

IN THE CIRCUIT COURT FOR BLOUNT COUNTY, TENNESSEE

STATE OF TENNESSEE *ex rel.*)
BLOUNT COUNTY ATTORNEY)
)
)
) *Petitioner,*)
)
vs.)
)
)
JAMES LEE BERRONG, IN HIS OFFICIAL)
CAPACITY AS THE SHERIFF OF)
BLOUNT COUNTY, TENNESSEE)
)
)
) *Respondent,*)

Case No. _____

PETITION FOR WRIT OF OUSTER

COMES NOW the State of Tennessee, by and through its duly authorized representative, the Blount County Attorney, and respectfully petitions this Honorable Court for a Writ of Ouster against Defendant James L. Berrong, Sheriff of Blount County, Tennessee, pursuant to Tennessee Code Annotated §§ 8-47-101, *et seq.* In support thereof, the State alleges as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to T.C.A. § 8-47-101, *et seq.*, which provides for the removal of public officers who knowingly or willfully commit misconduct in office, knowingly or willfully neglect to perform duties enjoined by law, or commit acts constituting a violation of a penal statute involving moral turpitude.
2. Venue is proper in Blount County, Tennessee, as the Defendant is the Sheriff of Blount County and the acts complained of occurred within this county. An ouster petition "shall be filed in the circuit court of the county where the defendant holds the office." T.C.A § 8-47-103.

II. THE PARTIES

3. The State of Tennessee, by and through the Blount County Attorney, brings this action in the name of the people of Blount County to protect the public interest and to remove from office a sheriff who has engaged in conduct warranting ouster under the laws of Tennessee.
4. The Defendant, James L. Berrong, is the duly elected Sheriff of Blount County, Tennessee, and as such is an officer of trust and profit subject to the provisions of T.C.A. § 8-47-101.

III. FACTUAL BACKGROUND

5. On or about November 30, 2022, Judges Tammy M. Harrington, Jim Ripley, David R. Duggan, Robert Lowell Headrick, Michael A. Gallegos, and officials Tom Hatcher and Stephen S. Ogle of the Blount County Circuit and General Sessions Courts issued an administrative order titled "The Use of Portable Electronic Devices in the Blount County Justice Center and all Courtrooms" (the "Order"). A true and correct copy is attached as Exhibit A.
6. The Order prohibits citizens from possessing or using portable electronic devices, including cell phones, cameras, and audio recorders, in the Blount County Justice Center and courtrooms without a judge's written permission. The Order further authorizes law enforcement, including deputies of the Blount County Sheriff's Office, to remove citizens from the Justice Center, threaten contempt of court and unspecified penalties, and confiscate electronic devices, disclaiming liability for any loss or damage to seized property without lawful authority. The Order arbitrarily exempts attorneys, clerks, court officers, and other "necessary" persons from its prohibitions.
7. On or about April 2, 2026, Jessica Saxton, a citizen of the United States, provided written notice to Sheriff Berrong identifying the constitutional deficiencies of the Order and

requesting that he cease enforcement thereof. Sheriff Berrong's office acknowledged receipt of said notice on April 6, 2026, stating specifically that the notice had been printed off and "he's reviewing it". A true and correct copy is attached as Exhibit B.

8. As of April 16, 2026 and despite such previous notice, Sheriff Berrong continues to enforce the "Order", and his deputies continue to threaten citizens with confiscation of property, arrest, and removal from the Blount County Justice Center, a public building owned by the People, for mere possession of a portable electronic device.

IV. CONSTITUTIONAL AND LEGAL DEFICIENCIES OF THE ORDER

9. The First Amendment to the United States Constitution protects the right of citizens to record government officials, including law enforcement officers, in the discharge of their duties in public spaces. See *Smith v. City of Cumming*, 212 F.3d 1332 (11th Cir. 2000), *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011), and *Soderberg v. Carrion*, 645 F. Supp. 3d 460 (D. Md. 2022). The Order imposes a blanket ban on recording government officials in public spaces without a compelling, narrowly tailored justification.
10. The Tennessee Constitution, Article II, Section 1, divides the powers of government into "three distinct departments: legislative, executive, and judicial," and Section 2 of the same Article provides that "[n]o person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others, except in the cases herein directed or permitted." In parallel, Article I, Section 1 of the United States Constitution vests "all legislative Powers herein granted" exclusively in the Congress of the United States. Together, these provisions establish a fundamental separation of powers at both the state and federal levels, forbidding the judicial branch from exercising legislative authority. The Order, which purports to create a de facto crime of cell phone possession in a

courthouse and to authorize warrantless seizure of personal property, constitutes an unlawful exercise of legislative power by the judiciary, in direct contravention of both constitutions.

