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

JAMES HAMMOND and
TENNESSEE FIREARMS
ASSOCIATION, INC.

Petitioners,

v.

METROPOLITAN GOVERNMENT
OF NASHVILLE AND
DAVIDSON COUNTY,

Respondent.

No. _____

PETITION FOR ACCESS TO PUBLIC RECORDS

Petitioners James Hammond and Tennessee Firearms Association, Inc. ("TFA"), pursuant to Tenn. Code Ann. § 10-7-505, hereby petition this Court for judicial review of the denial by the Metro Nashville Police Department of their request for access to public records. Petitioners submitted a total of three public records requests under the Tennessee Public Records Act, Tenn. Code Ann. §§ 10-7-503 *et seq.*, seeking to inspect or copies of public records related to the March 27, 2023, shooting at The Covenant School, including the reported "manifesto" written by the female shooting suspect. Defendant Metropolitan Government of Nashville and Davidson County, by and through its subagency, the Nashville Metro Police Department, withheld the requested public records in their entirety.

Petitioners petition this Court to obtain access to requested public records and an order from this Court finding that the denial of public access to these records is unlawful. In support of such petition, Petitioners state as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to Tenn. Code Ann. §§ 10-7-505(b) and 16-11-101. Venue is proper under Tenn. Code Ann. §§ 10-7-505(b) and 20-4-101(a).

PARTIES

2. Petitioner James W. Hammond is a citizen of the State of Tennessee and resident of Hamilton County. He is the former sheriff of Hamilton County.

3. Petitioner Tennessee Firearms Association is 501(c)(4) corporation based in Nashville, Tennessee with members in every county in the State of Tennessee. Its primary goal is to promoting citizen control over government and giving full effect to the original intent U.S. Constitution as well as to the provisions of the Tennessee Constitution with an emphasis on the 2nd and 10th Amendments to the U.S. Constitution and Article I, Section 26 of the Tennessee Constitution.

4. Respondent Metropolitan Government of Nashville and Davidson County ("Metro") is a municipality in Tennessee existing in Davidson County, Tennessee. It is organized and existing under the laws of the State of Tennessee. Its chief executive officer is the mayor, who for purposes of this action is John Cooper. The Metropolitan Nashville Police Department is a subsidiary department of Metro. All actions of the Metropolitan Nashville Police Department are acts and/or omissions of Metro.

BACKGROUND

5. The Tennessee Public Records Act ("the Act") provides: "[a]ll state, county and municipal records shall... be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law." Tenn. Code Ann. § 10-7-503(a)(2)(A).

6. The Act defines "public record" to "[m]ean[] all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental entity[.]" Tenn. Code Ann. § 10-7-503(a)(1)(A)(i).

7. The Act further provides that "[i]nformation made confidential by state law shall be redacted wherever possible, and the redacted record shall be made available for inspection and coping." Tenn. Code Ann. § 10-7-503(a)(5).

8. "The burden of proof for justification of non-disclosure of records sought shall be upon the official and/or designee of the official of those records and the justification for the non-disclosure must be shown by a preponderance of evidence." Tenn. Code Ann. § 10-7-505(c).

9. The Act makes clear that there is a presumption of openness and that the Act "shall be broadly construed so as to give the fullest possible public access to public records." Tenn. Code Ann. § 10-7-505(d).

STATEMENT OF FACTS

10. Petitioner TFA submitted two open records requests on April 13, 2023, using the Metropolitan Nashville Police Department's Open Records Request Form. *See* Exhibits 1 and 2.

11. The first request asked that the Metropolitan Nashville Police Department produce copies of records or files and inspection of "the 'manifesto' reportedly found in the home of Audrey Elizabeth Hall on March 27, 2023." *See* Exhibit 1 at 1.

12. The second request asked that the Metropolitan Nashville Police Department produce copies of records or files and inspection "all email communications of MNPD officials regarding the mass shooting committed by Audrey Elizabeth Hale on March 27, 2023, as well as

MNPD officials' text messages regarding the same, and copies of the 'manifesto' reported left by Audrey Elizabeth Hale in her vehicle." *See* Exhibit 2 at 1.

13. On April 17, 2023, the Metropolitan Nashville Police Department responded using its Public Record Request Response Form and informed Petitioner TFA that it had denied both of its public records requests. *See* Exhibit 1 at 4; and Exhibit 2 at 4.

14. Separately, Petitioner Hammond submitted a public records request on April 25, 2023, using the Metropolitan Nashville Police Department's Open Records Request Form.

