FILED

IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE

2024 MAY -8 AM 9:37

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Sean P. Smith,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
TENNESSEE DEPARTMENT OF FINANCE & ADMINISTRATION, DIVISION OF TENNCARE; and	)	**Case No. 24-0074-I**
	)	
	)	**Chancellor Patricia Moskal**
	)	
STEPHEN SMITH, DIRECTOR OF TENNCARE, in his official capacity,	)	
	)	
Respondents.	)	

PETITIONERS' REPLY TO RESPONDENT'S RESPONSE IN OPPOSITION TO PETITIONER'S MOTION FOR ACCESSIBLE JUSTICE

My Motion for Accessible Justice was filed as a sworn Affidavit and my arguments and statements were made in good faith for the purposes declared. Which in brief summary would be for justice to be equally accessible to disabled adults in Tennessee. Respondents' Response in Opposition to Motion for Accessible Justice makes no such sworn statement or equivalent affirmation. Their arguments may be driven by motives that are not in alignment with equitable justice or the nation's proper goals for individuals with disabilities. I believe it is worth noting that if my statements and claims are more than just "true and correct" "to the best of my knowledge and ability" and are objectively true and correct, which I continue to believe they will prove to be if properly tested, then Respondents counsel as Attorney General will have - or has? - an ethical dilemma.

Like TennCare's administrators an AG also makes an oath to fulfill their duties faithfully with fidelity and in support of the State and Federal Constitutions. TennCare's actions as I have described them have worked against our Constitutions. Knowingly helping TennCare avoid the

remedial reformative process of legal consequences for their offenses so that they may persist in their offending actions would also act against our Constitutions. At what point in these proceedings will the AGs duty to defend TennCare be superseded by their duty to investigate and prosecute TennCare?

One might try to play the game of "allegations" "are not, of course, evidence of the facts averred" [Hillhaven Corp. v. State ex Rel. Manor Care, 565 S.W.2d 212 (Tenn. 1978)] but this offers little shelter. It is far from supporting our Constitutions to make it the job of indigent disabled adults with substantially limited brain function to pro se litigate such a complex legal matter in order to aver the allegations. And by proxy opposing that I and those like me be appointed counsel seems in service of an agenda not in alignment with proper governmental purpose. That much like with my complaints and appeals the Respondents seek to dismiss and deny without considering their oath and obligations. Which is unacceptable conduct for those acting in stewardship of our State of Tennessee and United States of America. The common good that our Constitutions are sentinels of is owed greater devotion.

ARGUMENT AND ANALYSIS

1. A Full and Fair Review of Case Law Supports Petitioner's Right to Appointed Counsel

In *Respondents' Response in Opposition to Petitioner's Motion for Accessible Justice* they cite the Tennessee Judicial Branches ADA policy which states that "the appointment of an attorney to represent a party to a civil case cannot be required." Respondents claim the policy "is well grounded in Tennessee law." [pg. 1 ¶ 1]. Respondents' cite Bell v. Todd, 206 S.W.3d 86, 92 (Tenn. Ct. App. 2005) which says "it is now well-settled that there is no absolute right to counsel in a civil trial. See Knight v. Knight, 11 S.W.3d at 900; Memphis Bd. of Realtors v. Cohen, 786 S.W.2d 951, 953 (Tenn.Ct.App. 1989)."

Bell v. Todd cites *Knight v. Knight*, 11 S.W.3d at 900 which states:
"There is no absolute right to counsel in a civil trial." reasoning "The Sixth Amendment right to counsel is limited by its terms to criminal prosecutions." and cites, "*Lyon v. Lyon*, 765 S.W.2d 759, 763 (Tenn.App.1988); *In re Rockwell*, 673 S.W.2d 512, 515 (Tenn.App. 1983)."

And in *Lyon v. Lyon*, 765 S.W.2d 759, 763 (Tenn.App.1988):
"The thirteenth issue apparently complains that the trial judge did not appoint counsel for Husband in the trial court. There is no absolute right to counsel in a civil trial. See In re Rockwell, 673 S.W.2d 512 (Tenn. App. 1983). This issue is without merit."

In re Rockwell, 673 S.W.2d 512 (Tenn. App. 1983):
"The Sixth Amendment right to counsel is limited by its terms to criminal prosecutions. There is no absolute right to counsel in a civil trial. Barish v. Metropolitan Government, Etc., 627 S.W.2d 953 (Tenn. App. 1981)."

In Barish v. Metropolitan Government, Etc., 627 S.W.2d 953 (Tenn. App. 1981):
"There is no absolute right to counsel in a civil trial. *See* U.S.Const. amend. VI; Tenn.Const. Art. I, § 9. *Cf. Lassiter v. Department of Social Services of Durham County, North Carolina,* 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981); *Turner v. Steward,* 497 F. Supp. 557 (E.D.Ky. 1980); *State v. Tyson,* 603 S.W.2d 748 (Tenn.Cr. App. 1980).".

And on and on it goes from 2005 to 1981 each case citing another case and providing little information as to the basis for the claim that there is no absolute right to counsel beyond a brief mention of the Sixth Amendment of the US Constitution. Nowhere in these cases is examined the issues I have presented to the court for consideration in my Motion for Accessible Justice, where I asserted that I and disabled adults like me have a *conditional* right to legal assistance provided by an attorney and/or qualified representative based upon the severity of our need (some persons with disabilities will be disabled enough to need some help, but not so disabled they need an attorney) in order to Access Justice. I asserted that current policy and procedure in the Tennessee Courts to refuse appointment of counsel as an ADA accommodation leads to violations of my/our fundamental rights conferred by the 1st, 5th, and 14th Amendments to the U.S. Constitution.

I should have included in my Motion for Accessible Justice the TN Constitution art. 1 sec. 8 due to its specific wording of "or in any manner destroyed or deprived of his life, liberty or property, but by the judgment of his peers, or the law of the land." and do here now include it in argument. For I have certainly been destroyed in my fundamental rights by the misconduct of TennCare's Plan administrators who swore an oath to fulfill their official duties "faithfully" and

with "fidelity" in "support" of the Constitution of Tennessee and the United States [Am. Pet. Jud. Rev. Ex. C].

In my Motion I explained a statutory and constitutional basis by which disabled adults have a conditional right to counsel. I did not assert an absolute right to counsel based upon the 6th Amendment to the U.S. Constitution. Respondents' did not examine my claim, and this becomes further apparent when we carefully examine the cited case law.