11. Rule 30 of the Tennessee Supreme Court applies only to media coverage of judicial proceedings and does not authorize a blanket ban on private citizens' devices. The Order exceeds Rule 30 and is void.
12. An unconstitutional act is "not law; it confers no rights; it imposes no duties; it affords no protection; it is, in legal contemplation, as inoperative as though it had never been passed." See *Norton v. Shelby County*, 118 U.S. 425, 442 (1886).

V. GROUNDS FOR OUSTER

COUNT I: KNOWING OR WILLFUL MISCONDUCT IN OFFICE (T.C.A. § 8-47-101)

13. The allegations set forth in Paragraphs 1 through 12 are re-alleged and incorporated herein by reference.
14. Sheriff Berrong has knowingly or willfully committed misconduct in office, in violation of T.C.A. § 8-47-101, which provides that any officer of trust or profit may be ousted for "knowing or willful misconduct in office."
15. Sheriff Berrong, having been notified that the Order is unconstitutional, has continued to enforce it. His deputies, acting under his authority, threaten citizens with arrest, confiscation of property, or removal from public property for engaging in constitutionally protected activity.
16. By knowingly enforcing an unconstitutional de facto law that deprives citizens of their First Amendment rights, Sheriff Berrong has committed misconduct in office.

COUNT II: KNOWING OR WILLFUL NEGLIGENCE OF DUTY (T.C.A. § 8-47-101)

17. The allegations set forth in Paragraphs 1 through 16 are re-alleged and incorporated herein by reference.
18. Sheriff Berrong has knowingly or willfully neglected to perform duties enjoined upon him by law, in violation of T.C.A. § 8-47-101, which provides for ouster for "knowing or willful neglect of duties required by law."
19. As Sheriff, the Defendant swore a specific oath under T.C.A. § 8-8-104 to "support the constitutions of Tennessee and the United States" and to act "agreeably to law." His enforcement of an unconstitutional de facto law that deprives citizens of their First Amendment rights constitutes a direct violation of that oath.
20. The Tennessee Supreme Court has held that proceedings against an officer under the Ouster Act "should never be brought unless there is a clear case of official dereliction," as such a drastic statute should be invoked only in plain cases. *Vandergriff v. State ex rel. Davis*, 185 Tenn. 386, 206 S.W.2d 395 (1947). To oust a reputable officer, his derelictions "should amount to knowing misconduct or failure on the part of the officer if his office is to be forfeited; mere mistakes in judgment will not suffice." *Id.* The court further held that a sheriff who makes an "honest and reasonably intelligent effort to do his duty" will not be removed, though his efforts were not wholly successful. *Id.*
21. Sheriff Berrong has neglected his duty to refuse enforcement of an unconstitutional order and to protect the constitutional rights of the citizens of Blount County. The unconstitutionality of the "Order," otherwise known as *de facto law*, is apparent on its face. No notice from any citizen is required to trigger a sheriff's duty to uphold the Constitution.

COUNT III: VIOLATION OF PENAL STATUTES INVOLVING MORAL TURPITUDE

(T.C.A. § 8-47-101)

22. The allegations set forth in Paragraphs 1 through 21 are re-alleged and incorporated herein by reference.

23. Sheriff Berrong has committed acts constituting a violation of penal statutes involving moral turpitude, in violation of T.C.A. § 8-47-101. Article VII, Section 1 of the Tennessee Constitution provides that county officers shall be removed from office for malfeasance or neglect of duty. The terms "malfeasance" and "neglect of duty" are comprehensive terms and include any wrongful conduct that affects, interrupts, or interferes with the performance of official duty. *State ex rel. Complainant v. Ward*, 43 S.W.2d 217, 219 (Tenn. 1931). Sheriff Berrong's enforcement of the "Order" forces him to violate his oath of office, compels him to participate in depriving citizens of their First Amendment rights, and substitutes judicial will for lawful authority. Moreover, "[m]isconduct that would sustain an indictment under the common law would support a proceeding under the Ouster Law." *State ex rel. Carney v. Crosby*, 255 S.W.3d 593, 597 (Tenn. Ct. App. 2008). By continuing to enforce the "Order" under color of law, Sheriff Berrong is willfully depriving citizens of rights secured by the Constitution, conduct that, if proven, also constitutes deprivation of rights under color of law as recognized under 18 U.S.C. § 242. The "Order's" prohibition on personal devices, only applied to individuals not "deemed to be necessary to court proceedings", together with each act constitutes a deprivation of rights under color of law, a gross abuse of power, evidencing lack of moral turpitude.

