

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
TWENTIETH JUDICIAL DISTRICT, PART III
AT NASHVILLE

CLATA RENEE BREWER; JAMES)
HAMMOND; THE TENNESSEE)
FIREARMS ASSOCIATION, INC.;)
MICHAEL P. LEAHY; STAR NEWS)
DIGITAL MEDIA, INC.; THE)
TENNESSEAN; RACHEL WEGNER;)
and TODD GARDENHIRE in his)
individual capacity;)

Petitioners,)

vs.)

METROPOLITAN GOVERNMENT)
OF NASHVILLE AND DAVIDSON)
COUNTY;)

Respondent,)

THE COVENANT SCHOOL; and)
COVENANT PRESBYTERIAN)
CHURCH;)

Intervenors.)

Case No. 23-0538-III
CONSOLIDATED

****controlling case****

ORDER GRANTING INTERVENTION OF THE COVENANT SCHOOL AND
COVENANT PRESBYTERIAN CHURCH PURSUANT TO TENNESSEE RULE OF
CIVIL PROCEDURE 24.02

This matter came to be heard by this Honorable Court on May 22, 2023, upon Covenant Presbyterian Church's and The Covenant School's Motions to Intervene and upon their Motions for an expedited hearing regarding the same. Counsel for the consolidated Petitioners and Respondent were present for the hearing. Argument from the potential Intervenors, the named Petitioners and the Respondent was articulated and has been considered by this Court. Having read the briefs in opposition and considered the argument of all counsel, this Court is of the opinion that the Motions to Intervene by Covenant Presbyterian Church (hereinafter known as the "Church") and The Covenant School (hereinafter known as the "School") are well taken and should be **GRANTED**.

Specifically, the Court is stirred by the reasons expressed in both the Church's and School's oral argument regarding their specific private information which may have been collected during the investigation and to which the Petitioners would not normally have any access due to these Intervenors' status as private entities. Furthermore, the Respondent submitted key affidavits which state that there is an ongoing and active criminal investigation, which may lead to the discovery of co-conspirators and additional crimes and that "harmful and irreversible consequences" could result if information is released prematurely.

Tennessee Rule of Civil Procedure 24.02 provides for permissive intervention in certain situations. "Upon timely motion any person may be permitted to intervene in an action: (1) when a statute confers a conditional right to intervene; or (2) when a movant's claim or defense and the main action have a question of law or fact in common." Tenn. R. Civ. P. 24.02. In the absence of express statutory authority, determining whether a party is entitled to judicial relief "requires the court to decide whether the party has a sufficiently personal stake in the outcome of the controversy to warrant the exercise of the court's power on its behalf." *Shelby Cnty. Deputy Sheriff's Ass'n v.*

Gilless, 972 S.W.2d 683, 685 (Tenn. Ct. App. 1997). This Court finds that both the Church and School have a sufficient personal stake in the outcome of this litigation to bestow upon them the requisite standing to intervene in this action.

At this juncture, the Church's and School's claims regarding the application of the Tennessee Public Records Acts ("TRPA") and the various exceptions to the documents, files and materials at issue in this matter have common questions of law and fact to the parties in the present action. The Church, the School and the Respondent demonstrated during oral argument that the documents and materials collected by Metropolitan Nashville Police Department ("MNPd") during its purportedly ongoing criminal investigation contain materials created by the Church and the School that would normally be kept private. Both the Church and the School have asserted that should those documents and materials be released to the Petitioners, they would sustain a palpable and distinct injury as a result of public access to their private documents, and that their interest and potential injury can be addressed by this Court in its final determination on which documents are to be ultimately released in this case. *Id.* Based on the foregoing, this Court finds that both Covenant Presbyterian Church and the Covenant School meet the requirements for permissive intervention pursuant to Tenn. R. Civ. P. 24.02.

In analyzing the procedural rules as well as the unique posture of this case which is pending before this Court pursuant to the TRPA, this Court is of the opinion that the TRPA does not contemplate the pleadings or procedure of a 'typical' lawsuit. *See Tennessee Code Annotated* 10-7-501, et seq. While Tennessee Rule of Civil Procedure 24.03 requires that an intervenor file a pleading, it does not require a "complaint" specifically.

In *Branch v. Warren*, our Supreme Court has held the following regarding the rules of civil procedure,

“The policy of our law has long favored amendments. Section 198, Caruthers' History of a Lawsuit, Eighth Edition (1963) reads, in pertinent part as follows: Under the very liberal rules allowing amendments, the court may admit material amendments at any stage of the proceedings. The Supreme Court of Tennessee has said: ‘It is a downright violation of principles, and of good sense, to determine any case otherwise than on its merits, and it is a great imputation upon judges that so many statutes of jeofails have been needful to place common sense upon her native seat, from which she has been driven by technicalities.’”

Branch v. Warren, 527 S.W.2d 89, 91 (Tenn. 1975).

Therefore, the Court will allow the Church and School to intervene in this matter and to provide a brief that sets forth their claims and/or defenses regarding the matters pending before the Court. The Church and School are **ORDERED** to comply with the briefing schedule outlined in the Procedural and Scheduling Order filed in this matter. The Court holds that the submission of the aforementioned briefs will satisfy the procedural requirement of Tenn. R. Civ. P. 24.03 that a pleading be filed.

IT IS SO ORDERED.

/s/ I'Ashea L. Myles

I'ASHEA L. MYLES

CHANCELLOR, CHANCERY COURT PART III

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