Respondents' cite Hessmer v. Miranda, 138 S.W.3d 241, 245 (Tenn. Ct. App. 2003) to assert my indigency does not confer either a "constitutional nor the statutory right to appointed Counsel." I did not examine or argue whether indigency itself confers such a right. I argued that the State of Tennessee limits the resources of disabled adults, my resources, and forces indigency upon me. My indigency is imposed by the State and acts as a financial restraint, in addition to the physical and mental restraints it also imposes [Mot. Acc. Just. pg. 17 ¶ 1-2] . I am indigent because the state deprives me of my right to rehabilitative treatment and prevents me from being able to engage in gainful employment and then further restricts what resources I can acquire or retain and then makes justice Inaccessible; the State violates my statutory and constitutional rights. I am disabled by "treatable, even curable, health conditions simply because health insurance plans skirt the law because the legal community and the justice system conduct themselves in a manner that makes justice inaccessible to disabled adults with certain disabilities and legal complaints." [Id. pg. 8 ¶ 2].

Bell v. Todd cites *Hessmer v. Miranda*, 138 S.W.3d 241, 245 (Tenn. Ct. App. 2003) which reads: "Indigent civil litigants, unlike indigent criminal defendants, possess neither a constitutional nor statutory right to court-appointed assistance. *Montgomery v. Pinchak*, 294 F.3d 492, 498 (3d Cir. 2002);"

Hessmer v. Miranda cites *Montgomery v. Pinchak*, 294 F.3d 492, 498 (3d Cir. 2002):
"Indigent civil litigants possess neither a constitutional nor a statutory right to appointed counsel. See Parham v. Johnson, 126 F.3d 454, 456-57 (3d Cir. 1997). Nevertheless, Congress has granted district courts statutory authority to "request" appointed counsel for indigent civil litigants. See 28 U.S.C. § 1915(e)(1) (providing that "[t]he court may request an attorney to represent any person unable to afford counsel"). This Court has interpreted § 1915 as affording district courts "broad discretion" to determine whether appointment of counsel in a civil case would be appropriate. See Tabron v. Grace, 6 F.3d 147, 153 (3d Cir. 1993). The Tabron court

found that the decision to appoint counsel may be made at any point in the litigation, and may be made by a district court sua sponte. Id. at 156."

"In Tabron, we developed a list of criteria to aid the district courts in weighing the appointment of counsel for indigent civil litigants [FN9, *Infra* pg. 5 ¶ 3]. As a threshold matter, a district court must assess whether the claimant's case has some arguable merit in fact and law. Tabron, 6 F.3d at 155; see also Parham, 126 F.3d at 457. If a claimant overcomes this threshold hurdle, we identified a number of factors that a court should consider when assessing a claimant's request for counsel. These include:

1. the plaintiff's ability to present his or her own case;
2. the difficulty of the particular legal issues;
3. the degree to which factual investigation will be necessary and the ability of the plaintiff to pursue investigation;
4. the plaintiff's capacity to retain counsel on his or her own behalf;
5. the extent to which a case is likely to turn on credibility determinations, and;
6. whether the case will require testimony from expert witnesses.

Tabron, 6 F.3d at 155-57.

We have noted that "this list of factors is not exhaustive, but should serve as a guidepost for the district courts." Parham, 126 F.3d at 457 (citing Tabron, 6 F.3d at 155). In addition, we have cautioned that courts should exercise care in appointing counsel because volunteer lawyer time is a precious commodity and should not be wasted on frivolous cases. Id. at 458."

Footnote 9 from above;

"**This court has rejected the rule of our sister circuits that have held that appointment of counsel under § 1915(e)(1) is justified only under "exceptional circumstances."** See, e.g., Lavado v. Keohane, 992 F.2d 601, 605-06 (6th Cir. 1993) ("Appointment of counsel in a civil case . . . is a privilege that is justified only by exceptional circumstances."); Aldabe v. Aldabe, 616 F.2d 1089, 1093 (9th Cir. 1980) ("[T]his court has limited the exercise of [the District Court's discretionary power under the statute] to exceptional circumstances."). We explained in Tabron that "[n]othing in [the] clear language" of the statute ("the court may request an attorney to represent any person unable to afford counsel"), "[nor] in the legislative history . . . [,] suggests that appointment is permissible only in some limited set of circumstances." Tabron, 6 F.3d at 155." (emphasis added)

[I have wondered throughout this review why pick Lavado v. Keohane's "exceptional circumstances" over the Tabron standard. Maybe it's as simple as the people who detest poor people like disabled adults choose Lavado v. Keohane, and the people who want to pursue the Nation's Proper Goals pick Tabron? Yes, that's an oversimplified inflammatory quip (even if it could sometimes be true), but I think even so it draws closer to the matter at hand. There needs to be a well-reasoned reason to pick one over the other to avoid that selection being prejudiced and discriminatory, and so far the above is the closest I've found to a well-reasoned reason. Constraints on time limit how thoroughly I can examine both sides of this particular issue. Which is unfortunate as John Stewart Mill argued in *On Liberty*, "He who knows only his own side of the case knows little of that. His reasons may be good, and no one may have been able to refute them. But if he is equally unable to refute the reasons on the opposite side, if he does not so much as know what they are, he has no ground for preferring either opinion... Nor is it enough that he should hear the opinions of adversaries from his own teachers, presented as they state them, and accompanied by what they offer as refutations. He must be able to hear them from persons who actually believe them...he must know them in their most plausible and persuasive form." (emphasis added)
"Truth gains more even by the errors of one who, with due study and preparation, thinks for himself, than by the true opinions of those who only hold them because they do not suffer themselves to think..."
And particularly fitting to my situation with TennCare and the inaccessibility of justice:
"The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it."]

"As a threshold matter, we must assess whether Montgomery's case, in which he claims that the defendants violated his civil rights under 42 U.S.C § 1983 by depriving him of prescribed medical treatment, has "some arguable merit in fact and law." Parham, 126 F.3d at 457 (citing Tabron, 6 F.3d at 155); see also Hodge v. Police Officers, 802 F.2d 58, 60 (2d Cir. 1986)"

"We agree and find that Montgomery has satisfied the first prong of Estelle by demonstrating a serious medical need. See Monmouth County Correctional Institutional Inmates v. Lanzaro, 834 F.2d 326, 347 (3d Cir. 1987) (instructing that the seriousness of a medical need "may . . . be determined by reference to the effect of denying the particular treatment")."[1]

[1] "I strongly urge you to cover the cost of this therapy. Failure to do so would place the patient's health in jeopardy." [Pet. Jud. Rev. Exhibit B pg. 68 ¶ 5, Mot. Acc. Just. Exhibit B4 file:"Dr. Rice Vivos Dx Tx.pdf"]

"we find that Montgomery has adequately demonstrated the subjective component of the Estelle standard. See Durmer v. O'Carroll, M.D., 991 F.2d 64, 68 (3d Cir. 1993) (noting that deliberate indifference may exist in a variety of different circumstances, including where "prison authorities prevent an inmate from receiving recommended treatment," or "where knowledge of the need for medical care[is accompanied by the] intentional refusal to provide that care")."

[In my own case the effect of denying medical care leaves me disabled by treatable, even curable illness, has caused injury and puts me at risk of further injury, which increases the severity of my disability, all of which works to deprive me of my fundamental rights. Likewise, the denial of my care shows deliberate indifference and irrationality by the health plan (aka arbitrary and capricious agency decisions and actions). My 2019 complaint-appeal explained in great detail how the research literature shows that people like me have increasingly high medical utilization the longer that we go without appropriate care for our jaws-airways. Meaning that it costs less to treat us appropriately than it does to deny care.[2] (Pet. Jud. Rev. Ex. B digital files, file:"Sean Smith's 2019 Medical Appeal (redacted for court 2024).pdf" pg. 30 ¶ 1, pg. 12-13.) However, it can be argued that rather being solely an act of irrationality it is also one of malfeasance intended to exploit disabled adults and defraud taxpayers by leveraging the capitated payment model that is a hallmark of Medicaid MCO health plans by retaining as many plan beneficiaries as possible while paying the least amount of money they can for needed care.]

"we agree with Montgomery that the District Court abused its discretion in failing to appoint counsel, we will vacate the District Court's judgment and remand the case with instructions to appoint counsel to assist Montgomery in the preparation and presentation of his case.

We review a district court's decision to deny counsel to an indigent civil litigant for abuse of discretion. *Hamilton v. Leavy,* 117 F.3d 742 (3d Cir. 1997). We have determined that a district

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[2]Review complaint-appeal references for publications validating statements. Pg. 12 "What treatment was supplied had limited to no efficacy in symptom management and
offered practically no substance in regard to an etiological explanation that moved towards achieving a resolution of primary complaints; I observe this trend to be a common story amongst patients with Temporomandibular Disorders (TMDs) and/or disordered breathing [6, 7, 8, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36]."
Pg. 30 "Absent treatment patients are often
observed to do poorly with increased healthcare costs that place substantial burdens upon families, employers, third-party payers, and our society [18, 52, 139, 140, 141]"

court abuses its discretion if its decision "rests upon a clearly erroneous finding of fact, an errant conclusion of law or an improper application of law to fact." *Newton v. Merrill Lynch,* 259 F.3d 154, 165-66 (2001) (quoting *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.,* 55 F.3d 768, 783 (3d Cir. 1995))."

Montgomery v. Pinchak cites Hamilton v. Leavy whose summary on casetext.com is a quote from Burk v. Runk, 1:19-CV-01358 (M.D. Pa. Dec. 28, 2021), footnote 81. I find it interesting to compare it to my situation despite the differences between my case and it. Especially given what I argued in my Amended Petition for Judicial Review and my Motion for Accommodations, now argue in my Motion for Accessible Justice and have been drafting in my forthcoming Response to Respondents Motion to Dismiss Am. Comp. Pet. Jud. Rev.:
"See Hamilton v. Leavy, 117 F.3d 742, 746-47 (3d Cir. 1997) (finding that prison official could be held liable for transferring plaintiff to a prison where he was attacked because official knew of excessive risk to plaintiff's safety and failed to act); Young v. Quinlan, 960 F.2d 351, 36263 (3d Cir. 1992) (holding that prison officials, who ignored inmate's repeated notifications of physical assaults and requests for placement in protective custody, could be found deliberately indifferent).".

I'm not a prisoner with a warden, but TennCare acts as a trustee of my property-benefits, and acts as a type of caregiver for my health and safety. I believe my dispute being 'under' the jurisdiction of this Chancery Court means something here too, though I'm not sure what, even though it's clear to me that the Court in adjudicating my case will act as a sort of caregiver for Justice, of the civil and fundamental rights of myself and other disabled adults and all the other 'inmates of society', such as the Respondents.

An analysis and comparison of *Hamilton v. Leavy,* 117 F.3d 742 (3d Cir. 1997) to my case yields interesting insights and questions:

Case:
"Hamilton has a long history of being assaulted throughout the Delaware prison system."

Comparative Analysis:
I have a long history of getting injured due to my health plans limiting and preventing me from getting rehabilitative care with jaw-airway specialists.

Case:
"After reviewing Hamilton's history of being assaulted in prison, the MDT unanimously recommended that Hamilton be placed in protective custody. But despite their own recommendation, the MDT took no immediate action to protect Hamilton."
"The MDT's report and recommendation were forwarded to the CICC, chaired by Lewis. The CICC thereafter made a unanimous determination to take "no action.""

Comparative Analysis:
Some of my doctors have enough education to understand I need jaws-airway care, and some understand enough to recommend I receive such care but can take no immediate action themselves to provide it. Their recommendations were forwarded to UHCCP-TennCare who took "no action" to assure my health and safety to the extent as is required by their duties and obligations.

Case:
"Consequently, Hamilton remained in the general population. Less than two months following the CICC's "no action" determination, on August 5, 1992, Hamilton was assaulted by another prisoner." "As a result of the assault, Hamilton required surgery to repair two jaw fractures and currently has two metal plates in both sides of his jaw.".

Comparative Analysis:
This is where our cases diverge. Unlike Hamilton I have not been able to get treatment for the injuries related to my jaw-airway issues and live with my injuries and the preexisting danger to my health and safety. Sarcastic Supposition: to get jaw-airway care I should commit a crime, go to prison, and get assaulted. Analysis of Sarcastic Supposition: If Prison Officials do their job, they will prevent the assault and my plan will fail and I won't get assaulted and receive jaw-airway care. Conclusion: Law-breaking UHCCP-TennCare prevents jaw-airway care for law-abiding disabled adults, law-abiding Prison Officials prevent jaw-airway care for law-breaking disabled adults. *Brain Explodes*

Case:
"Hamilton thereafter filed suit in district court, claiming that prison officials violated state prison regulations and showed a deliberate indifference to his safety"

"The district court granted summary judgment in favor of the MDT defendants on the ground that they recommended that Hamilton be placed in protective custody, and were without authority to effectuate that recommendation."

Comparative Analysis:
I submitted complaints and appeals and doctors recommendations to UHCCP-TennCare, and UHCCP-TennCare responded by showing deliberate indifference to my health, safety, disability needs, and their statutory obligations (I cited them in my complaint-appea)l. It's UHCCP-TennCare who prevents both me and my doctors from doing what is needed. Even those doctors who did not do all that they should to help me, these doctors conducted themselves in that manner because the "deliberate indifference" of UHCCP-TennCare conditioned them to believe that no matter how hard they tried UHCCP-TennCare wouldn't let them help people like me. UHCCP-TennCares response to my complaint-appeals proved them correct.

Case:
"While "[i]t is not . . . every injury suffered by one prisoner at the hands of another that translates into constitutional liability for prison officials responsible for a victim's safety," "[b]eing violently assaulted in prison is simply not 'part of the penalty that criminal offenders pay for their offenses against society.'" Farmer, 114 S. Ct. at 1977 (quoting Rhodes v. Chapman, 452 U.S. 337, 345 (1981))."

Comparative Analysis:
Health plans are not going to be perfect places either. Some people will not get the care they need at the time that they most need it. Their needs might exceed what is medically possible or financially responsible. Or the complexity of their case as yet requires further diagnostics and analysis before It becomes clear what's causing the health conditions causing one's disabilities and how to treat them rehabilitatively. However, the Respondents engage in misconduct to make succeeding in the diagnostic and treatment identification process as impossible as possible. And if by chance one does succeed UHCCP-TennCare then endeavors to limit and prevent access to rehabilitative treatment. There comes a time when a health plans conduct becomes misconduct and is a "cruel and unusual" "unnecessary and wanton infliction of pain." We are well past that time with respect to my case.

Case:

"("[O]ur cases mandate inquiry into a prison official's state of mind when it is claimed that the official has inflicted cruel and unusual punishment."). Specifically, the inmate must show that the official "knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and [s]he must also draw the inference." Id."

Comparative Analysis:

Given the extent of my communications to UHCCP-TennCare via my 2019 and 2023 complaint-appeals and supporting medical records, I believe the Respondents' are certainly aware of my situation. My diagnoses, the causes of the health conditions causing my disabilities, my need for rehabilitative care, and how I have not been allowed to access the care I need. How because of that I have sustained serious harm and I'm at risk of sustaining further serious harm. I also believed I had made the Court aware of these matters, but the Courts April 22nd denial of my Motion for Accomodations indicates that they believe my risk of injury is too 'hypothetical' and the evidence I have presented to not be 'competent'.

Case:

"Hamilton also alleges that the district court erred by denying his request for the appointment of counsel." (749)

"the district court considered the factors we announced in Tabron v. Grace, 6 F.3d 147, 155-56 (3d Cir. 1993), for determining whether the appointment of counsel is warranted."

"In Tabron we held that when deciding whether to appoint counsel for indigent litigants, district courts should consider the merits of the plaintiff's claim, the plaintiff's ability to present his or her case, the difficulty of the legal issues, and the degree to which the case will require extensive factual investigation or turn on credibility determinations. Id. at 156"

"After weighing the various Tabron factors, the district court concluded that Hamilton could not demonstrate "special circumstances indicat[ing] the likelihood of substantial prejudice to him resulting . . . from his probable inability without such assistance to present the facts and legal issues to the court in a complex but arguably meritorious case." Smith-Bey v. Petsock, 741 F.2d 22, 26 (3d Cir. 1984).

We are unable to agree with this conclusion for two reasons: first, the district court erred in concluding that Hamilton did not have a colorable claim; second, the record indicates that

Hamilton may be ill-equipped to represent himself or to litigate this claim inasmuch **as there is unrebutted medical evidence that he suffers from a paranoid delusional disorder**. The district court's failure to consider the weight of this fact demonstrates that more serious consideration should have been given to Hamilton's request for the appointment of counsel. We will therefore reverse on this issue and remand to the district court with instructions to appoint counsel for Hamilton. See Tucker v. Randall, 948 F.2d 388, 391 (7th Cir. 1991) (appointment of counsel appropriate when plaintiff presented colorable claim of deliberate indifference to serious medical needs resulting in permanent deformities)." (emphasis added)

Comparative Analysis:
Mental and cognitive disabilities which substantially limit brain function have been recognized as requiring the appointment of counsel in certain civil cases independent of the ADAs protections. The court's indifference to my likelihood of incapacitating injury or death seems like a bit of a problem given the ADA related CFR [28 CFR § 35.130] and that my case is against TennCare for their "deliberate indifference" of my "serious medical needs resulting in" them abusing, exploiting, and injuring me repeatedly over a number of years causing me to become more severely disabled and simultaneously deprived of my fundamental rights.

Respondents' claim that, "appointment of counsel in a civil case is "justified only by exceptional circumstances." Lavado v. Keohane, 992 F.2d 601, 606 (6th Cir. 1993). No such circumstances are presented here. Indeed, Petitioner fails to explain how his alleged disabilities put him at more disadvantage than a standard pro se party" [Resp. Opp. Mot. Acc. Just. pg. 3 ¶ 1]. Respondents' claim that no such exceptional circumstances are present, but Respondents do not specify why they believe this to be the case nor how they arrived at that determination. Nor do respondents argue why the exceptional circumstances standard should be used when other courts emphatically and explicitly reject it [*Supra* pg. 5 ¶ 3]. Which seems to me to make Respondents' claim quite specious. Let us nevertheless examine "exceptional circumstances" in the spirit of performing a full and fair review.

Bell v. Todd cites *Hessmer v. Miranda* cites *Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993) which states:
"In determining whether "exceptional circumstances" exist, courts have examined "the type of case and the abilities of the plaintiff to represent himself." *Archie v. Christian,* 812 F.2d 250, 253 (5th Cir. 1987); *see also Poindexter v. FBI,* 737 F.2d 1173, 1185 (D.C. Cir. 1984). This generally

involves a determination of the "complexity of the factual and legal issues involved." *Cookish v. Cunningham,* 787 F.2d 1, 3 (1st Cir. 1986)."