24. By continuing to enforce the de facto law under color of law, Sheriff Berrong and his deputies have conspired to deprive citizens of rights secured by the Constitution, and have willfully deprived citizens of those rights.

25. Sheriff Berrong, as the chief law enforcement officer of Blount County and the executive charged with enforcing the Order, is responsible for the acts of his deputies committed pursuant to its enforcement.

VI. REQUEST FOR SUSPENSION PENDING HEARING

26. Pursuant to T.C.A. § 8-47-116, upon the filing of this Petition for a writ of ouster, this Court may suspend the Defendant from performing any of the duties of his office, pending a final hearing and determination of the matter.

27. The State requests that the Court suspend Sheriff Berrong pending final hearing, given the ongoing nature of the constitutional violations and the harm being inflicted upon the citizens of Blount County.

VII. PRAYER FOR RELIEF

WHEREFORE, the State of Tennessee, by and through the Blount County Attorney, respectfully prays that this Honorable Court:

1. Pending final hearing, suspend the Defendant from performing the duties of his office pursuant to T.C.A. § 8-47-116;
2. Upon final hearing, enter a Judgment of Ouster removing the Defendant from the office of Sheriff of Blount County, Tennessee, pursuant to T.C.A. § 8-47-120;
3. Issue a Writ of Ouster directed to the Defendant, James L. Berrong, requiring him to answer this Petition within twenty (20) days as provided by T.C.A. § 8-47-114;

4. Tax the costs of this proceeding to Blount County as provided by T.C.A. § 8-47-122(a), with the proviso that if these proceedings are successful, full costs shall be adjudged against the Defendant, Sheriff James L. Berrong, personally; and,
5. Award such other and further relief as the Court deems just and proper.

Respectfully submitted this ____ day of April, 2026.

DRAFT – CITIZEN REDRESS – NOT FILED

[Notary Page]

DRAFT – CITIZEN REDRESS – NOT FILED

[Certificate of Service]

DRAFT – CITIZEN REDRESS – NOT FILED

Exhibit A

DRAFT – CITIZEN REDRESS – NOT FILED

IN THE CIRCUIT COURT, THE CHANCERY COURT, AND THE
GENERAL SESSIONS COURT FOR BLOUNT COUNTY, TENNESSEE

IN RE:

THE USE OF PORTABLE
ELECTRONIC DEVICES IN THE
BLOUNT COUNTY JUSTICE
CENTER AND ALL COURTROOMS)

) CIRCUIT COURT DOCKET NO. L-21111
)
) CHANCERY COURT DOCKET NO. 2022-CH-108
)
) GENERAL SESSIONS COURT
DOCKET NO. CV-40114

FILED
NOV 30 2022
TOM HATCHER
GENERAL SESSIONS COURT

ORDER

FILED
NOV 30 2022
TOM HATCHER
CIRCUIT COURT CLERK

FILED
BLOUNT COUNTY

NOV 30 2022
1:24p CB
STEPHEN S. OGLE
CLERK AND MASTER

1. Definition of "Portable Electronic Device"

The term "Portable Electronic Device" is defined to include personal computers, tablets, computers, mobile telephones (including cell phones and any form of telephone with cameras and audio and video recording and transmission capabilities), electronic calendars, e-book readers and "smart" watches.

2. Possession and Use of Portable Electronic Devices

The following policies and procedures govern the possession and use of Portable Electronic Devices in the Blount County Justice Center and in all courtrooms.

A. In the Blount County Justice Center:

Portable Electronic Devices are allowed in the Blount County Justice Center subject to security screening, including Blount County Justice Center screening devices, and the following rules:

(1) Blount County Justice Center visitors may use Portable Electronic Devices in the common areas of the first floor Blount County Justice Center, such as lobbies and hallways. Further restrictions, including restricting mobile telephone conversations to designated areas, may be imposed as needed to maintain safety, security, proper behavior, order and the administration of justice. All Portable Electronic Devices must be placed in a silent mode, such as vibrate, at all times within the Blount County Justice Center.

(2) To ensure the safety and security of litigants, witnesses, jurors, Blount County Justice Center employees, and in the furtherance of fair and unimpeded administration of justice, using Portable Electronic Devices to take photographs, make audio or video recordings or to transmit

live audio or video streaming on all floors of the Blount County Justice Center is prohibited, except with prior written authorization by a judge of the Circuit or General Sessions Court.

