

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE  
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

|                                     |   |               |
|-------------------------------------|---|---------------|
| SEAN P. SMITH,                      | ) |               |
|                                     | ) |               |
| Petitioner,                         | ) |               |
|                                     | ) |               |
| v.                                  | ) | No. 24-0074-I |
|                                     | ) |               |
| TENNESSEE DEPARTMENT OF             | ) |               |
| FINANCE & ADMINISTRATION,           | ) |               |
| DIVISION OF TENNCARE;               | ) |               |
| and STEPHEN SMITH, DIRECTOR OF      | ) |               |
| TENNCARE, in his official capacity, | ) |               |
|                                     | ) |               |
| Respondents.                        | ) |               |

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**ORDER DENYING PETITIONER'S MOTION  
FOR ACCOMMODATIONS TO BE GRANTED IN THE EVENT OF  
PLAINTIFF SUFFERING INCAPACITATING INJURY AND/OR DEATH**

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This matter came before the Court, without oral argument,<sup>1</sup> on April 19, 2024, on Petitioner Sean P. Smith's *Motion for Accommodations to Be Granted in the Event of Plaintiff Suffering Incapacitating Injury and/or Death*. Mr. Smith represents himself. Assistant Attorney General Haylie C. Robbins represents Respondents Tennessee Department of Finance & Administration, Division of TennCare; and Stephen Smith, Director of TennCare (together, "TennCare").<sup>2</sup> Based on Mr. Smith's motion, the State's response, and Mr. Smith's reply, the Court finds that motion should be denied.

On January 6, 2024, Mr. Smith filed a *Complaint and Petition for Judicial Review*, as amended. He seeks review of TennCare's denial of a November 18, 2023 "complaint-appeal"

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<sup>1</sup> See April 9, 2024 Order.

<sup>2</sup> Mr. Smith directs many of his allegations against United Healthcare Community Plan, his secondary insurance provider, but TennCare and its Director are the only named respondents to this lawsuit. The Court treats Mr. Smith's allegations against United Healthcare Community Plan as also being directed against TennCare and refers only to TennCare in this Order.

concerning TennCare’s alleged misconduct in denying coverage for “rehabilitative treatment for the health conditions causing [Mr. Smith’s] medical disabilities.” On March 6, Mr. Smith filed this *Motion for Accommodations*. Briefly, Mr. Smith states that he has disabilities and continues to experience declining physical and mental health resulting from TennCare’s “misconduct” and denial of access to care. He states that he further declines from “self-treatments” he uses to manage his health conditions and, although those self-treatments are harmful, they are necessary for him to draft pleadings and response and to continue pursuing this lawsuit. Mr. Smith believes there is a very real possibility that he will become incapacitated or die during the pendency of this lawsuit. He also claims that TennCare is incentivized to continue its misconduct and to act in bad faith during the course of the litigation because his incapacitation or death would end the lawsuit. Mr. Smith states that he brings this motion to “remove . . . the benefit [TennCare] would derive from killing or incapacitating [him].”

Mr. Smith seeks three specific forms of relief, “in the event that . . . [he] suffer[s] incapacitating injury and/or death due to [TennCare’s] misconduct having prevented access to needed care in the past or during the proceedings of this case.” TennCare opposes the motion for the reasons that Mr. Smith seeks advisory rulings for hypothetical situations and certain of the requests are outside of the Court’s responsibility. Mr. Smith replies that his hypothetical incapacitation or death is likely based on his past actual incapacitation and injuries caused by TennCare’s misconduct, and argues that courts routinely grant restraining orders to prevent hypothetical future abuse.

The Court finds Mr. Smith’s motion should denied. Mr. Smith seeks relief based on future events that have not, and may not, occur, there is no legal or factual basis to grant any of the relief requested. The Court briefly addresses each of Mr. Smith’s requests and TennCare’s response.

*First*, Mr. Smith asks the Court to grant summary judgment on his claims because his “complete incapacitation or corpse” would be sufficient evidence of TennCare’s misconduct to rule in his favor. He further asks that, in granting summary judgment, the Court impose “more severe penalties” against TennCare than he has requested in his *Complaint and Petition* to “make them suffer . . .” TennCare responds that Mr. Smith has not filed a motion for summary judgment, and, in any event, such a motion would not be appropriate at this stage of the litigation. Mr. Smith replies that if he were to become completely incapacitated or die he, of course, could not file a motion for summary judgment, but the Court should still rule in his favor based on the “arguments and evidence” he has already submitted.

Mr. Smith’s request to be granted summary judgment in the event of his incapacitation or death must be denied. Motions for summary judgment are governed by the Tennessee Rules of Civil Procedure. Tenn. R. Civ. P. 56. Summary judgment may only be granted where there is no genuine issue as to any material fact, as established by evidence in the record, and the movant is entitled to a judgment as a matter of law. Tenn. R. Civ. P. 56.04. 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). The Court has no legal or factual basis upon which to grant summary judgment, where no summary judgment motion has been made and properly supported by evidence in the record.

*Next*, Mr. Smith requests that if the Court does not grant summary judgment posthumously in his favor, the Court should “indefinitely suspend” this lawsuit until “someone . . . decides to finish” it. He states that he expects the litigation could be paused for “5, 10, 50, or 150 years,” only to continue when “someone someday might seek justice” for Mr. Smith. He claims that he wants “the possibility of litigation” and “the uncertainty and fear of potential legal consequences”

to “hang over the heads” of TennCare and anyone responsible “for the rest of their natural lives.” TennCare responds that it would not oppose a temporary stay of these proceedings in the event of Mr. Smith’s death or incapacitation until someone representing Mr. Smith could be substituted as a party to continue the case.

Tennessee Rule of Civil Procedure 25.01 addresses the continuation of a lawsuit in the event a party to the lawsuit dies:

If a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties. The motion for substitution may be made by any party or by the successors or representatives of the deceased party . . . . Unless the motion for substitution is made not later than ninety (90) days after the death is suggested on the record by service of a statement of the fact of the death . . . , the action *shall* be dismissed as to the deceased party. [Emphasis added.]

Rule 25.01 provides for the substitution of a party only after a party dies, and allows ninety days for the substitution. The Court finds there is no legal or factual basis for staying Mr. Smith’s case.

*Finally*, Mr. Smith requests that, in the event he becomes incapacitated or dies, the Court assemble a team of “specialized specialists” and a pathologist or coroner to work with those specialists to determine the cause of Mr. Smith’s incapacitation or death. TennCare responds that the Court is “not in a position to ascertain the incapacitation or death of a litigant.” This request falls far outside the limits of the Court’s authority. The Court finds there is no legal or factual basis to support this request.

Based on the foregoing, Mr. Smith’s *Motion for Accommodations to be Granted in the Event of Plaintiff Suffering Incapacitating Injury and/or Death* is hereby DENIED, in its entirety.

IT IS SO ORDERED.

*s/ Patricia Head Moskal*

PATRICIA HEAD MOSKAL  
CHANCELLOR, PART I

**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing is being forwarded via U.S. Mail, first-class postage pre-paid, to the parties or their counsel named below:

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*s/Julie Spencer*  
Deputy Clerk & Master

4/22/24  
Date