Lavado v. Keohane cites *Archie v. Christian,* 812 F.2d 250, 253 (5th Cir. 1987):
"Appointment of counsel is authorized in § 1983 actions only in "exceptional circumstances." *Id.* at 412.[*Robbins v. Maggio,* 750 F.2d 405, 413 (5th Cir. 1985).]"

Archie v. Christian cites *Robbins v. Maggio,* 750 F.2d 405, 413 (5th Cir. 1985):
"In *Caston,* this Court expressed the view that a layman unschooled in the law in the area of civil rights who had been inappropriately denied assistance of appointed counsel had little hope of successfully prosecuting his case to final resolution on the merits. *Id.* at 1308. This statement is no less true after *Coopers Lybrand.* Indeed, there remains a great risk that a civil rights plaintiff may abandon a claim or accept an unreasonable settlement in light of his own perceived inability to proceed with the merits of his case, resulting in the loss of vital civil rights claims."

Lavado v. Keohane cites *Cookish v. Cunningham,* 787 F.2d 1, 3 (1st Cir. 1986):
"Whether exceptional circumstances exist requires an evaluation of the type and complexity of each case, and the abilities of the individual bringing it. *Branch v. Cole,* 686 F.2d 264, 266 (5th Cir. 1982)."
"Some factors which courts have found to bear on the question of exceptional circumstances in a particular case include the indigent's ability to conduct whatever factual investigation is necessary to support his or her claim, *Peterson v. Nadler,* 452 F.2d 754, 758 (8th Cir. 1971); the complexity of the factual and legal issues involved, *Childs v. Duckworth, supra,* at 922; and the capability of the indigent litigant to present the case. *Maclin v. Freake, supra,* at 888."

Cookish v. Cunningham cites *Childs v. Duckworth,* at 922:
"However, the prisoner has no constitutional right to such an appointment unless the denial of proper representation would result in fundamental unfairness impinging upon the prisoner's due process rights**[3]** or, as we have stated recently in *Merritt v. Faulkner,* 697 F.2d 761, 764 (7th Cir.

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[3]Mot. Acc. Just. pg. 7-8
"The State of Tennessee's discriminatory procedures of due process causes the State of Tennessee to deprive disabled adults of their health, wellbeing, and limited resources by the State without due process"
"That in Tennessee the burdens of litigation created by the procedures of due process could itself further circumvent the process of due process is, well, it is quite remarkable."

1983), "the circumstances of a particular case may make the presence of counsel necessary." *See also LaClair v. United States,* 374 F.2d 486 (7th Cir. 1967)".

"It is the recognized duty of the trial court to insure that the claims of a *pro se* client are given a "fair and meaningful consideration," *Madyun v. Thompson,* 657 F.2d 868 (7th Cir. 1981), particularly when his First Amendment rights are concerned**[4]**, and also to give liberal construction to a *pro se* plaintiff's pleadings. *Haines v. Kerner,* 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972). In *Maclin v. Freake,* 650 F.2d 885 (7th Cir. 1981), we have set forth a variety of factors which should be weighed in determining whether counsel for a *pro se* litigant should be appointed. The threshold question is whether there are merits to the indigent litigant's claim." (emphasis added)

"Once this threshold is passed, the other factors to be considered are whether: the litigant has the ability to investigate the factual issues in dispute; evidence introduced will be in the form of conflicting testimony, thus requiring the need for cross-examination by an attorney; the litigant is capable of presenting his own case; and the legal and factual issues are complex."

Childs v. Duckworth cites Maclin v. Freake, 650 F.2d 885 (7th Cir. 1981):

"The decision must rest upon the court's careful consideration of all the circumstances of the case, with particular emphasis upon certain factors that have been recognized as highly relevant to a request for counsel." (emphasis added)

"First, the district court should consider the merits of the indigent litigant's claim."

"Once the merits of the claim are considered and the district court determines the claim is colorable, appointment of counsel may or may not be called for, depending upon a variety of other factors. One such factor is the nature of the factual issues raised in the claim. Where the indigent is in no position to investigate crucial facts, counsel should often be appointed."

"Counsel may also be warranted where the only evidence presented to the factfinder consists of conflicting testimony. In such cases, it is more likely that the truth will be exposed where both sides are represented by those trained in the presentation of evidence and in cross examination."

"Another factor to be considered is the capability of the indigent litigant to present the case. In *Drone v. Nutto,* 565 F.2d 543 (8th Cir. 1977), the district court was ordered to reconsider

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[4] Mot. Acc. Just. pg. 22-23 "With most disabled adults being unable to engage in effective litigation against State agencies, there are no meaningful consequences to those agencies when they do not attend to appeals, complaints, grievances, and other disputes in good faith with conformity to the law. Thereby disabled adults are deprived from being 'able' to effectively petition for an equitable resolution of a dispute with the State of Tennessee. This violation of the First Amendment rights of disabled adults in Tennessee then leads to violations of other civil and constitutional rights."

appointing counsel for the indigent plaintiff because the record indicated **the plaintiff suffered from mental disease and therefore could not conduct the case unaided**." (emphasis added)

"More generally, the Fourth Circuit has stated that "[i]f it is apparent to the district court that a *pro se* litigant has a colorable claim but lacks the capacity to present it, the district court should appoint counsel to assist him." *Gordon v. Leeke,* 574 F.2d 1147, 1153 (4th Cir.), *cert. denied sub nom. Leeke v. Gordon,* 439 U.S. 970, 99 S.Ct. 464, 58 L.Ed.2d 431 (1978)."

"On the other hand, where it appears the indigent litigant is competent to pursue the claim, courts have denied requests for appointment of counsel. A refusal to appoint was upheld in *Hudak v. Curators of the University of Missouri,* 586 F.2d 105 (8th Cir. 1978), *cert. denied,* 440 U.S. 985, 99 S.Ct. 1799, 60 L.Ed.2d 247 (1979), where the indigent was a former law professor whom the court deemed competent to handle her case unaided."

"The district court should also take into consideration the complexity of the legal issues raised by the complaint."