15. Specifically, Petitioner Hammond asked that the Metropolitan Nashville Police Department produce copies of records or files and inspection of the following public records:

> Except as otherwise stated, the time frame for the requested records is for the period of March 27, 2023, to the date of your final response to this records request.
>
> 1. All MNPD criminal police reports documenting this incident to include but not limited to:
>
>   a. Impound/evidence invoices
>   b. Photographs
>   c. Bodycam footage
>   d. City/County/State and/or federal coroner information
>   e. Suspect toxicology/lab results
>   f. Audio of calls for service
>   g. School video footage of suspect and officers
>
> 2. All MNPD Force Investigation Team (FIT) internal administrative investigations/reports regarding this incident to include but not limited to those mandated by The Manual of the Metropolitan Police Department of Nashville Davidson County, TN (the Department Manual) Title 1.130.050.
>
> 3. All MNPD communications, to include but not limited to directives, orders, memos, emails and/or letters, concerning the release of the contents and/or copies of the aforementioned "manifesto" of the deceased female shooting suspect.
>
> 4. All MNPD communications between the Federal Bureau of Investigation (FBI), the U.S. Department of Justice (DOJ), and/or the Office of the District Attorney, Nashville (20th Judicial District)

regarding the designation of the aforementioned multiple shooting at a Christian School by a self-identified transgender suspect as a "hate crime."

5. All MNPD criminal and/or field intelligence reports and/or received complaints involving the aforementioned shooting suspect (Audrey Hale) dated from January 1, 2020, to the date of your final response to this records request.

Exhibit 3 at 4-5.

16. The Metropolitan Nashville Police Department responded using its Public Record Request Response Form and informed Petitioner Hammond that it had denied his public records request on April 28, 2023. *See* Exhibit 3 at 7.

17. All three records requests submitted by Petitioners were denied for the same reason.

18. Specifically, the Metropolitan Nashville Police Department explained that Petitioners' "request[s were] denied on the following grounds: The following state, federal, or other applicable law prohibits disclosure of the requested records: Open Case - Rule 16 of the Tennessee Rules of Criminal Procedure and *Tennessean v. Metro. Gov't of Nashville*, 485 S.W.3d 857 (Tenn. 2016)." *See* Exhibit 1 at 4; Exhibit 2 at 4; and Exhibit 3 at 7.

19. Respondent's denial failed to identify any underlying criminal proceeding, or even a potential defendant, such that the requested materials would be a "case" under Rule 16 of the Tennessee Rules of Criminal Procedure. Accordingly, Petitioners respectfully submit that *Tennessean v. Metro. Gov't of Nashville* is distinguishable and inapplicable to the instant public records requests.

Count 1- Violation of Tennessee Public Records Act

20. The records sought by Petitioners constitute a "public record" under the Tennessee Public Records Act. No applicable exception exempts the records from public access.

21. Neither Rule 16 of the Tennessee Rules of Criminal Procedure nor *Tennessean v. Metro. Gov't of Nashville*, 485 S.W.3d 857 (Tenn. 2016) permits the withholding of some or all the requested records.

22. To the extent these public records include information exempt from disclosure under the Tennessee Public Records Act, Respondent failed to redact such information and produce redacted copies of the requested records to Petitioners. Tenn. Code Ann. § 10-7-503(a)(5).

23. Respondent knew that the requested records were public and refused to disclose them.

24. Respondent's failure to produce the requested record to Petitioners violates the Tennessee Public Records Act.

25. Petitioners are entitled to access to the requested record and an award of all costs and reasonable attorney's fees.

PRAYER FOR RELIEF

Wherefore, Petitioners pray:

1. That the Court issue an order requiring Respondent to appear before this Court and show cause why this Petition for Access should not be granted as provided by Tenn. Code Ann. § 10-7-505;

2. That the Court grant this Petition and order Respondent to promptly allow inspection and copying by Petitioners, their attorneys, or their designees, of the requested public records;

3. That the Court award Petitioners all costs incurred in obtaining the requested records, including reasonable attorneys' fees and litigation expenses; and

4. That the Court grant Petitioners any and all other relief to which Petitioners may be entitled.

Respectfully submitted:

\s\ John I. Harris III
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VERIFICATION

The undersigned hereby states upon his own personal knowledge that the factual representations contained herein are true and correct to the best of his information and belief.

John I. Harris III

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

SWORN to and subscribed before me this 1st day of May, 2023.

Christy Frizzell
Notary Public
My commission expires:
5.7.2024

CHRISTY FRIZZELL
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY