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

MAYOR LEE HARRIS, in his official capacity,	)
COMMISSIONER ERIKA SUGARMON, in her official capacity,	)
COMMISSIONER HENRI E. BROOKS, in her official capacity,	)
COUNCILMEMBER JB SMILEY, JR., in his official capacity,	)
REPRESENTATIVE G.A. HARDAWAY, in his official capacity,	)
REPRESENTATIVE GABBY SALINAS in her personal and official capacity, and	)
SENATOR JEFF YARBRO, in his personal and official capacity,	)
Plaintiffs, v.	)
GOVERNOR BILL LEE, in his official capacity,	)
ATTORNEY GENERAL JONATHAN SKRMETTI, in his official capacity, and	)
MAJOR GENERAL WARNER A. ROSS, III in his official capacity,	)
Defendants.	)

No. 25-1461-I

COMPLAINT

I. INTRODUCTION

1. The "traditional and strong resistance of Americans to any military intrusion into civilian affairs" has "deep roots in our history." *Laird v. Tatum*, 408 U.S. 1, 15 (1972). Our nation's founders recognized that military rule was incompatible with liberty and democracy. Wary of the tyrannical threat posed by a militarized federal government, the founders took pains to enshrine in the Constitution civilian control of the military, limits on the maintenance of a national army, reliance on the states' militia for national defense, and local control of the general police power. Foundational principles of American law therefore limit the military's involvement in domestic affairs.

2. Those principles were likewise enshrined in the Tennessee Constitution, which was drafted against the backdrop of a governor who used the State's militia to suppress political opponents and imposed martial law in 11% of Tennessee's 84-counties. While the State's Constitution recognizes the Governor as the Commander-in-Chief of Tennessee's military forces, it also carefully limits the Governor's authority to use the State's militia—what is today known as the Tennessee National Guard—to specific circumstances.

3. Specifically, "the Militia shall not be called into service except in case of rebellion or invasion, and then only when the General Assembly shall declare, by law, that the public safety requires it." Tenn. Const., art. III, § 5.

4. Tennessee statutes also sharply constrain the governor's use of the military for civilian law enforcement and, particularly, forbid him from doing so unilaterally, rather than in a response to a request from the affected city or county. *See* Tenn Code § 58-1-106(a), (c).

5. Defendants have trampled on Tennessee law by unilaterally deploying Tennessee National Guard members in Memphis as a domestic police force. On October 10, 2025, military police in fatigues descended upon Memphis, in a deployment of the Tennessee National Guard

authorized by Governor Bill Lee. Governor Lee acted at the request of President Donald Trump, but not at the request of any Memphis or Shelby County officials. He also had no approval or authorization from the Tennessee General Assembly.

6. The deployment is patently unlawful.

7. Municipal, county, and state officials bring this action seeking injunctive relief to preclude this unlawful militarization of the communities residing in Memphis.

II. PARTIES

8. Plaintiff Lee Harris is the duly elected Mayor of Shelby County and serves as the chief elected official in Shelby County Government, one of the largest local governments in the South. Mayor Harris sues in his official capacity as the Mayor of Shelby County. In his capacity as mayor, he serves as Shelby County's chief fiscal officer. He also enjoys veto power over any resolutions adopted by the Shelby County Board of Commissioners.

9. Plaintiff Erika Sugarmon is a duly elected Commissioner of Shelby County, representing District 12. Commissioner Sugarmon sues in her official capacity as a member of the Shelby County Board of Commissioners.

10. Plaintiff Henri E. Brooks is a duly elected Commissioner of Shelby County, representing District 7. Commissioner Brooks sues in her official capacity as a member of the Shelby County Board of Commissioners.

11. Plaintiff JB Smiley, Jr., is a duly elected council member of the City of Memphis, representing Super District 8-1. Councilmember Smiley sues in his official capacity as a member of the Memphis City Council.

12. Plaintiff G.A. Hardaway, Sr., is a duly elected member of the Tennessee General Assembly, representing District 93 in the Tennessee House of Representatives. Representative Hardaway sues in his official capacity as a member of the Tennessee General Assembly.

13. Plaintiff Gabby Salinas is a duly elected member of the Tennessee General Assembly, representing District 96 in the Tennessee House of Representatives. Representative Salinas sues in her official capacity as a member of the Tennessee General Assembly and also as a taxpayer. Representative Salinas is a resident of Memphis, Tennessee. She pays sales, gasoline, and motor-vehicle taxes that are levied under Tenn. Code §§ 55-4-101, 55-4-105, and 55-4-111. She objects to the use of state funds for the unlawful deployment of the National Guard.

