



2000cc, *et. seq.*, and Tenn. Code Ann. § 4-1-407—Tennessee’s Preservation of Religious Freedom Act—flatly prohibit the Defendants from burdening Mrs. Johnston’s free exercise of her religion in the manner they did and continue to do. As a result, this lawsuit followed.

## **II. PARTIES**

4. Plaintiff Sophia Johnston is a citizen of Tennessee and a resident of Wilson County, Tennessee. She may be contacted through counsel.

5. Defendant Rutherford County is a county government in Tennessee. Rutherford County may be served with process through its counsel or upon Joe Carr, Rutherford County Mayor, One S Public Square, Room 101, Murfreesboro, TN 37130.

6. Defendant Mike Fitzhugh is the Sheriff of Rutherford County, Tennessee. Defendant Fitzhugh has final decision-making authority over policy in the Rutherford County Sheriff’s Office. He may be served through counsel or wherever he may be found.

7. Defendant Britt Reed is the Deputy Chief of Law Enforcement for the Rutherford County Sheriff’s Office. Defendant Reed has final decision-making authority over criminal warrant processing in Rutherford County. Defendant Reed may be served through counsel or wherever he may be found.

8. Defendant Kevin Henderson is the Deputy Chief of the Rutherford County Adult Detention Center. Defendant Henderson oversees and has final decision-making authority over booking policy in the Rutherford County Adult Detention Center. Defendant Henderson may be served through counsel or wherever he may be found.

9. Defendant Kaitlynn Laird is an employee of the Rutherford County Sheriff’s Office who served as Mrs. Johnston’s Intake Officer. Defendant Laird may be served through counsel or wherever she may be found.

### **III. JURISDICTION AND VENUE**

10. The Plaintiff brings this civil-rights lawsuit pursuant to the Religious Land Use and Institutionalized Persons Act (RLUIPA), 42 U.S.C. § 2000cc, *et. seq.*; 42 U.S.C. § 1983; Tennessee’s Preservation of Religious Freedom Act, Tenn. Code Ann. § 4-1-407; and Tenn. Code Ann. § 1-3-121.

11. This Court has original jurisdiction over the federal questions presented in this lawsuit under 28 U.S.C. § 1331 and supplemental jurisdiction over the Plaintiff’s state law claims under 28 U.S.C. § 1367.

12. Venue lies in this Court pursuant to 28 U.S.C. § 1391(b)(1)–(2).

### **IV. FACTS**

13. Plaintiff Sophia Johnston is a devout Muslim woman.

14. In keeping with her religious faith, Mrs. Johnston wears a hijab.

15. A hijab is a traditional Muslim headscarf that is worn by observant Muslim women in the presence of men who are not family members.

16. Requiring an observant Muslim woman to remove a hijab in the presence of men who are not her family members substantially burdens her religious faith. Requiring an observant Muslim woman to remove a hijab in the presence of men who are not her family members is also humiliating and degrading—akin to requiring a woman to take off her shirt in public.

17. On August 23, 2023, after being stopped for a broken taillight in Mt. Juliet, Mrs. Johnston was booked on an outstanding Rutherford County capias warrant. The warrant arose from a six-year-old minor misdemeanor charge in Rutherford County for driving on a suspended license. Mrs. Johnston had no recollection of the charge and had no idea that she had ever missed a court date.

18. When Mt. Juliet police took Mrs. Johnston into custody, she had to be booked by the Wilson County Sheriff's Office. That process included taking a booking photo, commonly known as a "mugshot."

19. Initially, the female Wilson County intake officer insisted that Mrs. Johnston remove her hijab and required her to do so before taking Mrs. Johnston's booking photo.

20. Out of concern that her booking photo would be disseminated publicly and viewed by men in contravention of her religious faith, though, Mrs. Johnston pleaded with the intake officer to let her wear her hijab and to retake the booking photo while she was wearing her hijab.

21. Because there was no valid or compelling penological need to deny Mrs. Johnston's request for a religious accommodation, the Wilson County intake officer agreed to do so. The officer also promised to use the latter photo of Mrs. Johnston in her hijab as her official booking photo instead. The officer kept her promise.

22. Once booked by the Wilson County Sheriff's Office, Mrs. Johnston was transported to Rutherford County and transferred to the custody of the Rutherford County Sheriff's Office, where her outstanding capias warrant originated.

