

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DAN McCALEB, Executive Editor of)
THE CENTER SQUARE,)

Plaintiff,)

v.)

MICHELLE LONG, in her official)
capacity as DIRECTOR of the)
TENNESSEE ADMINISTRATIVE)
OFFICE OF THE COURTS,)

Defendant.)

Case No. 3:22-cv-00439

Judge Richardson

Magistrate Judge Frensley

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff Dan McCaleb, Executive Editor of The Center Square, files this Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56 and LR 56.01. Plaintiff McCaleb moves for summary judgment against Defendant Michelle Long, in her official capacity as Director of the Administrative Office of the Courts ("AOC").

Accompanied with this Motion for Summary Judgment is a supporting Memorandum of Law as well as a Rule 56.01 Statement, which provides the Court with a concise statement of the material facts as to which Plaintiff McCaleb contends there is no genuine issue for trial.

Moreover, McCaleb attaches the following exhibits to this Motion for Summary Judgment as follows:

- **Exhibit 1**, Dan McCaleb Deposition
- **Exhibit 2**, Michelle Long Deposition
- **Exhibit 3**, Michelle Consiglio-Young Deposition
- **Exhibit 4**, May 20, 2016, Public Meeting Notice
- **Exhibit 5**, [Proposed] Permanent Injunction

In further support of his Motion for Summary Judgment, McCaleb submits:

1. His First Amended Complaint (ECF No. 19) against Defendant Long sought prospective injunctive relief pursuant to 42 U.S.C. §1983 and the First Amendment.
2. This included a request for a permanent injunction to access meetings of the Tennessee Advisory Commission on the Rules of Practice & Procedure (“Advisory Commission”), created by Tenn. Code Ann. §16-3-601.
3. As more fully set forth in his Memorandum of Law, Defendant Long oversees the AOC, which provides administrative support to the Advisory Commission. This support includes posting public notice of meetings on the AOC’s website.
4. Moreover, in the past the AOC posted public notice on its website of upcoming Advisory Commission meetings. But a member of the public verbally disrupted a 2018 meeting. And after this incident, the AOC instituted a practice of no longer posting public notice of Advisory Commission meetings, and Defendant Long has continued this practice during her tenure as Director of the AOC.
5. But the AOC’s practice of not posting public notice to Advisory Commission meetings limits the stock of information on the state court rulemaking process from

which members of the public may draw. And the First Amendment attaches to meetings under the *Richmond Newspapers*’ “experience and logic” test.

RELIEF REQUESTED

For these reasons, Plaintiff Dan McCaleb requests that the Court grant his Motion for Summary Judgment and enter a permanent injunction, ordering Defendant Long and the AOC to provide public access to meetings of the Advisory Commission. McCaleb is submitting a proposed permanent injunction for the Court’s consideration.

Additionally, McCaleb reserves the right to move for reasonable attorneys’ fees and costs pursuant to 42 U.S.C. §1988 at the applicable time in accordance with the Federal and Local Rules.

December 15, 2023

Respectfully submitted,

/s/ M. E. Buck Dougherty III

M. E. Buck Dougherty III, TN BPR #022474

James McQuaid, *Pro Hac Vice*

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*Attorneys for Plaintiff, Dan McCaleb,
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CERTIFICATE OF SERVICE

I, counsel for Plaintiff, hereby certify that a true and correct copy of the foregoing document has been served on the following counsel of record, via the Court's ECF system by email on this 15th day of December 2023:

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