14. Plaintiff Jeff Yarbro is a duly elected member of the Tennessee General Assembly representing District 21 in the Tennessee Senate. Senator Yarbro sues in his official capacity as a member of the Tennessee General Assembly and also as a taxpayer. Representative Yarbro is a resident of Davidson County, Tennessee. He pays sales, gasoline, and motor-vehicle taxes that are levied under Tenn. Code §§ 55-4-101, 55-4-105, and 55-4-111. He objects to the use of state funds for the unlawful deployment of the National Guard.

15. Defendant Bill Lee is the Governor of Tennessee. Governor Lee is sued in his official capacity.

16. Defendant Jonathan Skrmetti is the Attorney General of Tennessee. Attorney General Skrmetti is sued in his official capacity.

17. Defendant Warner A. Ross III is the Adjutant General of the Tennessee National Guard. Major General Ross is sued in his official capacity.

III. JURISDICTION AND VENUE

18. This Court has jurisdiction over this matter pursuant to Tenn. Code §§ 1-3-121 and 29-14-102.

19. This Court is vested with the authority to issue a declaratory judgment and an injunction with the force and effect of a final decree pursuant to Tenn. Code §§ 1-3-121, 29-1-106, and 29-14-102.

20. Venue is proper in this Court under Tenn. Code Ann. § 4-4-104. *See Morris v. Snodgrass*, 871 S.W.2d 484 (Tenn. Ct. App. 1993) (establishing venue for suits against state officials such as the state attorney general in Davidson County).

IV. LEGAL BACKGROUND

A. National Guard Service Categories

21. Today, the National Guard is a state-based military reserve force that consists of two overlapping but distinct organizations: the National Guard of the various States and the National Guard of the United States.[1] Since 1933, anyone who enlists in a state's National Guard is simultaneously enlisted into the National Guard of the United States. And when a member of a state's National Guard is ordered into federal service, that member is relieved of his or her status in the state's National Guard for the duration of their federal service.

22. Members of the National Guard may serve in one of three capacities: State Active-Duty status, Title 10 status, or Title 32 status.

23. First, members of the National Guard may serve in "State Active Duty" status. This means they exercise state functions under the authority of their state's governor, and their actions generally are governed by state law.

24. Second, members of the National Guard may be "federalized" and called into federal service in what is known as "Title 10 status." In rare circumstances, set forth in Title 10 of the U.S. Code, the President may activate the National Guard, thereby making it part of the federal

[1] The Dick Act of 1903, 32 Stat. 775, modernized the organized state militias and codified the circumstances in which those militias would be called into federal service. Since that time, the state militias subject to federal conversion, as contemplated by the U.S. Constitution's Militia Clauses and the Tennessee Constitution's Commander-in-Chief Clause, have been called the "National Guard." *See Lipscomb v. FLRA*, 333 F.3d 611, 613 (5th Cir. 2003) ("[T]he national guard is the militia, in modern-day form, that is reserved to the states by Art. I, § 8, cls. 15, 16 of the Constitution."); *see also Perpich v. Department of Defense*, 496 U.S. 334, 342-43 (describing the Dick Act's reformation of the militia into the modern National Guard system).

military subject to his direct control. *See* 10 U.S.C. § 12406. But these circumstances are limited to the most severe exigencies not present here and, regardless, the President has not purported to exercise his authority to call Tennessee's National Guard into federal service for purposes of the Memphis deployment.

25. Third, members of the National Guard may serve in a hybrid federal-state status known as "Title 32 status." At the request of the President or Secretary of Defense, a state National Guard unit may be activated by the governor of its state to perform training or "other duty" under state command and control, but with certain funding available from the federal government. *See* 32 U.S.C. § 502(f). A state's National Guard personnel in such a deployment "serve[] under the Governor and subordinate authority." *Yount v. State*, 774 S.W.2d 919, 920 (Tenn. 1989).

26. Here, President Trump requested that Governor Lee deploy Tennessee National Guard members under Title 32, and Governor Lee obliged.

B. The Tennessee National Guard is a State-Based Military Reserve Force

27. The U.S. Constitution authorizes Congress "to provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions." U.S. Const. art. I, § 8, cl. 15–16. This state-based militia that existed at the nation's founding was the forerunner of the modern National Guard.

28. At the nation's founding, the Framers divided control over state militias to protect "individual liberty" and "the sovereignty of the separate States." *Perpich v. Dep't of Defense*, 496 U.S. 334, 340 (1990). The Founding generation "strongly disfavored standing armies" and believed that "adequate defense of country and laws could be secured through the Militia"—a force composed of "civilians primarily, soldiers on occasion." *United States v. Miller*, 307 U.S. 174, 179 (1939). At the same time, the experience of the Revolutionary War and the Articles of Confederation taught the Founding generation that "[t]he steady operations of war" required "a

regular and disciplined army" under centralized federal command. The Federalist No. 25 (Alexander Hamilton).

29. The Constitution therefore reflects a compromise. It "reserv[es] to the States" the principal power over the "Militia," including the authority to appoint its officers, train its members, and "govern[] such Part of them" as are not in federal service. U.S. Const. art. I, § 8, cl. 16. At the same time, the Constitution vests Congress with authority "[t]o raise and support Armies" for terms of no longer than "two years." *Id.* art. I, § 8, cl. 12. It also grants Congress the powers necessary to ensure that the Militia is a professional force available for national emergencies: it states that Congress may provide for "organizing, arming, and disciplining, the Militia," *id.* art. I, § 8, cl. 16, and for "calling forth the Militia to execute the Laws of the Union, suppress Insurrections, and repel Invasions." *Id.* art. I, § 8, cl. 15.

30. Because the U.S. Constitution preserved state authority over state militias, Tennessee's National Guard (and its use by the governor) is subject to Tennessee law when it is not called into federal service under Title 10. *E.g.*, *Oregon v. Trump*, 2025 WL 2817646, at *2 (D. Or. Oct. 4, 2025) ("State Active Duty National Guard troops and those activated under Title 32 may engage in domestic law enforcement functions, *subject to restrictions under state law*.") (emphasis added); *see also Perpich*, 496 U.S. at 348 (1990) ("[M]embers of the state Guard unit . . . must keep three hats in their closets – a civilian hat, a state militia hat, and an army hat – *only one* of which is worn at a particular time.") (emphasis added).

C. The Tennessee Constitution Limits Circumstances When the Governor Can Deploy the Tennessee National Guard

31. Tennessee's first Constitution was adopted in 1796. It recognized the Governor as the Commander-in-Chief of the State's military forces and identified the "Militia" as the entity subject to being "called into the service of the United States," just as the federal Constitution imagined. Tenn. Const. art. II, § 5 (1796).

32. That formulation has been consistent in the State's two subsequent constitutions. *See* Tenn. Const. art. III, § 5 (1834); Tenn. Const. art. III, § 5 (1870).

33. Since statehood, the State's Constitution has restricted the military's role in Tennessee society across each version, stating that "in all cases the military shall be kept in strict subordination to the civil authority." Tenn. Const. art. I, § 24 (1796); Tenn. Const. art. I, § 24 (1834); Tenn. Const. art. I, § 24 (1870).

34. Adopted in 1870, the third and current version of the State's Constitution restricts the military's role in Tennessee, including that the governor cannot call out the militia without consent of the legislature.

35. Specifically, the Tennessee Constitution provides that the State's "Militia," known today as the Tennessee National Guard, "shall not be called into service except in case of rebellion or invasion, and then only when the General Assembly shall declare, by law, that the public safety requires it." Tenn. Const. art. III, § 5.

36. By its very terms, the State Constitution permits the Governor to deploy the National Guard in only two circumstances: "rebellion or invasion." And even in those circumstances—neither of which exists here— "only when the General Assembly shall declare, by law, that the public safety requires it." *Id.*

37. Notably, Article III, Section 5 assigns to locally elected officials concurrent and non-preemptible authority to "declare, by law, that the public safety requires" calling out the militia. Therefore, Defendants cannot unilaterally call out the National Guard.

D. Tennessee Law Prohibits Defendants' Unilateral Deployment of Tennessee's National Guard as a Domestic Police Force

38. In addition to the constitutional requirements for deployment of the Tennessee National Guard, the General Assembly has, over time, adopted legislation to regulate the Governor's authority to deploy troops as a domestic police force within the State.

39. As relevant here, the principal source of the Governor's statutory authority to deploy National Guard personnel is Section 58-1-106 of the Tennessee Code. Subsection (a) authorizes the Governor "to order" "all or part of the national guard" "into active service of the state," "in case of invasion, disaster, insurrection, riot, attack, or combination to oppose the enforcement of the law by force and violence, or imminent danger thereof." Tenn. Code Ann. § 58-1-106(a).

40. Notably, this provision does not allow for deploying the National Guard to do police work or to fight crime.

41. Alternatively, subsection (c) of Section 58-1-106 permits the Governor to order the National Guard into active service "*upon the request* of the governing body of a city or county . . . that there is a breakdown of law and order, a grievous breach of the peace, a riot, resistance to process of this state, or disaster, or imminent danger thereof." Tenn. Code Ann. § 58-1-106(c) (emphasis added).

42. Separately, Section 58-1-301, provides that "[t]he governor, with the advice and consent of the general assembly, and pursuant to the laws of the United States, shall call the militia, or any portion thereof, into active service at any time that public safety requires it." But in 2021, acting Attorney General Henry Slatery opined that Section 58-1-301 "does not appear to comport with article III, section 5 of the Tennessee Constitution." Tenn. Op. Att'y Gen No. 21-05 (May 6, 2021) (withdrawn 2024) (citing Tenn. Code Ann. § 58-1-301).[2] Likewise, in January 2024, Attorney General Skrmetti endorsed Attorney General Slatery's interpretation before doing an

[2] Sam Stockard, "Tennessee Lawmaker Says AG Omitted, Altered Guard Deployment Opinions," *Tennessee Lookout* (Oct. 1, 2025), https://tennesseelookout.com/2025/10/01/tennessee-lawmaker-says-ag-omitted-altered-guard-deployment-opinions/ (last viewed Oct. 16, 2025).

inexplicable about face three months later to allow for "the federalization of troops for crime-fighting work."[3]

43. In light of these restrictions—together with local citizens' "traditional insistence on limitations on military operations in peacetime," *Laird*, 408 U.S. at 15—Defendants' unilateral decision to deploy the Tennessee National Guard as a domestic police force is patently unlawful.

