* are inapplicable to this case. The Plaintiffs contend that sections 40-29-201 *et seq.* apply only to voters seeking the restoration of their voting rights through the laws of Tennessee which the Plaintiffs are not doing. Their rights have already been restored by the respective states where the convictions occurred. The Plaintiffs contend that the Defendants’ construction of the law ignores the plain text of Tennessee Code Annotated section 2-19-143.

In their complaint, Plaintiffs allege two independent claims for relief: first, a declaration of their voting rights under Tennessee Code Annotated section 2-19-143(3), and second, a violation of Plaintiffs' fundamental right to vote secured by the Tennessee Constitution. *See* Comp. ¶¶ 49–57. Each claim requires the Court to undertake the same legal analysis: whether Plaintiffs, in light of the Tennessee Constitution's requirement that citizens are enfranchised unless they have been specifically and explicitly disenfranchised by the Legislature, have been disenfranchised (and not subsequently re-enfranchised) by any legislative enactment. The Plaintiffs assert that the answer is simple: they have not. The Plaintiffs assert they were both disenfranchised and subsequently re-enfranchised by the plain text of Tennessee Code Annotated section 2-19-143(3) and are therefore entitled to vote. The Plaintiffs assert that the provisions of Tennessee Code § 40-29-202(b) are unrelated and inapplicable to Plaintiffs, and therefore, do not affect their right to vote. The Plaintiffs therefore assert that they are entitled to summary judgment on each of their counts.

The Defendants' position is that Tennessee Code Annotated section 2-19-143(3) is not the sole basis for rights restoration in Tennessee. Defendants' position is that section 2-19-143(3) simply establishes a requirement for re-enfranchisement without precluding statutory requirements elsewhere. Thus the requirements of sections 40-29-201 *et seq.* that the Plaintiffs pay their courts cost and restitution to the state where they were criminally convicted before they are eligible to vote in Tennessee are applicable to the Plaintiffs. The Defendants' argument is that the Plaintiffs have not had their rights

restored under Tennessee law because until they comply with the re-enfranchisement provisions of section 49-29-202 and provide evidence that they have paid to the state where their felonies were committed any outstanding costs, the Plaintiffs are not eligible to apply for a voter registration card, and denial by Tennessee officials of voter registration does not violate the Tennessee constitution.

Statutes in Issue

The statutes in issue are quoted as follows.

In 1981 the General Assembly enacted Public Chapter 342 which provided 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.” *See* Public Acts 1981, Ch. 342, § 1

That same year, the General Assembly also enacted Public Chapter 345 establishing a statutory scheme for the “consequences of conviction of an infamous crime including forfeiture of the right of suffrage for a certain period” and the “method for restoration of the right of suffrage. Section 2 of that chapter added the provisions that are now codified at Tenn. Code Ann. § 2-19-143 and, as to federal and out-of-state convictions, provides as follows:

The following provisions shall govern the exercise of the right of suffrage for those persons convicted of an infamous crime: . . .

- (2) No person who have been convicted in federal court of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall be allowed to

register to vote or vote at any election unless such person has been pardoned or restored to the full rights of citizenship by the president of the United States, or the person's full rights of citizenship have otherwise been restored in accordance with federal law, or the laws of this state.

- (3) No person who has been convicted in another state of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall be allowed to register to vote or vote at any election in this state unless such person has been pardoned or restored to the rights of citizenship by the governor or other appropriate authority of such other state, or the person's full rights of citizenship have otherwise been restored in accordance with the laws of such other state, or the law of this state.

See Public Acts 1981, Ch. 345, § 2. And Section 3 of Public Chapter 345 added the provisions now codified at Tenn. Code Ann. § 2-2-139. Those provisions read:

- (a) Any person who has forfeited the right of suffrage because of conviction of an infamous crime may register to vote and vote at any election for which the person is eligible by submitting sufficient proof to the administrator of elections in the county in which the person is seeking to register to vote, that:
 - (1) The person has been pardoned of all infamous crimes and the person's full rights of citizenship, including the right of suffrage, have been restored;
 - (2) The person's full rights of citizenship have been restored as prescribed by law; or
 - (3) An appellate court of competent jurisdiction has entered a final judgment reversing the person's conviction, or convictions, of all infamous crimes.
- (b) For purposes of this section, a pardon or a certified copy of a judgment of a court of competent jurisdiction shall be sufficient proof to the administrator that the person fulfills the above requirements as to the offense or offenses specified on the pardon or judgment; however, before allowing a person convicted of an infamous crime to become a registered voter, it shall be the duty of

the administrator in each county to verify with the state coordinator of elections that the person is eligible to register under the provisions of this section.

