UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
AT FRANKFORT

SAMANTHA WIGGINTON, *et al.*,	)	
	)	
Plaintiff,	)	
v.	)	
	)	CIVIL ACTION NO. 3:26-cv-00035-CHB
	)	
COMMONWEALTH OF KENTUCKY, *et al.*	)	
	)	**FINANCE SECRETARY'S**
	)	**MOTION TO DISMISS**
	)	
Defendants.	)	

Defendant, Secretary Holly McCoy Johnson, in her official capacity as Secretary of the Finance and Administration Cabinet, Commonwealth of Kentucky, by and through counsel, moves this Court to dismiss her from the above-styled action, with prejudice, under Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 12(b)(1) and (12)(b)(6). Senate Bill 185 (R.S. 2026), the legislation Plaintiffs challenge, provides neither enforcement nor implementation authority to the Finance Secretary. As a result, Plaintiffs lack standing as to the Finance Secretary and fail to raise an actual, justiciable case or controversy regarding the Finance Secretary. As such, this Court lacks subject matter jurisdiction over Plaintiffs' Complaint as to the Finance Secretary. Plaintiffs also fail to state a claim upon which relief can be granted as to the Finance Secretary. The Finance Secretary submits the below Memorandum in Support of her Motion.

MEMORANDUM IN SUPPORT

In this action, styled as a class action complaint for declaratory, injunctive, and equitable relief, Plaintiffs challenge Senate Bill 185 (R.S. 2026) ("SB 185") enacted in 2026 relating to Kentucky State University. (Doc. 1.) Plaintiffs generally "seek prospective relief against state

officials in their official capacities under *Ex parte Young* …" (Doc. 1, Page ID# 8.) Plaintiffs specifically name the Finance Secretary as a Defendant in her official capacity "for prospective declaratory and injunctive relief relating to EMARS, statewide fiscal controls, finance-related implementation, and any Cabinet role in enforcing the challenged fiscal provisions of SB 185." (Doc. 1, Page ID# 8.) Secretary Johnson is not otherwise mentioned in the Complaint, and largely not discussed; instead, in the concluding Prayer for Relief Plaintiffs again mention an "EMARS transition[.]" (*Id.*, Page ID# 74.) Plaintiffs do not allege any conduct by the Finance Secretary that has caused them any alleged injury or that violates any federal or state law. Plaintiffs' challenge to Senate Bill 185 includes reference to language in the bill, specifically Section 1.(4), which denotes "the Enhanced Management Administrative Reporting System (EMARS)." But Plaintiffs do not allege that the Finance Secretary could take any action under SB 185 that would harm them, or that she could take any action under the bill, at all.

Rather, Plaintiffs name the Finance Secretary because of her role as Secretary of the Finance and Administration Cabinet and purported role regarding EMARS. However, the Finance Secretary's general role and authority does not make her a proper party and does not create a justiciable case or controversy.

Just as with Plaintiffs' Complaint, the plain text of SB 185 does not raise a justiciable controversy as to the Finance Secretary. In relevant part, SB 185 states: "Notwithstanding KRS 164A.560, beginning no later than July 1, 2027, all financial transactions of Kentucky State University shall be reported and reconciled no less than monthly in the Enhanced Management Administrative Reporting System (EMARS)." (Doc 1-6, Page ID## 168.) The bill does not specifically reference the Finance Secretary, and most importantly, does not provide the Finance Secretary with any singular role or authority to enforce or implement its provisions. Thus, the

Finance Secretary is not a proper party to this action, and Plaintiffs lack standing and fail to state a claim for relief as to the Finance Secretary.

As a result, the Court should dismiss the Finance Secretary from this action.

LEGAL STANDARD

Under Fed. R. Civ. P. 12(b)(1) and (6), respectively, a district court may dismiss a complaint for "lack of subject-matter jurisdiction" or "failure to state a claim upon which relief can be granted." In considering a Rule 12(b) motion to dismiss, the Court must construe the complaint in a light most favorable to the plaintiff and accept all factual allegations as true. *Prater v. City of Burnside, Ky.*, 289 F.3d 417, 424 (6th Cir. 2002). However, a court is "not bound to accept as true a legal conclusion couched as a factual allegation." *Papasan v. Allain*, 478 U.S. 265, 286 (1986) (citation omitted).