FACTUAL ALLEGATIONS

A. President Trump Requests Tennessee's National Guard for Routine Domestic Law Enforcement

44. The legal and normative constraints on presidential authority to federalize and deploy a state's National Guard are so well established that President Trump previously acknowledged them. Questioned in September 2020 about his commitment to restore law and order, the President stated, "[w]e have laws. We have to go by the laws. We can't move in the National Guard. I can call insurrection, but there's no reason to ever do that." "Even in a Portland [Oregon] case, we can't call in the National Guard unless we're requested by a governor. If a governor or a mayor is a Democrat, like in Portland, we call them constantly."[4]

45. On September 13, 2025, President Trump posted a message about Memphis for his social-media followers:

---

[3] Sam Stockard, "Tennessee Governor Takes AG's Altered Advice on Guard Deployment," *Tennessee Lookout* (Oct. 3, 2025), https://tennesseelookout.com/2025/10/03/tennessee-governor-takes-ags-altered-advice-on-guard-deployment/ (last viewed Oct. 6, 2025).

[4] Meg Kinnard & Adriana Gomez Licon, In His Own Words: Trump Said During 2024 Campaign He Would Use Military for Immigration Enforcement, AP News (June 10, 2025, at 5:10 PM PT), https://apnews.com/article/trump-immigration-military-los-angelesa2611009fd40d593f07c58255911513d.

Donald J. Trump
@realDonaldTrump

The only reason crime is somewhat down in Memphis is because the FBI, and others in the Federal Government, at my direction, have been working there for 5 months - on the absolutely terrible Crime numbers. Likewise, in Chicago and Los Angeles! But the real work by us has barely begun. That happens after we make the official announcement that WE'RE COMING, and when we do that, as we did in now VERY SAFE WASHINGTON, D.C., the no crime "miracle" begins. ONLY I CAN SAVE THEM!!! Thank you for your attention to this matter. President DJT

10.2k ReTruths **47.4k** Likes Sep 13, 2025, 6:57 PM

46. Two days later, on September 15, 2025, Defendant Governor Lee and President Trump met in the Oval Office. During the meeting, President Trump signed a memorandum established the Memphis Safe Task Force.

47. Titled "Restoring Law and Order in Memphis" (the "Memphis Memo"),[5] this memo alleges that "[t]he city of Memphis, Tennessee, is suffering from tremendous levels of violent crime that have overwhelmed its local government's ability to respond effectively." *Id.* at § 1.

48. The memo further directed the U.S. Secretary of Defense (referred to as the "Secretary of War") to request that Governor Lee "make available National Guard units of Tennessee," under Title 32 for the purpose of supporting "public safety and law enforcement operations in Memphis." *Id.* at § 3(a).

49. The Memphis Memo did not include details on when troops would be deployed or what exactly any law enforcement efforts in the city would entail. The deployment of National

[5] "Restoring Law and Order in Memphis," The White House (Sept. 15, 2025), https://www.whitehouse.gov/presidential-actions/2025/09/restoring-law-and-order-in-memphis (last viewed Oct. 16, 2025).

Guard members to Memphis is part of a broader pattern by the President to use the U.S. armed forces domestically, particularly in jurisdictions with which he has political disagreements, whether to address supposed "crime emergencies" or to "protect" federal facilities, personnel, or interests.

B. Defendants Deployed Tennessee National Guard Members as Domestic Police

50. Following Defendant Governor Lee joining President Trump in the Oval Office for the signing of the Memphis Memo, Governor Lee's office issued a press release committing Tennessee National Guard personnel to the "Memphis Safe Task Force." Defendant Governor Lee's related press release explicitly characterized the National Guard as a "law enforcement agency." Press Release, Gov. Bill Lee, *President Trump Meet in Oval Office to Discuss Strategic Mission to Address Crime in Memphis* (Sept. 15, 2025), *available at* https://www.tn.gov/governor/news/2025/9/15/icymi--gov--lee--president-trump-meet-in-oval-office-to-discuss-strategic-mission-to-address-crime-in-memphis.html. Specifically, the press release from the Governor's Office states that "[t]he Memphis Safe Task Force establishes strong coordination and shared resources between law enforcement agencies at all levels of government, including the Tennessee National Guard, Federal Bureau of Investigation, Drug Enforcement Agency, Tennessee Highway Patrol, Memphis Police Department, and others." *Id.* According to the press release, the task force "will accelerate the positive momentum of Operation Viper—an ongoing FBI mission." *Id.*

51. Defendant Governor Lee's press release explained that he met with President Trump to: (1) establish a multi-agency law enforcement taskforce and (2) request the activation of the Tennessee National Guard under Title 32 status.

