

## Library Cards as Photo Identification

*Turner-Golden v. Hargett (Aleta A. Trauger and Kevin H. Sharp, M.D. Tenn. 3:12-cv-765)*

A voter and the City of Memphis filed a federal complaint in the Middle District of Tennessee on July 24, 2012, against Tennessee's secretary of state and its coordinator of elections, seeking an order requiring election officials to accept Memphis library cards for photo identification at polling places.<sup>1</sup> The voter alleged that she had been denied a ballot at an early voting location on the day before she filed her complaint.<sup>2</sup> With their complaint, the plaintiffs filed a motion for a temporary restraining order and a preliminary injunction.<sup>3</sup>

The court assigned the case to Judge Aleta A. Trauger, who was away from the court that day.<sup>4</sup> The court uses a rotation system to assign judges to preside over applications for temporary restraining orders;<sup>5</sup> Judge Kevin H. Sharp heard the application in this case and denied the plaintiffs immediate relief on July 25.<sup>6</sup>

Judge Trauger set a briefing schedule on July 26 for a preliminary injunction hearing should the plaintiffs pursue one.<sup>7</sup> Her order directed the parties to address seven specific points.<sup>8</sup> Following the plaintiffs' filing of an amended complaint,<sup>9</sup> Judge Trauger ordered the parties to address two additional specific points.<sup>10</sup>

After a July 31 hearing,<sup>11</sup> Judge Trauger denied from the bench a preliminary injunction.<sup>12</sup> According to the opinion issued three days later, the day after the election, the plaintiffs were not entitled to relief because the library cards were

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1. Complaint, [Turner-Golden v. Hargett](#), No. 3:12-cv-765 (M.D. Tenn. July 24, 2012), D.E. 1.

2. *Id.* at 6.

3. Motion, [Turner-Golden](#), No. 3:12-cv-765 (M.D. Tenn. July 24, 2012), D.E. 2.

4. Docket Sheet, *id.* (July 24, 2012); Interview with Hon. Aleta A. Trauger, Mar. 20, 2014; see Richard Locker, *Federal Judge Seeks ID Rules*, Memphis Commercial Appeal, July 31, 2012, at 2. Tim Reagan interviewed Judge Trauger for this report by telephone.

5. Interview with Hon. Aleta A. Trauger, Mar. 20, 2014.

6. Order, [Turner-Golden](#), No. 3:12-cv-765 (M.D. Tenn. July 25, 2012), D.E. 6; see Richard Locker, *Judge Rejects Library Card*, Memphis Commercial Appeal, July 26, 2012, at 1.

7. Order, [Turner-Golden](#), No. 3:12-cv-765 (M.D. Tenn. July 26, 2012), D.E. 10.

8. *Id.*

9. Amended Complaint, [Turner-Golden](#), No. 3:12-cv-765 (M.D. Tenn. July 30, 2012), D.E. 33 (adding a second voter as a plaintiff).

10. Order, *id.* (July 30, 2012), D.E. 35.

11. Transcript, *id.* (July 31, 2012, filed Aug. 13, 2012), D.E. 48; see Second Preliminary Injunction Motion, *id.* (July 26, 2012), D.E. 11.

12. Opinion at 1, *id.* (July 26, 2012), D.E. 10, available at [2012 WL 3202307](#); Transcript, *supra* note 11, at 74–78; see Richard Locker, *Judge Rejects Library Photo Cards*, Memphis Commercial Appeal, Aug. 1, 2012, at 1; *Nashville Judge Criticizes Voter ID Law, Says No to Library Cards*, Nashville Tennessean, Aug. 1, 2012.

First, let me say that I certainly do hope that the Legislature revisits this Act because to the Court, it is non-sensical that someone who can hold an expired hunter's license from another state qualifies as holding a photo ID under this law, and yet someone who has gotten the photo ID being offered by the Memphis Public Library does not have a photo ID that meets this law.

Transcript, *supra* note 11, at 74.

issued by a local government entity and not “issued by a branch, department, agency or entity of this state, any other state, or the United States,” in the words of the statute at the time.<sup>13</sup>

On August 7, the plaintiffs moved for leave to file a second amended complaint<sup>14</sup> and certify questions to Tennessee’s supreme court.<sup>15</sup> At an August 21 telephone conference,<sup>16</sup> it became clear that the plaintiffs’ best and most efficient course of action would be to seek relief in state court.<sup>17</sup> The plaintiffs voluntarily dismissed their federal case on August 23.<sup>18</sup>

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13. Opinion, *supra* note 12, at 9–14; see [Tenn. Code Ann. § 2-7-112](#) (2013) (now worded, “issued by the state of Tennessee, or the United States”).

14. Motion, *Turner-Golden*, No. 3:12-cv-765 (M.D. Tenn. Aug. 7, 2012), D.E. 41; Brief, *id.* (Aug. 7, 2012), D.E. 42.

15. Motion, *id.* (Aug. 7, 2012), D.E. 43, *id.* (Aug. 7, 2012), D.E. 44.

16. Docket Sheet, *supra* note 4.

17. Interview with Hon. Aleta A. Trauger, Mar. 20, 2014.

18. Notice, *Turner-Golden*, No. 3:12-cv-765 (M.D. Tenn. Aug. 23, 2012), D.E. 54; see Richard Locker, *Memphis Withdraws Photo-ID Suit*, Memphis Commercial Appeal, Aug. 29, 2012, at 6 (“a spokeswoman for the mayor says it will be refilled in state court”).