

RECEIVED
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IN THE CIRCUIT COURT OF ROBERTSON COUNTY, TENNESSEE
AT SPRINGFIELD

PEPPER BLACK AND
S. BRAD DOZIER,

Plaintiffs,

v.

THERESA BALDWIN,

Defendant.

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Case No.: 74CC1-2022-CV-247

FILED
KRISTY A. CHOWNING, CLERK
JUL 18 2024
AT 1:45 O'CLOCK PM
BY: H. H. H. H. H.

ORDER

This matter came before the Court for hearing on July 2, 2024, upon the Plaintiffs' Motion to Alter or Amend Pursuant to Rule 59, Tenn. Rules Civ. Proc. and Motion to Dismiss Petition Because the Tennessee Public Participation Act Is Contrary to the Constitution of Tennessee. Upon consideration of the Plaintiffs' Motion, the responses filed by the Defendant and the State of Tennessee, the Plaintiffs' further filings, the arguments of counsel, and the entire record, the Court FINDS and ORDERS as follows:

1. After conducting a hearing on the Defendant's Motion to Dismiss and Tenn. Code Ann. § 20-17-104(a) Petition to Dismiss the Plaintiffs' Amended Complaint Pursuant to the Tennessee Public Participation Act, the Court issued orders on the Defendant's Rule 12.02(6) and Tennessee Public Participation Act (TPPA) claims for dismissal. The Court did not adjudicate a motion for summary judgment under Tennessee Rule of Civil Procedure 56, as the Defendant did not file a motion for summary judgment. Thus, the Plaintiffs' claim that the Court misapplied summary judgment standards when adjudicating the Defendant's Motion to Dismiss and TPPA Petition to

Dismiss is not well taken and is denied.

2. The Plaintiffs' arguments that the TPPA is unconstitutional are denied as waived. The Plaintiffs assert that they timely raised their constitutional arguments in their April 24, 2023 filing, but the Plaintiffs' April 24, 2023 filing only briefly mentioned the argument that the TPPA is unconstitutional and did not formally raise it. The State of Tennessee also was not put on notice of any constitutional argument at that time. Further, the Plaintiffs' April 24, 2023 filing did not develop their constitutional arguments, and the arguments contained in it were merely skeletal. Thus, the Plaintiffs waived their constitutional arguments by failing to raise and develop them in response to the Defendant's TPPA Petition, and the Plaintiffs may not raise their constitutional arguments for the first time in a Rule 59 motion.

3. The Plaintiffs have asserted that this Court's January 2, 2024 order "was shared ex parte with the Court" and "does not appear to be that of the Court[.]" The Plaintiffs' assertions are inaccurate. The Court had no ex parte communications with anyone involved in this case, either when the Court was drafting its orders or at any other time.

For these reasons, the Plaintiffs' *Motion to Alter or Amend Pursuant to Rule 59, Tenn. Rules Civ. Proc. And Motion to Dismiss Petition Because the Tennessee Public Participation Act Is Contrary to the Constitution of Tennessee* is DENIED in its entirety.

IT IS SO ORDERED.

ENTERED this the 18 day of July, 2024.



HON. ADRIENNE FRY
CIRCUIT COURT JUDGE PART 1

APPROVED FOR ENTRY:

By: /s/ Daniel A. Horwitz
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CERTIFICATE OF SERVICE

I hereby certify that on this the 6th day of July, 2024, a copy of the foregoing was transmitted via hand-delivery, via the Court's electronic filing system, via USPS mail, and/or via email to the following parties or their counsel:

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