23. After being transported to Rutherford County, Mrs. Johnston had to be booked again by the Rutherford County Sheriff's Office.

24. While Mrs. Johnston was being booked in Rutherford County, approximately five men were present.

25. Once more, the booking process required that Mrs. Johnston take a booking photo.

26. After Mrs. Johnston was asked to remove her hijab for her booking photo,

Mrs. Johnston protested that she was unwilling to do so with men around.

27. Mrs. Johnston also begged that she be permitted to wear her hijab for her booking photo due to her religious faith.

28. The Rutherford County officials who booked Mrs. Johnston refused to accommodate Mrs. Johnston's reasonable request for a religious accommodation.

29. In response to Mrs. Johnston's reasonable request for a religious accommodation, Defendant Laird, Mrs. Johnston's Intake Officer, contacted a superior to inquire about Mrs. Johnston's request. Defendant Laird then reported to Mrs. Johnston that the "chief of police"—whom Mrs. Johnston understands to be Defendant Britt Reed—had denied Mrs. Johnston's request for a religious accommodation and, pursuant to Rutherford County's official booking policy, required Mrs. Johnston to be photographed without wearing her hijab.

30. When Mrs. Johnston continued to protest, Defendant Laird informed Mrs. Johnston that she would remain in jail unless and until she removed her hijab and agreed to take her booking photo without it.

31. Mrs. Johnston is the mother of eight children, and she could not afford to be incarcerated indefinitely. As a result, Mrs. Johnston relented under strenuous protest. Thus, under protest and under threat of indefinite incarceration, Mrs. Johnston removed her hijab in the presence of approximately five men and took her booking photo without it.

32. The Defendants, through their individual actions or through implementation of official policies over which they have final decision-making authority, succeeded in forcing Mrs. Johnston to remove her hijab and to be photographed without her hijab in contravention of her religious faith for no valid or compelling penological

reason.

33. After taking Mrs. Johnston's booking photo in contravention of her free exercise rights, Rutherford County uploaded the photo to an online database where it is now freely accessible to anyone with an internet connection.

34. Mrs. Johnston's booking photo is also a public record that is available to any citizen in Tennessee. As an illustration of that, Mrs. Johnston's counsel was able to obtain it via a public records request that was filled the same day it was requested. An authentic copy of Rutherford County's production in response to that request, with Mrs. Johnston's booking photos redacted, is attached as **Ex. 1**.

35. Rutherford County's ongoing publication and dissemination of her booking photo continues to substantially burden her free exercise rights. It is also causing immediate and irreparable harm to Mrs. Johnston and her free exercise rights that cannot meaningfully be remedied through money damages, as well as severe emotional harm for which Mrs. Johnston has sought professional treatment.

36. The indignity to which Mrs. Johnston was subjected has scarred her emotionally and triggered pre-existing post-traumatic stress disorder. She also lives in daily fear that her now freely accessible booking photo—which is also a public record in Tennessee—will be viewed and disseminated in contravention of her religious faith. This action for injunctive, declaratory, and monetary relief followed.

## **V. CAUSES OF ACTION**

### **COUNT I (ALL DEFENDANTS):** **42 U.S.C. § 2000CC & 42 U.S.C. § 1983**

37. The Plaintiff incorporates and realleges the foregoing allegations as if fully set forth herein.

38. “RLUIPA prohibits a [government] from imposing ‘a substantial burden on the religious exercise of a person residing in or confined to an institution’ unless the government shows that the burden furthers ‘a compelling governmental interest’ and ‘is the least restrictive means’ of doing so.” *Cavin v. Michigan Dep't of Corr.*, 927 F.3d 455, 458 (6th Cir. 2019) (citing 42 U.S.C. § 2000cc-1(a)).

39. The Plaintiff seeks to exercise her religion out of a sincerely held religious belief.

40. The Plaintiff's exercise of her Muslim faith includes wearing a hijab to prevent men outside her family from seeing her hair.

41. By requiring the Plaintiff to remove her hijab and to take a public booking photo without it pursuant to official policy, the Defendant Rutherford County, and the other Defendants in their official capacities, substantially burdened the Plaintiff's religious exercise.

42. The Defendants had no valid or compelling penological reason for requiring the Plaintiff to remove her hijab and to be photographed without wearing her hijab for her booking photo.

