

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

CLATA RENEE BREWER)	
)	
Petitioner,)	
)	
vs.)	Case No. 23-0538-III
)	
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY)	CONSOLIDATED
)	**controlling case**
Respondent.)	

JAMES HAMMOND and TENNESSEE FIREARMS ASSOCIATION, INC.)	
)	
Petitioner,)	
)	
vs.)	Case No. 23-0542-III
)	
METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY)	
)	
Respondent.)	

**THE COVENANT SCHOOL PARENTS’ BRIEF IN SUPPORT OF EXPEDITED
MOTION TO INTERVENE**

The Covenant School Parents (the “Parents”) submit this brief in support of their Motion to Intervene and state as follows:

Introduction

The City of Nashville, the people of greater Nashville, the State of Tennessee, and indeed our entire country were traumatized by the horrific events that took place on March 27, 2023, at the Covenant School. But no one was more traumatized, or has suffered more, than the families of

the victims and survivors of the Covenant School atrocity. No one. And no one can claim a remotely similar interest in whether the writings of the shooter be released.

This Brief and the Motion it supports are filed on behalf of the parents of the children of Covenant School who have overwhelmingly come together to support this intervention.¹ This Brief is filed on behalf of all three families who lost children and who have endured a pain that no words can adequately describe. This Brief is filed on behalf of the surviving children who lived through an unimaginable nightmare and who must deal with the repercussions of that nightmare for the rest of their lives. This Brief is filed on behalf of the overwhelming percentage of parents of those surviving children who have opted to join this intervention, all of whom—every day, when they embrace their kids in the morning and tuck them in at night—pray for healing and hope for safety while dealing with the reality that they have been forever changed and their sense of safety forever altered. This Brief is filed on behalf of families and a community forever fractured by the events of that terrible day.

These Parents have all come together, with one voice, to ask that they be allowed to intervene in these cases against Metro's planned release of the shooter's writings. The Parents wish to provide briefing, argument, and evidence to this Court to argue that Metro's planned release of a redacted version of the writings is too much. Rather, the Parents see no good that can come from the release and wish to contend that the writings—which they believe are the dangerous and harmful writings of a mentally-damaged person—should not be released at all. Furthermore, at a

¹ As of this filing, by our count, more than three-quarters of families at Covenant School have affirmatively expressed their desire to join this intervention. More families are signing up every minute, and we expect additional families will continue to opt-in for the next few days. We respectfully request an opportunity at the scheduled May 18 status conference to discuss with the Court whether, how and when it will be best for Sherrard Roe Voigt & Harbison to identify its clients.

minimum, the Parents wish to support the Covenant School in its effort to intervene to keep records and information related to the School, its people, and its security out of the public eye.

If permitted to intervene and to file a pleading,² the Parents' legal position and the relief that they intend to seek against Metro is (a) to seek a declaratory judgment that the Open Records Act either does not apply or that an exception should prevent release of the writings and (b) to seek an injunction connected with their declaratory judgment ordering Metro not to release the writings. The Parents intend to argue through their litigation against Metro that the writings are not public records as contemplated by the Tennessee Open Records Act, that the school safety exception is broad enough to encompass all of the writings and keep them from being released, that an implicit exception to the Open Records Act applies to the writings, and that the public policy behind the Open Records Act does not apply here, especially given the very real danger (and sincere fear of the Parents) of copycat attacks and the trauma and harm that public release of the documents will cause to the Parents, their children, and related family members for years to come.

Fundamentally, through this Motion the Parents ask this Court for three things:

- First, the Parents ask that the Motion be granted and they be allowed to intervene to share the legal and factual support for their position that the writings should not be released, or, at a minimum, to support the School's position that the writings must be substantially redacted.
- Second, the Parents have something to say to this Court, and they ask that they be given the chance to provide Victim Impact Statements and/or address this Court in writing or in person to share the impact the tragedy at Covenant School has had upon them and why they so desire that the writings not be released.
- Third, and most urgently and at a minimum, the Parents implore this Court to refrain from ordering the release of any documents until, at the earliest, the scheduled June 8 Show Cause hearing so that the children of Covenant School might finish the school year in peace. This bears emphasis. The Parents humbly and respectfully request that this Court spare them and their children the additional

² Rule 24.03 contemplates that an intervenor will typically file a pleading, so if this Court permits the Parents to intervene and decides that it is appropriate, the Parents will file a complaint against Metro within one week of being ordered to do so. Given the unique procedural posture of this case, the Parents also realize there may be other procedural paths this Court may prefer. The parents respectfully request the opportunity to discuss the Court's preferred procedure during the May 18 Status Conference.

pain that would be caused by the release of these documents until after the school year concludes by choosing not to issue any order to release the writings until June 9, at the earliest. It just so happens that waiting until June 9 will also give this Court time to permit litigation of these issues, as the Parents request.

