IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTY-EIGHTH JUDICIAL DISTRICT, GIBSON COUNTY

STEPHEN L. HUGHES, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	**No. 24475**
	)	**Chancellor Michael Mansfield, Chief Judge**
BILL LEE, in his official capacity as Governor of the State of Tennessee, et al.,	)	**Judge M. Wyatt Burk**
	)	**Judge Lisa Nidiffer Rice**
	)	
Defendants.	)	

ORDER ON DEFENDANTS' MOTION FOR STAY OF JUDGMENT

Before the Court is Defendants' Motion for Stay of Judgment Pending Appeal. Defendants ask the Court to stay its August 22, 2025 Order on the parties' Cross-Motions for Summary Judgment as Defendants pursue their appeal of that Order. Defendants' so move the Court under Tennessee Rule of Civil Procedure 62.06, which provides in the relevant part:

> When an appeal is taken by the state, a county, a municipal corporation, or an officer or agency thereof acting in its behalf, the judgment may be stayed in the court's discretion.

While Tennessee has not developed an independent standard for considering a motion to stay judgment, the Supreme Court of the United States has explained as follows:

> "A stay is not a matter of right, even if irreparable injury might otherwise result." It is instead "an exercise of judicial discretion," and "[t]he propriety of its issue is dependent upon the circumstances of the particular case." The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.
>
> The fact that the issuance of a stay is left to the court's discretion "does not mean that no legal standard governs that discretion . . . . '[A] motion to [a court's] discretion is a motion, not to its inclination, but to its judgment; and its judgment is to be guided by sound legal principles.'" As noted earlier, those legal principles have been distilled into consideration of four factors: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding;

> and (4) where the public interest lies." There is substantial overlap between these and the factors governing preliminary injunctions; not because the two are one and the same, but because similar concerns arise whenever a court order may allow or disallow anticipated action before the legality of that action has been conclusively determined.

Nken v. Holder, 556 U.S. 418, 433–34 (2009) (citations omitted).

Here, we do not find any these four factors weighing in favor of granting Defendants the stay they seek. First, the Court would note that in their briefs and at the hearing on their Motion for Summary Judgment, Defendants made strong arguments as to a number of issues. We, however, ruled against Defendants. The Tennessee Court of Appeals may very well review these issues and arrive at a different conclusion on one or even all of them. But this Court would not have ruled as we did if we also thought Defendants had made a "strong showing" that they were "likely to succeed on the merits." Second, neither are we persuaded that Defendants face an irreparable injury absent a stay because the Court has already concluded the challenged statutes were unconstitutional, and, as was also noted, no government official has any legitimate interest in enforcing an unconstitutional statute. Third, a stay would leave in effect two statutes we have determined are unconstitutional. Curtailing the constitutional rights of all Tennesseans certainly constitutes a "substantial[] injur[y]." *See Michigan State A. Philip Randolph Inst. v. Johnson*, 833 F.3d 656, 669 (6th Cir. 2016) (citation omitted) ("[W]hen constitutional rights are threatened or impaired, irreparable injury is presumed."); *Obama for America v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) (stating the same). And finally, the Court further noted in its Order that the public likewise has no legitimate interest in enforcing unconstitutional statutes.

To Defendants' first assertion that the Court "invented" a new test for facial challenges, we suggest they re-read the Court's Order. In analyzing the challenged statutes in the context of a facial challenge brought under Article I, Section 26 of the Tennessee Constitution, we

synthesized the Supreme Court of the United States' decisions in *United States v. Salerno*, 481 U.S. 739, 745 (1987), *United States v. Stevens*, 559 U.S. 460, 472 (2010), and *New York State & Rifle Ass'n, Inc. v. Bruen*, 597 U.S. 1, 24 (2022). Others, like Defendants, may dispute this approach of reconciling the applicable case law, but in no way did the Court require Defendants to establish the constitutionality of the challenged statutes "in every application."

To their second assertion that the Court exceeded the constitutional bounds of judicial power, we note that Defendants themselves adequately describe the inherent limits of declaratory relief. Likewise, a case they rely upon to criticize the Court's August 22, 2025 Order thoroughly illustrates the judicial role. Defendants correctly state that we "do not rewrite, amend, or strike down statutes." *Lindebaum v. Realgy, LLC*, 13 F.4th 524, 526 (6th Cir. 2021). The Court's role is to "say what the law is." *Id.* (quoting *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803)). "And to say what the law is, we must exercise 'the negative power to disregard an unconstitutional enactment.'" *Id.* at 528 (quoting *Massachusetts v. Mellon*, 262 U.S. 447, 488 (1923)). Defendants characterize the Court's August 22, 2025 Order as having "hast[ily] erase[d] statutory provisions in their entirety," asserting we lacked the authority to do so. Defendants may be surprised to learn that the Court agrees with them on this point. That is why we instead determined and declared Plaintiffs' rights in relation to unconstitutional statutes because "'a legislative act contrary to the constitution is not law' at all." *Id.* (quoting *Marbury*, 5 U.S. at 177). Our declaration that the Going Armed and Parks Statutes were "unconstitutional, void, and of no effect" was the simple recognition of this reality. This declaration was already limited in scope by the nature of declaratory relief, and the Court declined to limit that relief further as Defendants asked because we saw no basis for doing so. In short, we did not rip the challenged statutes out of the Tennessee Code as Defendants seem to suggest. "Instead, the Court recognized only that the Constitution

had 'automatically displace[d]' the [Going Armed and Parks Statutes] from the start." *Id.* at 529 (quoting *Collins v. Yellen*, 141 S. Ct. 1761, 1788 (2021)).