52. The press release further explained that "[t]his public meeting [in the Oval Office] is the result of months of coordination with the Trump Administration to develop a multi-phased,

strategic plan to leverage the full extent of both federal and state resources to fight crime in Memphis." *Id.*

53. The members of the Tennessee National Guard deployed to Memphis have been called on to serve as law enforcement officers. According to the Memphis City website, the "Tennessee National Guard is playing a supporting role, acting as a force multiplier, supporting Memphis Police Department and other local law enforcement agencies on the ground." https://memphistn.gov/safeandclean/. Tennessee National Guard members will be deputized by U.S. Marshals, id., the nation's first federal law enforcement agency.

54. Tennessee National Guard troops began patrolling Memphis on October 10, 2025. *See* NPR, *National Guard Troops being patrols in Memphis* (Oct. 10, 2025), https://www.npr.org/2025/10/10/nx-s1-5550398/national-guard-memphis-tennessee-trump (last viewed Oct. 16, 2025).

C. Defendants' Deployment of the National Guard Does Not Satisfy a Single Requirement Under Tennessee Law

55. There is, at present, neither a rebellion nor an invasion in Tennessee. The General Assembly has not declared that public safety requires a military deployment. And none of the statutory conditions that further limit the deployment of the National Guard has been satisfied.

(1) Tennessee is Not Under a Rebellion or Invasion

56. The facts on the ground cannot justify Defendants' overreach. While Defendant Government Lee explained the deployment "is all about" making crime "a story of the past," crime is not a circumstance that passes constitutional muster.

57. The Constitution does not permit a state-law deployment absent a "rebellion or invasion."

58. A rebellion is a "deliberate, organized resistance, openly and avowedly opposing the laws and authority of the government as a whole by means of armed opposition and violence."

Illinois v. Trump, No. 1:25-cv-12174, 2025 WL 2886645 (N.D. Ill. Oct. 10, 2025); *accord Newsom v. Trump*, 786 F. Supp. 3d 1235, 1251–53 (N.D. Cal. 2025) (collecting authorities); *see also* Merriam-Webster, *Rebellion* (defining "rebellion" as "opposition to one in authority or dominance," or an "open, armed, and usually unsuccessful defiance of or resistance to an established government").

59. Rebellions and invasions are existential threats to a sovereign government. There is, at present, no "rebellion" or "invasion" in Memphis within the meaning of the Constitution.

(2) The Statutory Prerequisites for Deployment of the National Guard Have Not Been Satisfied.

60. There is no "invasion, disaster, insurrection, riot, attack, or combination to oppose the enforcement of the law by force and violence, or imminent danger thereof, or other grave emergency" in Memphis, nor has the "general assembly . . . declare[d] by law that public safety requires the deployment of National Guard troops to Memphis. *See* Tenn. Code § 58-1-106(a); *see also* Tenn. Code § 58-1-301 (conditioning the governor's authority to call up the militia on "the advice and consent of the general assembly").

61. For example, on September 10, 2025, Plaintiff Salinas wrote Governor Lee a letter asking him not to deploy the Tennessee National Guard to the City of Memphis as such an act would be an abuse of power and misappropriation of state and federal resources. Plaintiff Salinas' letter further states that instead of militarizing Memphis citizens against one another and wasting valuable resources, elected officials should focus on investing in public schools, health care clinics, hospitals, and increasing wages for workers. Plaintiff Salinas expressed that citizens do not need, nor want, these armed forces in Memphis neighborhoods. Inviting armed guardsmen to Memphis would only raise tensions and undo recent progress made in community safety.

62. There has likewise been no "request of the governing body" of Memphis or Shelby County "by resolution duly and regularly adopted that there is a breakdown of law and order" that would provide Governor Lee with a basis for deploying the National Guard to Memphis.

D. Defendants Pointedly Refuse to Identity the Statutory Authority for this Deployment

63. Tennessee law does not authorize this brazen usurpation of the role reserved for local elected officials. Indeed, the Governor and Attorney General have pointedly refused to identify the authority in Tennessee law that would authorize this deployment.[6]

64. In 2021, the acting Attorney General Herbert H. Slatery III recognized that the Tennessee Constitution and long-settled judicial precedents provide that "only circumstances amounting to a rebellion or invasion permit the governor to call out the militia, and even then, the legislature must declare, by law, that the public safety requires it." Tenn. Op. Att'y Gen No. 21-05 (May 6, 2021).[7]

65. Attorney General Skrmetti has vacated his predecessor's opinion but refused to articulate how a deployment of National Guard-as-police comports with apparently contrary Tennessee law.