43. In fact, another Sheriff's Office had granted Mrs. Johnston's identical request for a religious accommodation while booking her *just hours earlier*.

44. Requiring the Plaintiff to remove and to be photographed without her hijab for her booking photo did not further any compelling governmental interest.

45. Requiring the Plaintiff to remove and to be photographed without her hijab for her booking photo was not the least restrictive means of furthering the government's interest in taking booking photos.

46. Given these circumstances, the Plaintiff is entitled to “obtain appropriate

relief against” Defendant Rutherford County and the additional Defendants in their official capacity under 42 U.S.C.A. § 2000cc-2(a), including, without limitation, an order that the Defendants expunge her booking photo and an injunction forbidding the Defendants’ further publication and dissemination of it.

47. The Plaintiff also preserves a claim for money damages against Defendant Rutherford County and against each Defendant individually.<sup>1</sup>

**COUNT II (DEFENDANT RUTHERFORD COUNTY):**  
**TENN. CODE ANN. § 4-1-407**

48. The Plaintiff incorporates and realleges the foregoing allegations as if fully set forth herein.

49. Tennessee’s Preservation of Religious Freedom Act, codified at Tenn. Code Ann. § 4-1-407, provides that:

(b) Except as provided in subsection (c), no government entity shall substantially burden a person’s free exercise of religion even if the burden results from a rule of general applicability.

(c) No government entity shall substantially burden a person’s free exercise of religion unless it demonstrates that application of the burden to the person is:

- (1) Essential to further a compelling governmental interest; and
- (2) The least restrictive means of furthering that compelling governmental interest.

*Id.*

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<sup>1</sup>The Plaintiff acknowledges that the Sixth Circuit has foreclosed claims for money damages under RLUIPA. *See Haight v. Thompson*, 763 F.3d 554, 568 (6th Cir. 2014); *but see Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 290 (5th Cir. 2012) (permitting money damages against municipalities under RLUIPA); *Centro Familiar Cristiano Buenas Nuevas v. City of Yuma*, 651 F.3d 1163, 1168–69 (9th Cir. 2011) (“The City of Yuma, therefore, may be liable for monetary damages under RLUIPA . . .”); *Lighthouse Inst. for Evangelism, Inc. v. City of Long Branch*, 510 F.3d 253, 261–73 (3d Cir. 2007) (permitting a claim for compensatory damages under RLUIPA to proceed against a municipality). Because *Haight*’s holding is incompatible with the U.S. Supreme Court’s later decision in *Tanzin v. Tanvir*, 141 S. Ct. 486, 492, 208 L. Ed. 2d 295 (2020), though, the Plaintiff expressly preserves a claim of money damages against the Defendants and asserts that *Haight* should be overruled.



50. Based on official Rutherford County policy promulgated and implemented by the individual Defendants, and through actions taken by Rutherford County employees pursuant to policies promulgated by Rutherford County officials with final decision-making and policymaking authority, the Defendants implemented and executed an official decision—namely, requiring arrestees to remove head coverings for booking photos without regard to reasonable religious accommodations (the “No Religious Accommodations for Mugshots Policy”)—that violated Mrs. Johnston’s free exercise rights.

51. By requiring the Plaintiff to remove her hijab and to take a public booking photo without it pursuant to the Defendants’ official “No Religious Accommodations for Mugshots Policy,” the Defendants substantially burdened the Plaintiff’s free exercise of her Muslim faith, even if the burden resulted from a policy of general applicability.

52. Defendant Rutherford County’s “No Religious Accommodations for Mugshots Policy” is not essential to further any compelling governmental interest.

53. Defendant Rutherford County’s “No Religious Accommodations for Mugshots Policy” is not the least restrictive means of furthering any compelling governmental interest.

54. Under Tenn. Code Ann. § 4-1-407(e), the Plaintiff is entitled to receive declaratory relief, money damages, and to recover her reasonable costs and attorney’s fees for Defendant Rutherford County’s violation of Tennessee’s Preservation of Religious Freedom Act. *See id.* (“A person whose religious exercise has been burdened by government in violation of this section may assert that violation as a claim or defense in any judicial or administrative proceeding and may obtain such declaratory relief, monetary damages as may properly be awarded by a court of competent jurisdiction, or

both declaratory relief and monetary damages. A person who prevails in any proceeding to enforce this section against a government entity may recover the person's reasonable costs and attorney's fees.").