(3) Other Electronic Devices: Cameras, video cameras, video recording equipment and recording devices ("other electronic devices") not classified as Portable Electronic Devices are not allowed in the Blount County Justice Center. Other electronic devices may be allowed in the Blount County Justice Center with prior written authorization by a judge of the Circuit or General Sessions Court.

B. In the Courtrooms:

Portable Electronic Devices shall not be brought into or used in the courtrooms without authorization from the judge presiding over the proceedings. A judge may authorize the possession and use of Portable Electronic Devices in the courtroom and may impose restrictions on such possession and use. Attorneys, clerks, court officers, probation officers and other persons deemed to be necessary to court proceedings may possess Portable Electronic Devices subject to the limitations herein. If the possession of Portable Electronic Devices in the courtroom is authorized, they must remain silent at all times. They shall only be used for the purposes and in the manner authorized by the judge. Photography, video recording, audio recording or video transmission or communication of any information using any media from inside the courtroom is prohibited without prior written authorization of the judge, pursuant to Rule 30 of the Tennessee Supreme Court.

C. Confiscation of Equipment and Ejection of User:

Any person using a Portable Electronic Device in violation of this or any other court order or policy may be removed from the Blount County Justice Center, found in contempt of court and subject to penalties as provided by law. Any Portable Electronic Device used in violation of this or any other court order or policy may be temporarily confiscated and returned to the owner at a time deemed appropriate by the court, and the Sheriff shall not be responsible or liable for any damage to or loss of a confiscated device.

D. Further Limitations by Judges:

A judge may further limit or ban the possession or use of any Portable Electronic Device:

- (1) Pursuant to Rule 30 of the Tennessee Supreme Court (to regulate media coverage of judicial proceedings);
- (2) If possession or use of the Portable Electronic Device may or does interfere with the administration of justice or cause any threat to safety or security or
- (3) For any other reason.

3. Posting Notice of this Policy


The policy of each court regarding the possession and use of Portable Electronic Devices shall be posted on the Blount County Sheriff's Office website; on the court's local website (if

any); at the Blount County Justice Center entrance; near the entry door of each courtroom; and in the Circuit Court Clerk's Office.

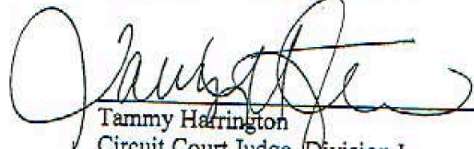
4. Storage of Portable Electronic Devices.

If the possession of Portable Electronic Devices in the courtrooms is prohibited or restricted, then storage for the devices shall not be provided by the Blount County Justice Center for anyone who is not allowed to bring their devices into the Blount County Justice Center and/or courtrooms.


IT IS ORDERED this the 30th day of November, 2022.



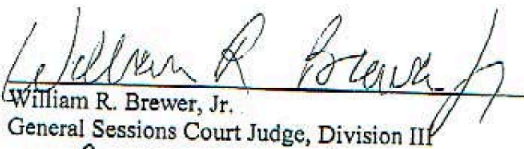
David R. Duggan
Circuit Court Judge, Division II



Tammy Harrington
Circuit Court Judge, Division I



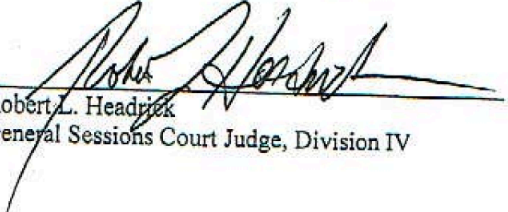
Jim Ripley
Chancellor



William R. Brewer, Jr.
General Sessions Court Judge, Division III



Michael A. Gallegos
General Sessions Court Judge, Division I



Robert L. Headrick
General Sessions Court Judge, Division IV

Exhibit B

DRAFT – CITIZEN REDRESS – NOT FILED

FAX Transmission Status

Transmission complete: 2026-04-02 12:33:58 MDT

Job ID 1085262497 **Destination** (865)273-5134

Status Success **Detail** Success

Pages 8 **Xmit Time** 00:02:28

NOTICE TO SHERIFF / Vol. 1, No. 1 / Thursday, April 2, 2026 / Tennessee

Tennessee | Blount County
No. 1, Vol. 1
Submitted Thursday, April 2, 2026

NOTICE TO SHERIFF

Custodian of Record: Jessica Saxton | JSaxton@JusticeWithoutLimits.org | 252-940-8545
Master Evidence Drive: <https://shorturl.at/cQZFV>
Version: 2026-04-02_Notice01_No01_[JS]