- (c) The state election coordinator is empowered to formulate a uniform procedure for verifying the registration eligibility of any person convicted of an infamous crime. Upon receiving sufficient verification of such person's eligibility to register, the administrator shall allow such person to become a registered voter in the same manner and in accordance with the same laws, rules or regulations as any other citizen of this state.

In 2005, the Brennan Center for Justice and the ACLU drafted a bill to streamline and standardize the felon restoration process in Tennessee. And in 2006, the General Assembly adopted an amended version of that bill—Public Chapter 860—now codified at Tenn. Code Ann. §§ 40-29-201–205. *See* <https://www.brennancenter.org/our-work/research-reports/voting-rights-restoration-efforts-tennessee>. This law “effectively” made “the rights restoration process more objective and removed the requirement that the formerly incarcerated appear before a circuit court judge in an adversarial proceeding to re-gain the right to vote.” *Id.*

The first section of this new law—Tennessee Code Annotated section 40-29-201—declares the Legislature's intent that “[t]he provisions and procedures of this part shall apply to and 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 any infamous crime.” TENN. CODE ANN. § 40-29-201(a).

Next, Section 40-29-202 sets forth the requirements for restoring the right of suffrage and provides as follows.

- (a) A person rendered infamous and deprived of the right of suffrage by the judgment of any state or federal court is eligible to apply for a voter registration card and have the right of suffrage restored upon:
 - (1) Receiving a pardon, except where the pardon contains special conditions pertaining to the right of suffrage;
 - (2) The discharge from custody by reason of service or expiration of the maximum sentence imposed by the court for the infamous crime; or
 - (3) Being granted a certificate of final discharge from supervision by the board of parole pursuant to § 40-28-105, or any equivalent discharge by another state, the federal government, or county correction authority.

- (b) Notwithstanding subsection (a), a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person:
 - (1) Has paid all restitution to the victim or victims of the offense ordered by the court as part of the sentence; and
 - (2) Beginning September 1, 2010, notwithstanding section (a) a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person has paid all court costs assessed against the person at the conclusion of the person's trial, except where the court has made a finding at an evidentiary hearing that the applicant is indigent at the time of application.

- (c) Notwithstanding subsection (a), a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person is current in all child support obligations.

Conclusions of Law

The Court has used the following rules of statutory construction.

Of primary importance is the text of the statute. *In re Kaliyah S.*, 455 S.W.3d at 552 (citing *Mills v. Fulmarque*, 360 S.W.3d 362, 368 (Tenn. 2012)). “A statute should be read naturally and reasonably, with the presumption that the legislature says what it means and means what it says.” *Id.* (citing *Bellsouth Telecomms, Inc. v. Greer*, 972 S.W.2d 663, 673 (Tenn. Ct. App. 1997)). Courts must presume that “the Legislature used each word in the statute purposely and that the use of these words conveys some intent and had a meaning and purpose.” *Locust v. State*, 912 S.W.2d 716, 718 (Tenn. Ct. App. 1995) (citation omitted).

Courts have a duty to avoid construing a statute in such a way that would render any part of it superfluous or insignificant. *Womack v. Corr. Corp. of Am.*, 448 S.W.3d 362, 373 (Tenn. 2014). Courts may look to a statute’s preamble and policy statements for guidance when seeking to resolve an ambiguity or conflict. *Moorcraft v. Stuart*, No. M2013-00295-COA-R3-CV, 2015 WL 413094, at * 9 (Tenn. Ct. App. Jan. 30, 2015) (citing *Hyatt v. Taylor*, 788 S.W.2d 554, 556 (Tenn. 1990)).

Furthermore, “[s]tatutes that relate to the same subject matter or have a common purpose must be read *in pari materia* so as to give the intended effect to both.” *In re Kaliyah S.*, 455 S.W.3d at 552. “[T]he construction of one such statute, if doubtful, may be aided by considering the words and legislative intent indicated by the language of another statute.” *Graham v. Caples*, 325 S.W.3d 578, 582 (Tenn. 2010) (quoting *Wilson v. Johnson Cnty.*, 879 S.W.2d 807, 809 (Tenn. 1994)). Courts should also seek to avoid a construction that places one statute in conflict with another and “resolve any possible

conflict between statutes in favor of each other, so as to provide a harmonious operation of the laws.” *Graham*, 325 S.W.3d at 582 (quoting *Cronin v. Howe*, 906 S.W.2d 910, 912 (Tenn. 1995)).

Application of these statutory construction principles² leads to the conclusion that Title 40’s re-enfranchisement provisions apply to Plaintiffs:

The provisions and procedures of this part shall apply to and 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 any infamous crime.

TENN. CODE ANN. § 40-29-201(a). Broken down, Title 40’s re-enfranchisement provisions pertain to “any person,” “who has been disqualified from exercising that right [of suffrage] by reason of a conviction,” “in any state or federal court of any infamous crime.”

As applied here: each plaintiff is indisputably a “person” within the meaning of the statute. Each Plaintiff was convicted in a state court of an infamous crime. (Pls.’ Statement of Undisputed Material Facts, Fact #2, Fact #9.) *See* TENN. CODE ANN. § 40-22-112 (all felonies are infamous crimes). Additionally, each Plaintiff “has been [meaning at some time in their past] disqualified” from voting because of their felony convictions. *See* TENN. CODE ANN. § 2-19-143.

² As follows, the Court makes its ruling based upon textual analysis, determining that there is no ambiguity, and for this reason has not factored in the legislative history cited by both sides in support of their respective positions. *See, e.g., Hamblen Cty. Educ. Ass’n v. Hamblen Cty. Bd. of Educ.*, 892 S.W.2d 428, 434 (Tenn. Ct. App. 1994) (“It is only when the meaning of a legislative enactment is ambiguous that we are justified in looking at the legislative history in order to ascertain legislative intent: Where there is no ambiguity in the language of an act, comments of legislators, or even sponsors of the legislation, before its passage are not effective to change the clear meaning of the language of the act.”) (citations omitted)).

Because Plaintiffs individually meet the definition of “any person who has been disqualified from exercising that right by reason of a conviction in any state or federal court of any infamous crime,” it is the intent of the Legislature that “the provisions and procedures of this part shall apply to and govern restoration of the right of suffrage in this state.” *See Moorcraft*, 2015 WL 413094, at * 9 (citing *Hyatt v. Taylor*, 788 S.W.2d 554, 556 (Tenn. 1990)).

Having established that the Legislature intended that Title 40’s re-enfranchisement provisions apply to Plaintiffs, the next question is whether Plaintiffs must meet the specific requirements of Tennessee Code Annotated section 40-29-202 before their right to suffrage can be restored. Again, the plain statutory text controls.

- (b) Notwithstanding subsection (a), a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person:
 - (1) Has paid all restitution to the victim or victims of the offense ordered by the court as part of the sentence; and
 - (2) Beginning September 1, 2010, notwithstanding section (a) a person shall not be eligible to apply for a voter registration card and have the right of suffrage restored, unless the person has paid all court costs assessed against the person at the conclusion of the person’s trial, except where the court has made a finding at an evidentiary hearing that the applicant is indigent at the time of application.

TENN. CODE ANN. § 40-29-202. Under this statute, Plaintiffs cannot be eligible to register to vote or be re-enfranchised unless they have paid the restitution or court costs associated with their criminal convictions. According to both their Complaint and their

Statement of Undisputed Material Facts, Plaintiffs do not deny that they each owe court costs and/or restitution.