"We think it follows that where the law is not clear, it will often best serve the ends of justice to have both sides of a difficult legal issue presented by those trained in legal analysis." (emphasis added)

"The factors we have discussed thus far are those most often cited by other courts presented with requests for counsel. They are, in addition, the factors most relevant to the case before us now. They are by no means an exclusive checklist, however. In some other case other elements will no doubt be found significant — even, perhaps, controlling."

"Maclin has presented a colorable claim for relief. He is a paraplegic and, according to the limited record presented here, received no physical therapy for his condition from the time he entered prison"

"Confined to a wheelchair and in constant pain, he can hardly be thought capable of conducting an adequate examination of his own medical records, let alone of developing evidence of the medical treatment he ought to have received. Should his case go to trial, we think he will need an attorney to elicit relevant, comprehensible testimony that will elucidate for the factfinder the treatment he received and the adequacy of that treatment."

"Finally, this is not a case in which the indigent plaintiff has demonstrated a workable knowledge of the legal process, *cf. Davis v. United States, supra,* 214 F.2d 594 (7th Cir. 1954)."

"Under all the circumstances presented here, we conclude the district court should have granted Maclin's request for appointed counsel. We reverse the grant of summary judgment to the

defendant and remand for appointment of counsel and for further proceedings. Circuit Rule 18 shall apply."

Childs v. Duckworth cites *Merritt v. Faulkner,* 697 F.2d 761, 764 (7th Cir. 1983):
"Indigent civil litigants have no constitutional or statutory right to be represented by a lawyer. Nevertheless, particularly when rights of a constitutional dimension are at stake, a poor person's access to the federal courts must not be turned into an exercise in futility. *See Bounds v. Smith,* 430 U.S. 817, 821-24, 97 S.Ct. 1491, 1494-1496, 52 L.Ed.2d 72 (1977); *Haines v. Kerner,* 404 U.S. 519, 520, 92 S.Ct. 594, 595, 30 L.Ed.2d 652 (1972). This principle of meaningful access is reflected in many decisions by the United States Supreme Court and by this court. Congress, in 28 U.S.C. § 1915 (1976), has indicated that the federal courts must be a judicial forum truly available to the rich and poor alike."
"In some civil cases meaningful access requires representation by a lawyer. In *Powell v. Alabama,* 287 U.S. 45, 68-69, 53 S.Ct. 55, 63-64, 77 L.Ed. 158 (1932), Justice Sutherland observed that:

> The right to be heard would be, in many cases, of little avail if it did not comprehend the right to be heard by counsel. Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable, generally, of determining for himself whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he [sic] have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more is it of the ignorant and illiterate, or those of feeble intellect."

"Even when there is no absolute right to counsel, *see, e.g., Scott v. Illinois,* 440 U.S. 367, 369, 99 S.Ct. 1158, 1159, 59 L.Ed.2d 383 (1979) (no right to counsel when potential prison sentence is not actually imposed), the Court has made it clear that the circumstances of a particular case may make the presence of counsel necessary."
"Quite often the factual and legal issues in a civil case are more complex than in a criminal case. *See* Note, *The Indigent's Right to Counsel in Civil Cases,* 76 Yale L.J. 545,

548 (1967). This often will be true in cases presenting constitutional questions. Indeed, surviving a critical motion to dismiss under Fed.R.Civ.P. 12(b)(6) may well depend upon the ability to perform legal research and present sophisticated legal arguments in such doctrinally complex areas as prisoner medical rights or free speech. These are skills which a layman often may not have and in which a lawyer receives professional training. [FN3]

[Footnote 3] The problem is compounded by the inequality which results when the defendant, most often the state, is represented by counsel and the indigent civil litigant is not. An underlying assumption of the adversarial system is that both parties will have roughly equal legal resources. This assumption is destroyed when only one side is represented. *See Bounds v. Smith,* 430 U.S. 817, 826, 97 S.Ct. 1491, 1497, 52 L.Ed.2d 72 (1977)." (emphasis added)

The above cases focus on prisoners, and often cite 28 U.S.C. § 1915 Proceeding in forma pauperis. Maclin v. Freake takes particular note of § 1915 even quoting the entire subsections of (a) and (d). Upon reviewing § 1915 I found subsection (e), which states "(e)(1) The court may request an attorney to represent any person unable to afford counsel.". While other subsections specify "prisoner" this section uses the term "person" suggesting that 28 U.S.C. § 1915(e) applies to people like me. It remains unclear how proceeding in forma pauperis might apply to my situation let alone how to do it. The wording of § 1915(e) suggests it is at the Courts discretion and can be granted with or without request. Google searches seem to equate the Pauper's Oath affidavit for filing as being the same as the In Forma Pauperis affidavit. I filed my case with a Pauper's Oath via the Uniform Civil Affidavit of Indigency.

Tennessee Supreme Court Rule 13 on appointment of counsel to indigent persons has a similarly open wording which seems to apply to persons like me, but is also unclear how exactly it does relative to the criteria set forth in the case law cited above.

"(a)(1) The purposes of this rule are:

(A) to provide for the appointment of counsel in all proceedings in which an indigent party has a statutory or constitutional right to appointed counsel;"

"(c) All general sessions, juvenile, trial, and appellate courts shall appoint counsel to represent indigent defendants and other parties who have a constitutional or statutory right to representation (herein "indigent party" or "defendant") according to the procedures and standards set forth in this rule."

There's a striking similarity between my case and Maclin v. Freake in which the court ruled "the district court should have granted Maclin's request for appointed counsel". That

Maclin was denied appropriate physical therapy is, well, it seems quite fitting that his case be cited here in my case. And like Maclin I have severe disability that doesn't get better on its own, a need for intensive medical assistance, help seeking and receiving that medical assistance, have and continue to be subject to state actions depriving my fundamental rights, and have a lack of familiarity with the legal process.

I didn't understand what a Petition for Judicial Review was in December of 2023, a month before filing my Petition for Judicial Review. I didn't know what a Motion was or what it did or how to do it. When I filed my Petition I didn't understand what I actually needed to put in it beyond briefly explaining my issues with TennCare and what I needed from the court. I looked at other filings via the Chancery Information Access to try to understand things better, but when I encountered phrases like "Causes of Action" I didn't understand what that meant and all it did was cause me confusion. A confusion that grew as It became apparent that even though I read and reread the Tenn. R. Civ. P. and Local Rules sections on service of process multiple times I had misunderstood how to do something as basic as service of legal process. I didn't even know I had to notarize an affidavit. I've known that the Rehabilitation Act of 1974 somehow needs to be included in my case, but don't understand how to include it appropriately or even if I did if it would matter [29 U.S.C. § 794]. I don't understand the differences between the various courts or if there is a court my case would be most appropriate to present to. All I had was TennCare sending me a denial letter telling me the next hoop I was supposed to jump through was to file a petition for judicial review. And after i have, they file a motion to dismiss it claiming I didn't exhaust all administrative remedies.