"The party invoking federal jurisdiction bears the burden of establishing standing." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014). Constitutional standing requires a plaintiff show they have "suffered (1) an injury that is (2) 'fairly traceable to the defendant's allegedly unlawful conduct; and that is (3) 'likely to be redressed by the requested relief.'" *Prime Media, Inc. v. City of Brentwood*, 485 F.3d 343, 349 (6th Cir. 2007) (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). If a plaintiff lacks standing, a federal court lacks subject matter jurisdiction and must dismiss the case. *Murray v. U.S. Dep't of Treasury*, 681 F.3d 744, 748 (6th Cir. 2012).

ARGUMENT

Plaintiffs lack standing to sue the Finance Secretary because they fail to allege any action of the Finance Secretary that has caused or could cause any of their alleged injuries. The Finance Secretary's role with respect to EMARS system does not raise an actual case or controversy

between her and the Plaintiffs and does not make the Finance Secretary a proper party. Senate Bill 185 does not specifically reference the Finance Secretary and does not provide her with any authority to enforce or implement its provisions. Further, Plaintiffs fail to state a claim upon which relief can be granted as to the Finance Secretary. Consequently, the Court should dismiss Plaintiffs' Complaint against the Finance Secretary under Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

I. Plaintiffs' Lack Standing as to the Finance Secretary.

This Court lacks subject matter jurisdiction over Plaintiffs' Complaint regarding the Finance Secretary because Plaintiffs lack standing and fail to raise an actual, justiciable case or controversy. "[A] suit against state officials that is in fact a suit against a State is barred regardless of whether it seeks damages or injunctive relief." *EMW Women's Surgical Center, P.S.C. v. Beshear*, 920 F.3d 421, 444-45 (6th Cir. 2019) (citing *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 102, (1984)). One "important exception" exists for suits "challenging the constitutionality of a state official's action." *Id.* (citing *Pennhurst State Sch. & Hosp.*, 465 U.S. 89, 102) (citing *Ex Parte Young*, 209 U.S. 123 (1908))).

When making a state official a defendant in an action alleging a statute is unconstitutional, "such officer must have some connection with the enforcement of the act[.]" *Ex Parte Young*, 209 U.S. 123, 157 (1908). Put another way, "'General authority to enforce the laws of the state is not sufficient to make government officials the proper parties to litigation challenging the law.'" *Children's Healthcare is a Legal Duty, Inc. v. Deters*, 92 F.3d 1412, 1416 (6th Cir. 1996) (quoting *1st Westco Corp. v. School Dist. of Philadelphia*, 6 F.3d 108, 113 (3d Cir. 1993)). There must be "a realistic possibility the official will take legal or administrative actions against the plaintiff's interests." *Russell v. Lundergan-Grimes*, 784 F.3d 1037, 1048 (6th Cir. 2015). General enforcement authority is not sufficient. *Id.* (citing *1st Westco Corp. v. School Dist. of Philadelphia*,

6 F.3d 108, 113 (3d Cir. 1993)). Further, only a state officer with responsibility for the enforcement or execution of a statute may be enjoined from enforcing that statute. *See Johnson Bonding Co., Inc. v. Commonwealth of Ky.*, 420 F.Supp. 331, 334 (E.D. Ky. 1976).

Here, Plaintiffs do not allege any specific action the Finance Secretary has taken, is taking, or could take to cause them injury. Plaintiffs also do not assert there is a realistic possibility that the Finance Secretary will, or could, take any action against their interests. Plaintiffs name the Finance Secretary as a Defendant in her official capacity "for prospective declaratory and injunctive relief relating to EMARS, statewide fiscal controls, finance-related implementation, and any Cabinet role in enforcing the challenged fiscal provisions of SB 185." (Doc. 1, Page ID# 8.) Plaintiffs only specifically reference the Finance Secretary in the Complaint caption and thereafter in the "Parties" section. (*Id.*, Page ID# 13). In the Prayer for Relief section of the Complaint, Plaintiffs refer to EMARS generally and request the Court enjoin a purported "EMARS transition." (*id.*, Page ID# 74.)