---

[6] *See, e.g.*, Vivian Jones, *Is Deploying National Guard Troops To Fight Crime in Memphis Legal? Gov, AG Won't Say How*, The Tennesseean (Oct. 9, 2025), available at https://www.tennessean.com/story/news/politics/2025/10/09/national-guard-memphis-legality-gov-lee-ag-skrmetti/86584438007/.

[7] *See* Sam Stockard, "Tennessee Lawmaker Says AG Omitted, Altered Guard Deployment Opinions," *Tennessee Lookout* (Oct. 1, 2025), https://tennesseelookout.com/2025/10/01/tennessee-lawmaker-says-ag-omitted-altered-guard-deployment-opinions/ (last viewed Oct. 16, 2025).

66. On September 29, 2025, Plaintiff State Senator Jeff Yarbro sent Defendant Skrmetti a letter regarding the improper revision and withdrawal of attorney general opinions regarding National Guard deployments.[8]

E. Defendants' Actions Harm Plaintiffs by Usurping Their Authority, Depriving Them of Their Constitutionally or Statutorily Assigned Responsibilities

67. Defendants' unlawful deployment of Tennessee National Guard members infringes on Tennessee elected officials' authority to manage law enforcement within their jurisdictions, especially when guard members serve as police.

68. Defendants' deployment of National Guard troops to combat crime deprives elected officials of their constitutional and statutory functions.

69. Under governing constitutional and statutory standards, Plaintiffs must play a role in authorizing any deployment of the National Guard to Memphis.

70. But Defendants have deployed the National Guard to Memphis unilaterally, abusing their authority for a purpose not permitted by Tennessee law and that exceeds their legal authority under both the Tennessee Constitution and Tennessee Code.

71. The deployment also inflicts financial harms on Shelby County, including increased costs for pre-trial services and detention resulting from the National Guard's force multiplier effect on arrests in Memphis. The deployment is thus interfering with Mayor Harris's ability to perform his functions and to allocate the County's limited financial resources consistent with the priorities that best serve the people of Shelby County.

---

[8] For a full copy of Plaintiff Jeff Yarbro's letter to Defendant Attorney General Skrmetti, see Sam Stockard, "Tennessee Lawmaker Says AG Omitted, Altered Guard Deployment Opinions," *Tennessee Lookout* (Oct. 1, 2025), https://tennesseelookout.com/2025/10/01/tennessee-lawmaker-says-ag-omitted-altered-guard-deployment-opinions/ (last viewed Oct. 16, 2025).

72. Local elected officials at the city, county, and state level represent the sovereign interest of Tennessee citizens. Defendants' actions harm the State of Tennessee by interfering with citizens' interests in managing its own law enforcement activities.

F. Defendants' Actions Will Also Harm the State of Tennessee and the City of Memphis by Suppressing Business Activity

73. Defendants' conduct threatens the economic well-being of the people of Tennessee, Shelby County, and Memphis. In recent months, unlawful federal deployments and militarized raids in California and the District of Columbia have directly and rapidly chilled economic activity. The deployment of troops in California stifled economic activity in the Los Angeles area. Restaurants, festivals, and farmers' markets shut down, as individuals were afraid to leave their homes due to militarized raids. Similarly, the deployment of National Guard troops in the District of Columbia depressed key industries, including tourism, restaurants, and hospitality services. Within a week of the deployment of federal troops in D.C., foot traffic and restaurant reservations in the District dropped substantially.[9] Defendants' military incursion into Memphis threatens similar immediate harms by depressing business activities, travel, and tourism in Tennessee communities.

74. Defendants' conduct also threatens financial harm to the government of Tennessee and its municipalities in multiple ways. The military incursion's chilling effect on economic activity will directly decrease tax revenue collected by the City of Memphis, Shelby County, and the State. In the District of Columbia, troop deployment has resulted in a reduction of work hours for some District workers, and a corresponding decline in income tax withholding paid to the

[9] Andrea Sachs & Federica Cocco, D.C. Tourism Was Already Struggling. Then the National Guard Arrived, Wash. Post (Aug. 29, 2025, at 5:00 AM ET), https://www.washingtonpost.com/travel/2025/08/29/dc-tourism-trump-takeover-national-guardimpacts/.

District government. Deployment of troops in Tennessee communities threatens similar harm to Tennessee local tax revenues.

G. Defendants' Actions Harm the State of Tennessee by Diverting National Guard Personnel and Rendering Them Unable to Engage in Other Critical Work

75. Defendants' unlawful deployment of the Tennessee National Guard concretely harms the State's interests by rendering those members unable to engage in other critical work.