The Parents meet all of the criteria for both mandatory and permissive intervention. They will be impacted more than anyone else by this Court's decision in these cases. This Court should grant the Motion, permit the Parents to intervene and share their experiences, and pause a decision on the merits of release of the writings until at least June 8.

Argument

1. This Court Should Grant the Motion to Intervene

A party may intervene in a case pursuant to Tennessee Rule of Civil Procedure 24, either as a matter of right (Rule 24.01) or by the Court's permission (Rule 24.02). Because the Parents meet the criteria to intervene as a matter of right, the Motion should be granted. But if the Court finds otherwise, it should still grant the Motion and allow the Parents to intervene by permission.

Rule 24.01 provides that a person "**shall** be permitted to intervene" if "the movant claims an interest relating to the . . . transaction which is the subject of the action and the movant is so situated that the disposition of the action may as a practical matter impair or impede the movant's ability to protect that interest." The Parents may intervene as of right if they can establish that "(1) the application for intervention was timely; (2) the proposed intervenor has a substantial legal interest in the subject matter of the pending litigation; (3) the proposed intervenor's ability to protect that interest is impaired; and (4) the parties to the underlying suit cannot adequately represent the intervenor's interests." *State v. Brown & Williamson Tobacco Corp.*, 18 S.W.3d 186, 190-91 (Tenn. 2000) (citations omitted).

The Parents meet these criteria—in fact, in many ways this is a textbook case in which intervention is called for. First, the Parents are absolutely interested in the subject of the transaction

because this involves the potential release of writings about their school, and because they believe that the release itself could endanger them and will cause them further pain and trauma. Moreover, not only are the Parents interested in the subject, but also disposition of this case without them will absolutely impede their ability to protect their interest in preventing the release of these documents. Simply put, once the documents are released, they will be out, and there will be no going back—as they say, you cannot unring a bell. So if the Parents are not permitted to intervene now, their ability to protect their interest will be forever lost. Finally, given that both Metro and the Plaintiffs have taken the position that the writings should be released, none of the current parties adequately represent the Parents’ position that the documents should not be released at all. This is not a close call. Intervention is warranted, and the Motion should be granted.

If this Court does not grant intervention as a matter of right, it should grant the Parents’ Motion to Intervene by permission. Rule 24.02 allows intervention by permission when “a movant’s claim . . . and the main action have a question of law or fact in common.” The Parents’ legal claim centers on the exact same question of law already before this Court – whether the writings should be released and in what form. Thus permissive intervention is warranted, and the Motion should be granted.

2. This Court Should Pause Release of Any Writings Until At Least June 8

The Parents are aware of this Court’s Status Conference scheduled for May 18. The Parents respectfully request that they be allowed to appear at the Status Conference to argue this Motion, if necessary, and to speak about their position. The Parents do not know if the Court is contemplating release of the documents on or about May 18, but if so, the Parents also respectfully request that the Court refrain from ordering any such release at this time.

First, the Parents wish to present legal argument and evidence in the form of Victim Impact Statements or, if permitted, addressing Your Honor in open court, in support of their position that the writings should not be released. But once the documents are released, the Parents' legal claim will be moot. So to avoid mooted their claim and to give them the chance to set out their position, the Parents request that the Court pause any potential release of any part of the writings until at least the Show Cause hearing on June 8. For these procedural reasons alone, delaying a ruling on the merits until June 8 is warranted.

Second, the Parents are deeply concerned about any release of any of the writings while their children are still trying to finish the school year. The Parents worry that such release will simply cause their children more pain and trauma. The school year is almost over and will be complete by June 8. To spare the Parents and their children that unnecessary pain, they implore the Court to please refrain from any release until the Show Cause hearing.

Conclusion

For the reasons stated above, this Court should grant the Parents' Expedited Motion to Intervene.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served, via the method(s) indicated below, on the following counsel of record, this the **17th day of May, 2023**.

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