However, Plaintiffs do not allege any conduct of the Finance Secretary that has caused them any alleged injury or that violates any federal or state law. They do not allege that the Finance Secretary could take any action under SB 185 that would harm them. Plaintiffs fail to show an actual case or controversy exists between them and the Finance Secretary. Although the Finance Secretary has enumerated duties regarding the Commonwealth's finance and administration, such a generalized duty does not make her a proper party in this action.

Senate Bill 185 does not explicitly reference the Finance Secretary and Plaintiffs' Complaint only refers to SB 185 language that references EMARS. Specifically, Senate Bill 185, Section 1(4) provides "[n]otwithstanding KRS 164A.560, beginning no later than July 1, 2027, all financial transactions of Kentucky State University shall be reported and reconciled no less

than monthly in the Enhanced Management Administrative Reporting System (EMARS).” (Doc 1-6, Page ID## 168.) EMARS is an electronic accounting system utilized by state government. *See* KRS 42.032. However, Senate Bill 185 does not provide the Finance Secretary with the authority to enforce or implement its provisions.

Plaintiffs cannot show that they have suffered or will suffer an injury that is reasonably traceable to any conduct of the Finance Secretary or that the Finance Secretary has acted or could act unlawfully under SB 185. Thus, there is no conduct for the Court to redress. As Plaintiffs fail to establish standing and do not raise an actual case or controversy as to the Finance Secretary, the Court lacks subject matter jurisdiction and should dismiss the Finance Secretary from this action, with prejudice, under Fed. R. Civ. P. 12(b)(1).

II. Plaintiffs Fail To State A Claim For Relief As To the Finance Secretary.

For the same reasons Plaintiffs lack standing, they fail to state a claim upon which relief can be granted as to the Finance Secretary. As set forth above, Plaintiffs specifically name the Finance Secretary as a Defendant in her official capacity “for prospective declaratory and injunctive relief relating to EMARS, statewide fiscal controls, finance-related implementation, and any Cabinet role in enforcing the challenged fiscal provisions of SB 185.” (Doc. 1, Page ID# 8.) But, again, SB 185 185 does not grant the Finance Secretary the authority to enforce or implement its provisions.

With respect to the Finance Secretary, SB 185 does not give her any specific role or duty to carry out its provisions. The bill only references financial transactions of Kentucky State University and submissions of same in EMARS. There is no action of the Finance Secretary for the Court to enjoin or enter a declaratory judgment on. *See Johnson Bonding Co., Inc.* 420 F.Supp.

at 334 (E.D. Ky. 1976) ("… [S]tate officers who must be enjoined are those who have responsibility for the enforcement or execution of this statute.")

Accordingly, there is no action of the Finance Secretary from which the Court can grant Plaintiffs relief. The Court should dismiss Plaintiffs' Complaint against the Finance Secretary, with prejudice, under Fed. R. Civ. P. 12(b)(6).

CONCLUSION

Senate Bill 185 does not provide the Finance Secretary with any authority to enforce or implement its provisions. As the Finance Secretary is not provided any enforcement or implementation power under SB 185 to enjoin, Plaintiffs lack standing to bring any claims against the Finance Secretary and thereby fail to allege any actual case or controversy as to the Finance Secretary. Plaintiffs also fail to state a claim for relief against the Finance Secretary. Therefore, the Court should dismiss the Finance Secretary from this action, with prejudice, under Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

Respectfully submitted,

/s/ Shan Dutta
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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2026, I electronically filed the foregoing pleading via the Court's CM/ECF system, causing counsel of record to be served.

/s/ Shan J. Dutta
Shan J. Dutta