55. The Plaintiff accordingly seeks a declaration that Defendant Rutherford County's further publication and dissemination of her booking photo violates Tennessee's Preservation of Religious Freedom Act.

56. The Plaintiff further seeks an award of compensatory damages, including, without limitation, all damages necessary to have the Plaintiff's booking photo removed to the extent feasible from third-party publishers who received it, and including all damages, including emotional distress damages, caused by Rutherford County's violation of the Plaintiff's free exercise rights.

**COUNT III (ALL DEFENDANTS):**  
**TENN. CODE ANN. § 1-3-121**

57. The Plaintiff incorporates and realleges the foregoing allegations as if fully set forth herein.

58. Tenn. Code Ann. § 1-3-121 affords aggrieved citizens robust statutory authority to obtain injunctive relief in any action brought regarding the legality of a governmental action. *See id.* ("a cause of action shall exist under this chapter for any affected person who seeks declaratory or injunctive relief in any action brought regarding the legality or constitutionality of a governmental action.").

59. The Plaintiff is "affected" by the illegal actions of Defendant Rutherford County and the other Defendants, in their official capacities, substantially burdening her free exercise rights within the meaning of Tenn. Code Ann. § 1-3-121.

60. The Plaintiff is entitled to complete injunctive relief enjoining further harm

arising from the Defendants' illegal actions, including, without limitation, an order that the Defendants expunge her booking photo and an injunction forbidding the Defendants' further publication and dissemination of it.

## **VI. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays:

1. That proper service issue and be served upon the Defendants, and that the Defendants be required to appear and answer this Complaint within the time required by law;
2. That the Court issue an injunction compelling the Defendants to expunge her booking photo and forbidding the Defendants' further publication and dissemination of it;
3. That the Court declare that the Defendants' further publication and dissemination of her booking photo violates Tennessee's Preservation of Religious Freedom Act.
4. That the Court award the Plaintiff all compensatory, consequential, and incidental damages to which she is entitled in an amount not less than \$200,000.00 and to be shown at trial;
5. That pre-judgment and post-judgment interest be awarded to the Plaintiff;
6. That the Court tax costs to the Defendants;
7. That the Plaintiff be awarded her reasonable attorney's fees under 42 U.S.C. § 1988(b) and Tenn. Code Ann. § 4-1-407(e); and
8. That the Court award the Plaintiff all further relief that the Court deems proper.

## VII. VERIFICATION

I, Sophia Johnston, declare as follows:

1. I am the Plaintiff in this case, an adult citizen of the United States of America, and a resident of the State of Tennessee.

2. I have personal knowledge of the factual allegations asserted in the foregoing *Verified Complaint* that concern myself, my religious faith, my booking experience in Rutherford County, Tennessee, and the subsequent publication of my booking photograph online. If called on to testify, I would competently testify that those factual allegations are true.

3. Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the factual allegations asserted in the foregoing *Verified Complaint* that concern myself, my religious faith, my booking experience in Rutherford County, Tennessee, and the subsequent publication of my booking photograph online are true and correct.

Executed on: Aug 29, 2023

Signature:   
Sophia Johnston (Aug 29, 2023 15:20 EDT)

Respectfully submitted,

/s/ Daniel A. Horwitz

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# Verified Complaint

Final Audit Report

2023-08-29

Created:	2023-08-29
By:	Horwitz Law PLLC (daniel@horwitz.law)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZxdVF9_jQs-9Y6DJtttK-1XjSKXtO0JP

## "Verified Complaint" History

-  Document created by Horwitz Law PLLC (daniel@horwitz.law)  
2023-08-29 - 6:48:58 PM GMT- IP address: 69.226.239.171
-  Document emailed to sophiajohnston786@outlook.com for signature  
2023-08-29 - 6:49:19 PM GMT
-  Email viewed by sophiajohnston786@outlook.com  
2023-08-29 - 7:15:09 PM GMT- IP address: 75.104.93.124
-  Signer sophiajohnston786@outlook.com entered name at signing as Sophia Johnston  
2023-08-29 - 7:20:20 PM GMT- IP address: 75.104.93.124
-  Document e-signed by Sophia Johnston (sophiajohnston786@outlook.com)  
Signature Date: 2023-08-29 - 7:20:22 PM GMT - Time Source: server- IP address: 75.104.93.124
-  Agreement completed.  
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