As to the Plaintiffs' argument that the wording "[n]otwithstanding subsection (a)" of section 40-29-202(b) implies that the remaining wording is applicable only where a person would be eligible for restoration of the right to suffrage based upon the provisions of subsection (a), the Court adopts the following analysis of the Defendants. As stated in BLACK'S LAW DICTIONARY "notwithstanding" means "despite." See BLACK'S LAW DICTIONARY 1094 (8th ed. 2004). In addition, the United States Supreme Court has spoken on the subject as well: "the 'notwithstanding' clause clearly signals the drafter's intention that the provisions of the 'notwithstanding' section override conflicting provisions of any other section." *Cisneros v. Alpine Ridge Group*, 508 U.S. 10, 18 (1993) (citing *Shomberg v. United States*, 348 U.S. 540, 547-48 (1955)). Thus, "notwithstanding subsection (a)" does not restrict the plain wording of subsection (b); it simply imparts that the requirements of subsection (b) supersede those of subsection (a). Thus, subsection (b) always applies when its plain language is implicated, and it does so even if subsection (a) applies too.

It follows, then, that given that the Legislature evidenced its intent that Title 40's requirements apply to persons such as Plaintiffs, see Tennessee Code Annotated section 40-29-201, it is clear that Plaintiffs must pay the court costs and restitution associated with their criminal convictions before they are eligible to vote in Tennessee.

Having established that the statutory text of Tennessee Code Annotated sections 40-29-201 and -202(b) bars Plaintiffs from the right of suffrage until they pay the court costs and restitution associated with their disenfranchising criminal convictions, the only issue remaining is whether any wording in Tennessee Code Annotated section 2-19-143 prevents this outcome.

Tennessee Code Annotated section 2-19-143 provides that:

No person who has been convicted in another state of a crime or offense which would constitute an infamous crime under the laws of this state, regardless of the sentence imposed, shall be allowed to register to vote or vote at any election in this state unless such person has been pardoned or restored to the rights of citizenship by the governor or other appropriate authority of such other state, or the person's full rights of citizenship have otherwise been restored in accordance with the laws of such other state, or the law of this state.

Tenn. Code Ann. § 2-19-143(3). Again, the Court adopts the Defendants' position that the statute simply establishes a requirement for re-enfranchisement without precluding statutory requirements elsewhere, such as in Tennessee Code Annotated sections 49-29-201 *et seq.*

Furthermore, for the Court to decide that the plain language of Tennessee Code Annotated section 2-19-143(3) creates a pathway to restoration that ignores other statutory requirements, such a construction would directly conflict with the plain language of Tennessee Code Annotated section 40-29-201 that the provisions of that part “*govern restoration of the right of suffrage in this state*” for any person convicted of a felony “*in any state or federal court.*” Courts are to “presume that the General Assembly is aware of its own prior enactments and knows the state of the law when it enacts a

subsequent statute”; therefore, as a general rule, a more recent enactment will take precedence over a prior one to the extent of any inconsistency between the two. *Lovelace v. Copley*, 418 S.W.3d 1, 20 (Tenn. 2013) (citations omitted); *see also Hayes v. Gibson Co.*, 288 S.W.3d 334, 337 (Tenn. 2009).

Here, then, the General Assembly should be presumed to have been aware of the provisions of Tennessee Code Annotated section 2-19-143 when it enacted Tennessee Code Annotated sections 40-29-201, *et seq.* in 2006. Thus, to the extent that there is a conflict between the statutes, the reasonable construction is that the requirements of Tennessee Code Annotated sections 40-29-201, *et seq.*, supplement the provisions of Tennessee Code Annotated section 2-19-143 by providing additional requirements for reinstatement of voting rights for all convicted felons regardless of the state or court of conviction.

Having established that Plaintiffs are not immune from the requirements of Tennessee Code Annotated section 40-29-202,³ the fundamental right to vote is not implicated here because the Tennessee Constitution expressly provides that persons “convict[ed] by a jury of some infamous crime, previously ascertained and declared by law” may lose their right to vote and can be excluded from the franchise. TENN. CONST. art. I, § 5. The Tennessee Constitution further provides that “[l]aws may be passed

³ The arguments that the parties asserted to the Court were limited to statutory construction. No arguments or claims were presented on summary judgment or in the Complaint and Answer concerning the Full Faith and Credit Doctrine, indigency of the Plaintiffs and/or that the Plaintiffs are unable to obtain from these other states evidence of payment of costs associated with their felony convictions. Accordingly, the Court has not analyzed any potential questions or issues that might arise under these arguments and is unaware whether these arguments would even apply to this case. The Court has limited its ruling to the statutory construction arguments presented by Counsel.

excluding from the right of suffrage persons who may be convicted of infamous crimes.”

