

STATE OF TENNESSEE

vs.

AMANDA HARB

* NO. 290128
* IN THE CRIMINAL COURT OF
* HAMILTON COUNTY, TENNESSEE
* DIVISION I

STATE OF TENNESSEE

vs.

JUAN ROJAS

* NO. 284246
* IN THE CRIMINAL COURT OF
* HAMILTON COUNTY, TENNESSEE
* DIVISION II

STATE OF TENNESSEE

vs.

ROBERT CROSSLIN

* NO. 288770
* IN THE CRIMINAL COURT OF
* HAMILTON COUNTY, TENNESSEE
* DIVISION III

**MOTION TO CONSOLIDATE CASES FOR PURPOSE OF
ARGUMENT ON CONSTITUTIONAL QUESTION**

Comes the defendants, Amanda Harb, Juan Rojas and Robert Crosslin, through counsel, Summers and Wyatt, P.C., who presently have cases pending in each Division of the Criminal Court of Hamilton County, Tennessee, in which defendants are filing simultaneously with the filing of this motion filing a Motion to Dismiss any case in which the Tennessee Bureau of Investigation (“TBI”) has received a fee in the amount of \$250.00 in cases under the Tenn. Code Annotated §55-10-413 where the TBI has conducted an alcohol blood or breath test and a defendant has been convicted in the General Sessions or Criminal Courts of Hamilton County, Tennessee and in support thereof would show the following:

1. That each of the named defendants have a case pending in each of the three divisions of the Criminal Court of Hamilton County, Tennessee;

2. That in each defendant's case, a blood or breath test was either analyzed by a TBI toxicologist of a blood draw sample taken from defendants or a TBI technician calibrated a breath machine every ninety (90) days, and said results have or will be used in the criminal prosecution of the defendants and/or others;

3. That the constitutionality of Tenn. Code Annotated §55-10-43 is at issue as defendants, on their behalf and all others similarly affected by said statute, respectfully contend that all defendants' constitutional rights under the Due Process Clause of the United States Constitution of the Fourteenth Amendment and Article I Section 8 of the Tennessee Constitution are being violated by the "direct, personal, substantial, pecuniary and financial interest" of the TBI and its employees;

4. That the TBI is the main law enforcement agency in the State of Tennessee and the Tennessee Forensic Division is a direct subsidiary of the TBI, as well as its toxicologists and breath machine calibrators;

5. That in 2012-2013, the TBI collected \$2,881,181.39 in Tennessee from convictions obtained in cases where the TBI performed blood alcohol testing or maintained and certified equipment utilized for breath testing;

6. That the statistics for Hamilton County for funds obtained by the Criminal and Municipal Courts for convictions arising out of Hamilton County will be obtained by subpoena prior to a hearing in these cases;

7. That although each judge of each division of the Criminal Court of Hamilton County will have to make an independent judgment and decision on the merits of the defendant's claim, it is respectfully submitted by consolidating these cases and having all arguments presented to a panel of the three Criminal Judges at one time will serve both the interests of justice and judicial

economy and will give each jurist the benefit of counsel and questions by their fellow judges in the same legal proceeding;

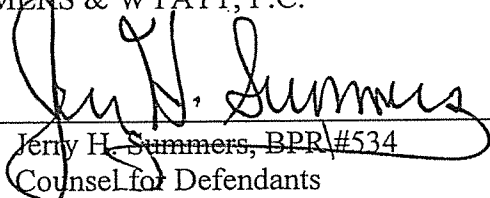
8. That such proceeding is not novel in the Criminal Courts of Hamilton County, Tennessee as a Motion to Consolidate cases on a separate constitutional issue was held by Judges Doug Meyer, Joe DiRisio and Russell Hinson in 1993. A copy of the Motion to Consolidate Cases for Purpose of Argument On Constitutional Issue and Order granting the request is attached to this Motion as Exhibit A dated March 22, 1993.

WHEREFORE, the defendants, Amanda Harb, Juan Rojas and Robert Crosslin, through counsel, respectfully move the Courts to grant this Motion to Consolidate Cases for Purpose of Argument and to set a date certain in which the parties may present proof and argument.