76. Members of the National Guard are called into active duty to serve the needs of Tennessee in numerous ways, including to assist with emergent and unpredictable situations the State could face at any moment, such as natural disasters. Defendants' unlawful and unilateral deployment of even a portion of these Guard members impairs elected officials' capacity to respond to emergencies.

CLAIMS FOR RELIEF

COUNT I
Violation of Tennessee Constitution Article III, Section 5

77. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

78. "State Active Duty National Guard troops and those activated under Title 32 may engage in domestic law enforcement functions, *subject to restrictions under state law*." *Oregon v. Trump*, 2025 WL 2817646, *2 (D. Or. Oct. 4, 2025) (emphasis added).

79. Although the Governor serves as the Commander-in-Chief of the Tennessee National Guard, *see* Tenn. Const., art. III, § 5, his authority to deploy its members is subject to stringent restrictions under state law.

80. Specifically, Article III, Section 5, of the Tennessee Constitution states that "the Militia shall not be called into service except in case of rebellion or invasion, and then only when the General Assembly shall declare, by law, that the public safety requires it." Tenn. Const., art.

III § 5; *see also* Tenn. Const. art. I, § 24 ("[I]n all cases the military shall be kept in strict subordination to the civil authority.").

81. By its very terms, then, the state Constitution permits the Governor to deploy the National Guard under only two circumstances: "rebellion or invasion;" and even then, "only when the General Assembly shall declare, by law, that the public safety requires it."

82. Neither of the conditions identified by Article III, Section 5, exists in Memphis: there is no "rebellion or invasion" in Memphis, nor has the General Assembly declared that a rebellion or invasion "requires" the National Guard to preserve "public safety." Therefore, Defendants have thus violated the Constitution twice over, by cutting out the role committed to the General Assembly by law, and by exceeding the factual circumstances in which deployment is available.

83. In unilaterally deploying Tennessee National Guard members as domestic police enforcement, Defendants have exceeded the authority provided to the Governor by Article III, Section 5, of the Tennessee Constitution.

84. Governor Lee's agreement to the Title 32 deployment of Tennessee National Guard members must be set aside as in excess of constitutional jurisdiction, authority, or limitations.

COUNT II
Violation of Tennessee Code Annotated Section 58-1-106

85. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

86. The principal source of the Governor's statutory authority to deploy National Guard personnel is Section 58-1-106 of the Tennessee Code. The deployment does not satisfy the provisions of Section 58-1-106.

87. Subsection (a) authorizes the Governor "to order" "all or part of the national guard" "into active service of the state," "in case of invasion, disaster, insurrection, riot, attack, or

combination to oppose the enforcement of the law by force and violence, or imminent danger thereof." Tenn. Code Ann. § 58-1-106(a).

88. None of these conditions is satisfied in Memphis. Governor Lee has explicitly stated that the Memphis deployment's purpose is to fight crime. But Section 58-1-106(a) does not allow that.

89. Subsection (c) of the statute confirms the illegality of the Governor's National Guard deployment. It provides that the Governor may order the National Guard into active service "*upon the request* of the governing body of a city or county . . . that there is a breakdown of law and order, a grievous breach of the peace, a riot, resistance to process of this state, or disaster, or imminent danger thereof." Tenn. Code Ann. § 58-1-106(c) (emphasis added). For three reasons, this shows that the statute does not justify the Memphis deployment.

90. *First*, Subsection (c) shows that none of Subsection (a)'s conditions allows deploying the National Guard merely to maintain "law and order." Subsection (c) demonstrates that the statute's drafters considered Subsection (a)'s conditions not to be equivalent to a need for simple law enforcement; otherwise, they would have included the "law and order" provision in Subsection (a). If a National Guard deployment "to maintain law and order" is to occur at all, it must occur under Subsection (c).

91. *Second*, even when a need arises to address "a breakdown of law and order," a National Guard deployment may come only "upon the request of the governing body of a city or county, and its representation, by resolution duly and regularly adopted." Tenn. Code Ann. § 58-1-106(c). The City of Memphis' governing board is the Memphis City Council, of which Councilman Smiley is a member. *See* Tenn. Code Ann. § 6-53-104(d) ("As used in this section, 'governing body of a municipality' means that body, board, or council in which the general legislative powers of an incorporated city or town, including a home rule city, are vested."); Tenn.

Code Ann. § 6-54-512 (describing "governing body of a municipality" as the municipal entity responsible for enacting ordinances). Similarly, the Shelby County Board of Commissioners is Shelby County's legislative body, of which Commissioner Sugarmon and Commissioner Brooks are members, *see* Tenn. Code Ann. § 5-5-102(f), and its law enforcement authority (via the Shelby County Sheriff's Department) extends into Memphis. *See* Tenn. Code Ann. § 38-3-102. Therefore, any National Guard deployment addressing "a breakdown of law and order" in Memphis must come only at the request of either the Memphis City Council or the Shelby County Board of Commissioners. Neither body has made such a request, and Governor Lee has unlawfully excluded both the City Council and the County Commission (and their Plaintiff-members) from the role assigned to them by statute.