The Maclin v. Freake judgment occurred in 1981 against the backdrop of the Rehabilitation Act of 1974. The Americans With Disabilities Act was passed in 1990, and the Americans with Disabilities Act Amendments in 2008. A disabled adult's right to counsel, the protections and accommodations which should be afforded, should be stronger now than they were in 1981.

In denying my Motion for Accomodations the Court noted that "The allegations contained in Mr. Smith's Amended Complaint and Petition and his motions are not competent "evidence" in support of his claims. See Hillhaven Corp. v. State ex rel. Manor Care, Inc., 565 S.W.2d 210, 212 (Tenn. 1978)." [4.22.2024 Order Denying Mot. Accom. pg. 3 ¶ 2]. In my Motion for Accessible Justice I express my dismay and confusion at the ruling in the Court's order saying, "My Petition for Judicial Review included what I thought to be competent evidence". "Am I so cognitively impaired by my disabilities that I can't figure out what is and is not competent evidence? Or did I present competent evidence but my cognitive impairments prevent me from

properly communicating that evidence? Is there a Rule about evidence that my mental disabilities are once again preventing me from understanding?" [Mot. Acc. Just. pg. 12 ¶ 4-5].

The inability to present competent evidence is one of many factors in my case "that have been recognized as highly relevant to a request for counsel" [Maclin v. Freake 650 F.2d 885 (7th Cir. 1981)]. Or maybe my impairments are even keeping me from understanding this matter properly too.

Respondents' have called into question my case, even to the point of questioning whether or not I have a case [Resp. Memo Supp. Mot. Dismiss Am. Pet. Rev. pg 1]. Which indeed begs the question of my "capability" [Maclin v. Freake] to present my case, as well as highlights that the complexity of the legal issues in my case are so complex that even the Respondents' struggle to understand them despite how much I'm trying to describe my situation and my claim. Yet, Respondents' also claim I have not amply demonstrated that I am substantially impaired relative to other pro se litigants. I don't understand how one could hold such a belief given the extent of the information I disclosed about how "I have multiple health conditions that cause multiple impairments that substantially limit multiple major life activities" [Mot. Acc. Just. pg 14 ¶ 1]. My explanations focused upon my mental and cognitive impairments and disabilities even pointing out that, "Three of my declared health conditions (Major Depressive Disorder, Bipolar Disorder, PTSD) are specifically mentioned in the CFR as substantially limiting brain function [28 CFR § 35.108(d)(2)(iii)(K)]." [Id.]

It would seem appropriate to extend Justice Sutherland's 1932 statement with an amendment based upon current laws and understanding, that "If that be true of men of intelligence, how much more is it of the ignorant and illiterate, and those of feeble intellect" or those with substantially limited brain function and multiple health conditions that cause multiple impairments that substantially limit multiple major life activities. One should consider that in the 1930s "those of feeble intellect" were often people with mental disabilities. Justice Sutherland's statements can be understood to encompass people like me who have "substantially limited brain function".

It was stated in Maclin v. Freake [*Supra* pg. 14 ¶ 2] that, "Where the indigent is in no position to investigate crucial facts, counsel should often be appointed." To be in a position to investigate one has to be able to perform the tasks of investigation. These tasks generally require subject matter knowledge, sufficient cognitive ability, financial capability, legal expertise, and physical function. An investigator needs to have these abilities and be able to employ them on a consistent basis. I have a limited ability to perform the tasks necessary to litigate my case. I

do not have consistent function. I become increasingly impaired and less functional the longer I try to function despite my disabilities.

An analogy that I've used for years to help my doctors understand my disability situation is that I have to build a sandcastle in the middle of a storm with rain and surf washing it away over and over while everybody else gets to build on a sunny beach, take photos, and compete in sand castle contests. A person being intelligent doesn't make them able. Intelligence can be compromised by impairment. Like how a doctor or lawyer who practices while inebriated is a problem, so too it is a problem for an intelligent disabled adult suffering from substantially limited brain function to engage in pro se litigation.

I think Respondents' statement that "Petitioner fails to explain how his alleged disabilities put him at more disadvantage than a standard pro se party" is a clear instance of disability discrimination. Or perhaps respondents are attempting to argue that substantially limited brain function is a common affliction or that litigation is not a mentally demanding "major life activity" for which someone with substantially limited brain function would be disadvantaged relative to most people who possess no such mental or cognitive disabilities. Respondents do not offer much to support their assertion beyond presenting general rules, policy, and some case studies which do not address whether or not applying such rules and policies would be discriminatory against my disabilities and violate the Motions cited statutes and my fundamental rights granted by the 1st, 5th, and 14th Amendments of the U.S. Constitution. I believe that respondents' denying the impact my disabilities have on my ability to perform a task as mentally demanding as litigation in such a clearly discriminatory manner compromises what little merit their arguments might have been able to have.

My motion for accessible justice has an entire section titled "Constitutional Violations" that define the Constitutional violations that occur by not appointing me an attorney [Mot. Acc. Just. pg 22-24]. Respondents provide no direct, let alone detailed, counter to my arguments and instead make a blanket claim that "Petitioner does not establish a basis for appointing counsel under either the Tennessee or Federal Constitutions or the ADA, and his Motion must be denied." [Resp. Opp. Mot. Acc. Just. pg. 3 ¶ 2].

Central to my case is that the Respondents' refuse to provide full and fair review of my 2019 and 2023 complaint-appeals. And here too Respondents seem to refuse to provide a full and fair review of my Motion for Accessible Justice. Providing full and fair review of the very case law they cite in opposition then leads to nearly the same conclusions I arrived at in my Motion for Accessible Justice. Were I truly capable of presenting my case I would have been able to find, review, and cite such case law in support of my Motion earlier. But I did not, which

further demonstrates my general lack of ability to handle this case which clearly involves layers of complexity related to civil and constitutional rights.