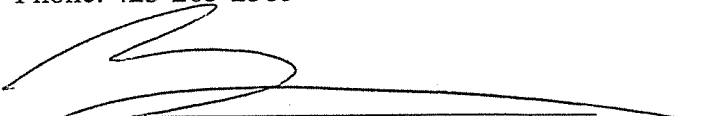
Respectfully submitted,

SUMMERS & WYATT, P.C.

By:



Jerry H. Summers, BPR #534
Counsel for Defendants
735 Broad Street, Suite 800
Chattanooga, TN 37402
Phone: 423-265-2385



Benjamin L. McGowan, BPR #25560
Counsel for Defendants
735 Broad Street, Suite 800
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Phone: 423-265-2385

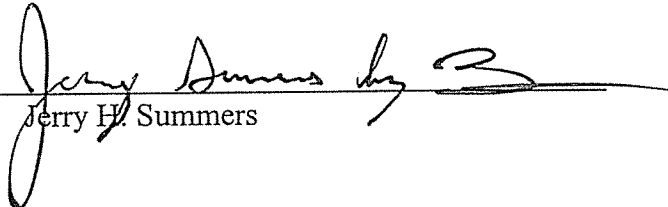
CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing Motion to Consolidate Cases for Purpose of Argument on Constitutional Questions has been served on adversary counsel by hand-delivery or U.S. Mail to:

William Cox, Esq.
Hamilton County District Attorney's Office
600 Market Street, Suite 301
Chattanooga, TN 37402

Tennessee Bureau of Investigation
Executive Director, Mark Gwyn
901 R.S. Gass Blvd.
Nashville, TN 37216

This the 31 day of January, 2014.

By: 
Jerry H. Summers

STATE OF TENNESSEE

vs.

RON FREEMAN

* NO. 125258
* IN THE CRIMINAL COURT
* OF HAMILTON COUNTY,
* TENNESSEE
* DIVISION I
*
* NO. 6245471 IN THE CITY
* COURT OF CHATTANOOGA,
* TENNESSEE

STATE OF TENNESSEE

vs.

BILLY RAY WILSON

* NO. 195236
* IN THE CRIMINAL COURT
* OF HAMILTON COUNTY,
* TENNESSEE
* DIVISION II

STATE OF TENNESSEE

vs.

TERRY AARON

* NO. 194463
* IN THE CRIMINAL COURT
* OF HAMILTON COUNTY,
* TENNESSEE
* DIVISION II
*
* NOS. 6255213 and 6255205
* IN THE CITY COURT OF
* CHATTANOOGA, TENNESSEE

STATE OF TENNESSEE

vs.

GEORGE TERRY CARDEN

* NO. _____
* IN _____
* _____
* _____
* DIVISION III
*
* NOS. 5958806 and 6412831
* IN THE CITY COURT OF
* CHATTANOOGA, TENNESSEE

MOTION TO CONSOLIDATE CASES FOR PURPOSE OF
ARGUMENT ON CONSTITUTIONAL QUESTION

Come the defendants, Ron Freeman, Billy Ray Wilson, Terry Aaron and George Terry Carden who presently have cases pending in each Division of the Criminal Court of Hamilton County, Tennessee in which each defendant has raised the question as to the constitutional validity of the jurisdiction of the City Court of Chattanooga, Tennessee as a result of a legal dispute of whether the granting of a salary raise to the City Court Judges of the City of Chattanooga, Tennessee during their term of office by the



City Council violates the provisions of Article VI, Section 7 of the Tennessee Constitution, Article II, Section 1 of the Tennessee Constitution, the Sixth Amendment of the United States Constitution and Article I, Sections 8 and 9 of the Tennessee Constitution.

Although each Judge of each Division of the Criminal Court of Hamilton County will have to make an independent judgment and decision on the merits of the defendants' claim it is respectfully submitted that by consolidating these cases and having all arguments presented to a panel of the three Criminal Judges at one time will serve both the interests of justice and judicial economy and will give each jurist the benefit of the arguments of counsel and questions by his fellow judges.