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NOTICE TO SHERIFF JAMES L. BERRONG

To: Sheriff James L. Berrong
Blount County Sheriff's Office
940 E. Lamar Alexander Parkway
Maryville, TN 37804

April 2, 2026

Sheriff Berrong,

This Notice is provided to formally bring the following matters to your attention. Your deputies are enforcing a judicial order issued November 30, 2022 (the "Order") (Exhibit 1) which prohibits citizens from possessing or using portable electronic devices (cell phones, cameras, recorders) in the Blount County Justice Center and courtrooms without a judge's written permission. The Order authorizes your deputies to remove citizens from the Justice Center, threaten contempt of court and unspecified penalties, confiscate electronic devices, and disclaim liability for loss or damage to seized property. The Order arbitrarily exempts attorneys, clerks, court officers, and other "necessary" persons.

Legislative power is vested exclusively in the General Assembly. No Tennessee statute authorizes a judge to create a de facto crime of cell phone possession in a courthouse or to authorize warrantless seizure of personal property. The Order raises serious concerns as to whether it constitutes a judicial usurpation of legislative authority. Rule 30 of the Tennessee Supreme Court applies only to *media coverage* of proceedings and does not authorize a blanket ban on private citizens' devices.

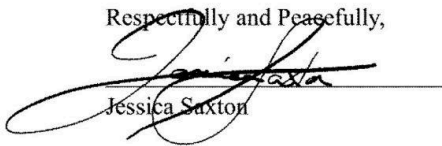
Furthermore, the First Amendment unambiguously protects the right of citizens to record government officials in public spaces and public buildings (*Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011)). The Second Amendment secures the right to keep and bear "Arms" for defense against

governmental overreach, which has historically been understood to include the means necessary for individuals to defend against governmental overreach, including modern, lawful instruments used to preserve and protect their rights, such as recording devices. The enforcement of such a prohibition, coupled with the authorization of seizure, operates not merely as a regulatory measure but as a functional deprivation of citizens' lawful ability of preserving, documenting, and defending their rights.

We The People recognize and respect the authority entrusted to the office of the highest constitutional officer of Blount County, Tennessee, and understand that this responsibility rests with you. Nonetheless, the enforcement of a directive by judges that infringes upon protected rights and activity, particularly where it results in the confiscation of property, imposition of penalties, or removal of individuals, warrants careful review to ensure alignment with the protections afforded to the people.

It is respectfully requested that you take immediate steps to ensure that all enforcement remains consistent with constitutional protections, in accordance with the duties entrusted to your office.

Respectfully and Peacefully,




Jessica Saxton

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing **NOTICE TO SHERIFF** with 1 Exhibit was served upon the following by sending this communication via email and fax on the 2nd day of April, 2026.

Sheriff James L. Berrong
Blount County Sheriff's Office
940 E. Lamar Alexander Parkway
Maryville, TN 37804


Jessica Sexton

Tennessee | Blount County
Vol. 1, No. 1
Submitted Thursday, April 2, 2026

EXHIBIT 1 ATTACHED

IN THE CIRCUIT COURT, THE CHANCERY COURT, AND THE
GENERAL SESSIONS COURT FOR BLOUNT COUNTY, TENNESSEE

IN RE:)
THE USE OF PORTABLE)
ELECTRONIC DEVICES IN THE)
BLOUNT COUNTY JUSTICE)
CENTER AND ALL COURTROOMS)
CIRCUIT COURT DOCKET NO. L-21111
CHANCERY COURT DOCKET NO. 2022-CH-108
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FILED
NOV 30 2022
TOM HATCHER
GENERAL SESSIONS COURT

ORDER

FILED
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1:24p CB
STEPHEN S. OGLE
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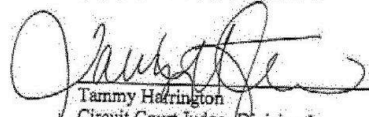
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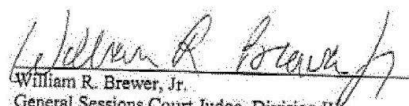
David R. Duggan
Circuit Court Judge, Division II



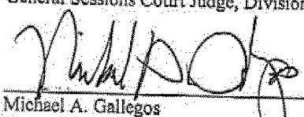
Tammy Harrington
Circuit Court Judge, Division I




Jim Ripley
Chancellor



William R. Brewer, Jr.
General Sessions Court Judge, Division III



Michael A. Gallegos
General Sessions Court Judge, Division I



Robert L. Headrick
General Sessions Court Judge, Division IV

— END —