My Motion for Accessible Justice isn't even the central issue of my case; it is peripheral to it. If this matter proves so challenging without counsel, then the central matters of my case will be even more so. Respondents' arguments continue to demonstrate the necessity that the Court provide relief to me, for the Respondents refuse to provide the full and fair review that is required for an equitable and just resolution of my dispute which might then allow us to achieve the common good of Defending The Disabled such that we might then pursue and achieve The Nation's Proper Goals for individuals with disabilities [42 U.S.C. § 12101].

When one examines the case law presented by the ADA Coordinator[5] and the case law directly presented by the Respondents', one will note that the question of whether or not disabilities which substantially limit brain function warrant appointment of counsel is not directly evaluated. While there is no absolute right to an attorney in civil cases, there is a conditional right to an attorney in civil cases. A conditional right which I argue disabled adults like me meet in general even without the ADA's protections, but when considering the ADA that right to counsel is further solidified. And when from that solidified position we then contemplate my situation as a whole it becomes clear that there is a strong basis to assert I must be appointed counsel. How 42 U.S.C. §§ 1396-1, 1396a(a)(19), and the other various statutory and constitutional provisions that I discuss in my Motion for Accessible Justice relate to my case and how the State depriving me of counsel would further exacerbate the State's prior violations of my rights and trigger specific ADA related prohibitions on such conduct [28 CFR § 35.130].

I'm a disabled adult. A vulnerable person. I've committed no crime, done no wrong, and warrant no prejudice. I am not accused of causing "Mr. Bell's decapitated, dismembered, and burned body" as in Bell v. Todd. My indigency and my inabilities are not related to being incarcerated or committing a crime. I am wrongfully imprisoned by my disabilities due to the misconduct perpetrated by the State of Tennessee's Department of Finance and Administration Division of TennCare. Rather than being an accused or convicted wrongdoer confined by the consequences of their actions, I'm a seeker of the common good attempting to Defend The Disabled, myself and others, from a great wrong being done by the Respondents and their accomplices. My situation is quite exceptional by many measures.

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[5] [*White v. Franks,* No. 2001-CA-001018-MR, 2003 WL 22520440, at *4 (Ky.Ct.App. Nov. 7, 2003)]
[*Stone v. Town of Westport*, 3:04cv18 (JBA) (D. Conn. 2/23/07), 2007 WL 9754412 *1]
[Smith v. Robertson, 341 So. 3d 608 (La.App. 1 Cir. 3/3/22)]]
[Smith v. Dugas, 2019-0852 (La. App. 1 Cir. 2/26/20), 2020 WL 913673 *2]

It is Discriminatory and Prejudiced to so casually dismiss my arguments based upon past rulings about right to counsel in civil cases where the only factor evaluated was the Sixth Amendment U.S. Const., as the Respondents' did, while ignoring something as basic, as fundamental, as the fact that my disabilities substantially limit brain function and create mental and cognitive impairments that substantially limit my capacity to perform major activities of living relative to most people. I am *severely* disadvantaged by my mental and cognitive disabilities.

Even if by chance the courts pro se parties are predominantly people like me, and so I am not any more disadvantaged than they are, that doesn't stop the policies and rules from being discriminatory against each and every one of us as my Motion for Accessible Justice describes.

2. Requested Relief was Clearly Communicated

Respondents' claim that beyond my request for the court to appoint me counsel the relief I request is "is not adequately defined such as to give Respondents fair opportunity to respond." and is "on its face too vague to identify the requested relief" [Resp. Opp. Mot. Acc. Just. pg. 3 ¶ 2]. It is not for me to define to the court what it can or cannot do to make justice accessible. That is an administrative matter for the court to determine. I can only define what my disabilities are and how the court is made inaccessible to me because of them and the statutory and constitutional basis that the court should make reasonable accommodations and make suggestions as to what those reasonable accommodations should in my view be. What relief is necessary to make justice accessible is a matter that must be determined at the Court's discretion, as the Court's determination and implementation of policy will affect if it might be open to a repeat of suits like Tennessee v. Lane [Mot. Acc. Just. pg.18-19 ¶ 4].

As I stated in my Motion, "It is difficult to find a justification for it to be the burden of disabled adults to educate a health insurance plans administrators and its doctors or the Court and its staff so that they can comprehend our disabilities well enough to avoid discriminating against us and depriving us of our fundamental rights." [Id. pg. 11 ¶ 2] The job of making justice accessible is one for the Court to perform. As an adversely affected party I will assist the court as much as I can so that Justice is Accessible to myself and others. But "as a disabled adult pro se litigant I don't have the education or experience necessary to fully understand what the burdens of litigation are or how to meet them." and thus cannot determine with specificity and particularly the entirety of the relief the court will need to provide in order to make Justice Accessible to myself and other disabled adults.

It is the Court's duty to provide Accessible Justice and it is not the Respondents' place to question how and by what means the Court determines to do so. It is entirely outside of the Respondents jurisdiction to object to the Court making Justice equally Accessible to Disabled Adult Pro Se litigants. That the Respondents' dare to assert they have such a right is a decision "In excess of the statutory authority of the agency" and an "unwarranted exercise of discretion". And while I'm not sure how or if the UAPA applies here directly, I think you know what I'm saying and can see how the Respondent's pattern of behavior gives further merit to my claims. With my requested relief as it is I am entrusting my welfare to the court even as the respondents lob yet another rock at me as I attempt to crawl towards justice.

Image Title: Crawling to Justice.

Dated May 4th 2024.

Sincerely,

Sean Smith

5.4.2024

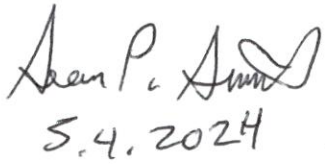
6402 Baird Lane
Bartlett TN, 38135
(901) 522-5775
TheLastQuery@gmail.com
DefendTheDisabled.org

Certificate of Service

I Sean Smith hereby certify that a true and correct copy of *Petitioners' Reply to Respondents Response In Opposition to Petitioner's Motion for Accessible Justice* is being forwarded via email to the following:

Respondents Counsel
HAYLIE C. ROBBINS (BPR# 038980)
Assistant Attorney General
Office of the Tennessee Attorney General
Haylie.Robbins@ag.tn.gov

Dated May 4th 2024.
Sincerely,



Sean Smith
6402 Baird Lane
Bartlett TN, 38135
(901) 522-5775
TheLastQuery@gmail.com
DefendTheDisabled.org