Next, the Court would like to address a few of the Defendants' hypotheticals that allegedly result from this Panel's holding. Defendants posit that "a ten- year-old [now can] bring a semi-automatic rifle to his rec league basketball game." Of course, federal law prohibits minors from obtaining firearms from dealers, 18 U.S.C. § 922(b)(l), and Tennessee law likewise prohibits the sale, loan or gifting of a firearm to a minor. Tenn. Code Ann. § 39-17-1303. Defendants also speculate that an armed drunk person might "stumble through a crowd" in public places. Certainly, the State is aware that Tenn. Code Ann. § 39-17-1321 provides that "[n]otwithstanding whether a person has a permit issued pursuant to § 39-17-1315 or § 39-17-1351 or § 39-17-1366, it is an offense for a person to possess a handgun while under the influence of alcohol or any controlled substance or controlled substance analogue." Furthermore, section (b) of said statute provides that "[i]t is an offense for a person to possess a firearm if the person is both: (1) [w]ithin the confines of an establishment open to the public where liquor, wine or other alcoholic beverages, as defined in § 57-3-101(a), or beer, as defined in § 57-6-102, are served for consumption on the premises; and (2) [c]onsuming any alcoholic beverage listed in subdivision (b)(1). Lastly, Tennessee also criminalizes disorderly conduct, Tenn. Code Ann. § 39-17-305, which certainly would include a drunk "creat[ing] a hazardous condition . . . in a public place." In summary, there are numerous laws already on the books to prevent Defendants' hypotheticals. In any event, to the extent there is a need for further *constitutional* enactments after this Court's opinion, the General Assembly is free to act as its constituency directs at any time.

Lastly, to additional concerns of uncertainty and confusion in the wake of the General Assembly constructing a regulatory framework on top of an unconstitutional foundation, the Court

emphasizes that admittedly practical policy concerns cannot override the constitutional rights of the citizenry. Indeed, we additionally refer Defendants to the motto on the Seal of the Tennessee Judiciary—*fiat justitia ruat coelum*, "[a] Latin phrase that . . . means, 'Let justice be done, though the heavens fall.'" *Tennessee Supreme Court Issues Statement on Commitment to Equal Justice*, Tennessee Courts (June 25, 2020), *available at* https://www.tncourts.gov/press/2020/06/25/tennessee-supreme-court-issues-statement-commitment-equal-justice.

Because the Court finds no cause to stay our August 22, 2025 Order, Defendants' Motion for Stay of Judgment Pending Appeal is hereby **DENIED**.

It is so ORDERED.

CHANCELLOR MICHAEL MANSFIELD, Chief Judge

M. Wyatt Burk (Sep 10, 2025 10:27:37 CDT)

JUDGE M. WYATT BURK

JUDGE LISA NIDIFFER RICE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing document has been forwarded to the following by regular US Mail, postage pre-paid, electronic mail and/or eflex:

Hon. M. Wyatt Burk
200 Dover Street, Suite 123
P.O. Box 146 (37162)
Shelbyville, TN 37160
Judge.Wyatt.Burk@tncourts.gov

Hon. Lisa Nidiffer Rice
300 Broad Street, Suite 307
Elizabethton, TN 37643
Judge.Lisa.Rice@tncourts.gov

John I. Harris III
Schulman, LeRoy & Bennett PC
3310 West End Avenue, Suite 460
Nashville, TN 37203
615-244-6670
jharris@slblawfirm.com
Attorneys for Plaintiffs

Miranda Jones
Cody N. Brandon
Liz Evan
Edwin A. Groves, Jr.
P.O. Box 20207
Nashville, TN 37202
615-532-7400
Miranda.Jones@ag.tn.gov
Cody.Brandon@ag.tn.gov
Liz.Evan@ag.tn.gov
Alan.Groves@ag.tn.gov
Attorneys for Defendants

Jordan Emily, Law Fellow
Danielle Lane, Three-Judge Panel Coordinator
Marvin Williamson, Three-Judge Panel Paralegal
511 Union Street, Suite 600
Nashville, TN 37219
Danielle.Lane@tncourts.gov
Marvin.Williamson@tncourts.gov

Jordan.Emily@tncourts.gov

This the 10th day of September, 2025.

Clerk and Master