92. *Third*, the real-world facts in Memphis belie the deployment's justification. In Memphis, there are no facts to support the existence of a "breakdown of law and order" that requires the military to intervene. Tenn. Code Ann. § 58-1-106(c). By President Trump's own acknowledgement, "crime is somewhat down in Memphis." https://truthsocial.com/@realDonaldTrump/posts/115199460946450022 (Sept. 13, 2025) (last viewed Oct. 6, 2025). It should come as no surprise that neither Subsection (a) nor Subsection (c) of Section 58-1-106 supports the Memphis deployment: police work is not the National Guard's job.

Count III
Violation of Tennessee Code Annotated Section 58-1-301

93. Plaintiffs reallege and incorporate by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

94. Section 58-1-301, provides that "[t]he governor, with the advice and consent of the general assembly, and pursuant to the laws of the United States, shall call the militia, or any portion thereof, into active service at any time that public safety requires it."

95. Even if that provision comported with the Tennessee Constitution, notwithstanding the recently withdrawn opinion of Attorney General Slatery, Section 58-1-301 authorizes the Governor to deploy "the militia, or any portion thereof" only "with the advice and consent of the general assembly." Governor Lee has not requested the General Assembly's advice and consent, and he has not received it, nor has he deployed the "militia" within the meaning of Section 58-1-301. Accordingly, insofar as Defendants might rely on Section 58-1-301 for the deployment, such reliance is unlawful.

Count IV
Declaratory Judgment

96. The above-described dispute is an actual, bona fide, present, definite, and substantial justiciable controversy, seeking specific relief through conclusive judgment or decree and touching on the adverse legal interests of both parties, which are ripe for adjudication.

97. Pursuant to Tenn. R. Civ. P. 57 and the Declaratory Judgment Act, Plaintiffs are entitled to a judgment declaring that Defendants' unilateral decision and order to deploy members of the Tennessee National Guard is unlawful and/or unconstitutional.

98. If the Court does not expeditiously exercise its discretionary authority to declare the rights and legal relations of the parties regarding the above-described controversy, Plaintiffs would suffer considerable harm.

99. Pursuant to Tenn. R. Civ. P. 57, a court may order a speedy hearing of a declaratory judgment action, which is warranted here so that Plaintiff may gain relief.

100. Pursuant to Tenn. Code Ann. § 29-14-111, in declaratory judgment actions a court "may make such award of cost as may seem equitable and just."

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

a. Issue a restraining order and/or temporary injunction requiring the Defendants to cease deploying National Guard troops to Memphis for civilian law enforcement purposes.

b. Declare that Governor Lee's agreement to the Title 32 deployment, and the Defendants' ensuing deployment of the Tennessee National Guard is unlawful;

c. Hold unlawful and enjoin Defendants' deployment of members of the Tennessee National Guard;

d. Award Plaintiffs' costs of suit and reasonable attorneys' fees and expenses under any applicable law; *and*

e. Award such additional relief as the interests of justice may require.

f. This is the first application for extraordinary relief in this case.

Date: October 17, 2025

Respectfully Submitted

/s/ Micah Bradley
William J. Harbison II (BPR # 33330)
Robert D. Boon, II (BPR # 33217)
Micah N. Bradley (BPR # 38402)
Sherrard Roe Voigt & Harbison, PLC
1600 West End Avenue, Suite 1750
Nashville, TN 37203
(615) 742-4200
jharbison@srvhlaw.com
jboon@srvhlaw.com
mbradley@srvhlaw.com

/s/ Brian D. Netter w/ permission MNB
Brian D. Netter (D.C. Bar No. 979362) + ^
Yenisey Rodríguez (D.C Bar No. 1600574) + ^
William B. Bardwell (MS Bar 102910) + ^
Joshua M. Salzman (D.C. Bar No. 982239) + ^
Democracy Forward Foundation
P.O. Box 34553
Washington, D.C. 20043
(202) 808-1846
bnetter@democracyforward.org
yenisey.rodriguez@democracyforward.org
wbardwell@democracyforward.org
jsalzman@democracyforward.org

^ Pro hac vice motion forthcoming
+ Not admitted in Tennessee.
Practice supervised by members of the Tennessee
bar.

/s/ Benjamin R. Farley w/ permission MNB
Benjamin R. Farley* (NY Bar No. 5043419)
Marlene Berroa Rodriguez* (NY Bar No. 6208508)
Efrén C. Olivares* (TX Bar No. 24065844)
The National Immigration Law Center
P.O. Box 34573
Washington, D.C. 20043

(212) 639-3900
farley@nilc.org
berroa@nilc.org
olivares@nilc.org

*Pending admission pro hac vice

Counsel for Plaintiffs