TENN. CONST. art. VI, § 2.

As described above, the Tennessee General Assembly, pursuant to its constitutional authority under Article IV, § 2, considers “infamous” crimes to include all felonies. *See* Tennessee Code Annotated section 40-20-112. No provision of the Tennessee Constitution requires or contemplates that the voting rights of disenfranchised felons will eventually be restored.

Plaintiffs claim that because they have had their right to vote restored by the states of their convictions, Tennessee cannot continue to deny them the right to vote. Yet, simply because they have been re-enfranchised in Virginia and North Carolina does not mean that they are permitted to vote in Tennessee. It is well settled that “[t]he elective franchise is not an inalienable right or privilege, but a political right, conferred, limited or withheld, at the pleasure of the people, acting in their sovereign capacity. Each State may define it in its own Constitution, or empower its legislature to do so.” *Ridley v. Sherbrook*, 43 Tenn. 569, 576 (1866).

Tennessee, Virginia, and North Carolina each individually disenfranchised Plaintiffs of their right to vote because of their felony convictions. Virginia and North Carolina have restored Plaintiffs’ state citizenship rights, including their right to vote. The Plaintiffs, however, are not citizens of Virginia and North Carolina anymore. They are citizens of Tennessee by virtue of their place of residence. Until the Plaintiffs meet the same requirements as Tennessee felons seeking reinstatement of their right to vote,

Tennessee law does not require that Tennessee reach the same result as Virginia’s Governor or North Carolina’s Legislature—nor does the Tennessee Constitution. Because Tennessee is constitutionally permitted to legislate different standards than other states for restoration of the right to vote and Plaintiffs do not allege that they meet these standards, their challenges necessarily fail. “Having lost their voting rights, Plaintiffs lack any fundamental interest to assert.” *Johnson v. Bredesen*, 624 F.3d 742, 746 (6th Cir. 2010) (citing *Wesley v. Collins*, 791 F.2d 1255, 1261 (6th Cir. 1986) (“It is undisputed that a state may constitutionally disenfranchise convicted felons, and that the right of felons to vote is not fundamental.”)). Requiring the Plaintiffs to comply with the laws of this state, including complying with child support obligations, restitution orders, and other court orders, is both rational and constitutional.

Entry of Summary Judgment for Defendants

There are no disputed issues of fact, and the above statutory construction resolves all the issues and claims in this matter. In addition, the Plaintiffs have had a full and fair opportunity to address the issues. Accordingly, summary judgment is denied to the original movants, the Plaintiffs, and granted to the nonmovant, the Defendants. *See Hughes v. New Life Dev. Corp.*, 387 S.W.3d 453, 471, n. 16 (Tenn. 2012); *Cumulus Broad, Inc. v. Shim*, 226 S.W.3d 366, 374 (Tenn. 2007); *Thomas v. Transp. Ins. Co.*, 532 S.W.2d 263, 266 (Tenn. 1976) (“Although this Court has not previously spoken on the subject, we are of the opinion that a trial judge may grant a motion for summary

judgment in favor of a nonmoving party, or parties, as was done here. *See* 6 Moore's Federal Practice, section 56.12. We are of the opinion, however, that such action on the part of the trial judge should be taken only in rare cases and with meticulous care. We note with approval the following statement contained in the text above cited: 'Care should, of course, be taken by the district court to determine that the party against whom summary judgment is rendered has had a full and fair opportunity to meet the proposition that there is no genuine issue of material fact to be tried, and that the party for whom summary judgment is rendered is entitled thereto as a matter of law.' (Ibid., p. 2243)'').

s/ Ellen Hobbs Lyle
ELLEN HOBBS LYLE
CHANCELLOR

cc: Due to the pandemic, and as authorized by the COVID-19 Plan of the Twentieth Judicial District of the State of Tennessee, as approved by the Tennessee Supreme Court, this Court shall send copies solely by means of email to those whose email addresses are on file with the Court. If you fit into this category but nevertheless require a mailed copy, call 615-862-5719 to request a copy by mail.

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Rule 58 Certification

A copy of this order has been served upon all parties or their Counsel named above.

s/Phyllis D. Hobson
Deputy Clerk
Chancery Court

October 6, 2020