WHEREFORE, the defendants, Ron Freeman, Billy Ray Wilson, Terry Aaron and George Terry Carden, through counsel, respectfully move the Court to grant this Motion to Consolidate Cases for Purpose of Argument and to set a date certain in which parties may present proof and briefs.

Respectfully submitted,

SUMMERS, MCCREA & WYATT, P.C.

By: 

Jerry H. Summers
Attorneys for Defendant
Ron Freeman
500 Lindsay Street
Chattanooga, TN 37402
615/265-2385

PUBLIC DEFENDER'S OFFICE

By: 

Counsel for Defendants
Billy Ray Wilson,
Terry Aaron and
George Terry Carden

with permission

Twining

STATE OF TENNESSEE	*	NO. 195258
	*	IN THE CRIMINAL COURT OF
	*	HAMILTON COUNTY, TENNESSEE
vs.	*	DIVISION I
	*	
	*	NO. 6245471 IN THE CITY
	*	COURT OF CHATTANOOGA,
RON FREEMAN	*	TENNESSEE

STATE OF TENNESSEE	*	NO. 195236
	*	IN THE CRIMINAL COURT OF
	*	HAMILTON COUNTY,
vs.	*	TENNESSEE
	*	DIVISION II
BILLY RAY WILSON		

STATE OF TENNESSEE	*	NO. 194463
	*	IN THE CRIMINAL COURT OF
	*	HAMILTON COUNTY, TENNESSEE
vs.	*	DIVISION III
	*	
	*	NOS. 6255213 and 6255205
	*	IN THE CITY COURT OF
TERRY AARON	*	CHATTANOOGA, TENNESSEE

STATE OF TENNESSEE	*	NOS. 196090 and 196091
	*	IN THE CRIMINAL COURT
	*	OF HAMILTON COUNTY,
vs.	*	TENNESSEE
	*	DIVISION I
	*	
	*	NOS. 5958806 and 6412831
	*	IN THE CITY COURT OF
GEORGE TERRY CARDIN	*	CHATTANOOGA, TENNESSEE

ORDER ON MOTION TO CONSOLIDATE CASES FOR PURPOSE OF ARGUMENT ON CONSTITUTIONAL QUESTION

The defendants, Ron Freeman, Billy Ray Wilson, Terry Aaron and George Terry Carden having filed through counsel a Motion to Consolidate Cases for Purpose of Argument on Constitutional Question in the afore-styled cause, and it appearing that the interests of justice and judicial economy may be benefited by the three judges of the Criminal Court of Hamilton County, Tennessee hearing oral argument at the same time, it is therefore

ORDERED that said Motions are hereby consolidate for argument and set for hearing on May 3, 1993, at 1 p.m. o'clock in Division 2 of the Criminal Court of Hamilton County, Tennessee.

The State, through the District Attorney General, has leave to be heard in oral argument and/or to submit brief.



Counsel for the defendants shall have until April 19,
1993, to file briefs in support of their position on the constitutional issues alleged and the
City of Chattanooga, through the City's Attorney's Office, shall have until
April 28, 1993, to file reply briefs.
ENTERED this the 22nd day of March, 1993.

Douglas A. Meyer
Judge Douglas A. Meyer

J. F. DiRiso
Judge Joseph F. DiRiso

Stephen M. Bevil
Judge Stephen M. Bevil

APPROVED:

CITY OF CHATTANOOGA

By: Kenneth O'Leary
Assistant City Attorney
400 Pioneer Bank Bldg.
Chattanooga, TN 37402
615/757-5342

ARDENA J. GARTH
DISTRICT PUBLIC DEFENDER

By: Ardena J. Garth
Attorney for Defendants
Billy Ray Wilson, Terry Aaron,
and George Terry Cardin
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Chattanooga, TN 37402
615/634-6374

SUMMERS, MCREA & WYATT, P.C.

By: Jerry H. Summers
Jerry H. Summers
Attorneys for Defendant
Ron Freeman
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