

IN THE CIRCUIT COURT FOR BLOUNT COUNTY, TENNESSEE

---

BRANDON HALL,

*Plaintiff,*

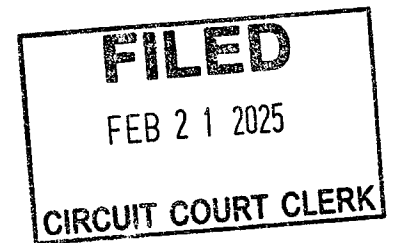
v.

KYLE MITCHELL,

*Defendant.*

§  
§  
§  
§  
§  
§  
§  
§  
§

Case no.: L-21648



---

**ORDER GRANTING DEFENDANT'S PETITION TO DISMISS PURSUANT TO  
THE TENNESSEE PUBLIC PARTICIPATION ACT**

---

This matter came before the Court for hearing on February 14, 2025, upon the Defendant's Petition to Dismiss Pursuant to the Tennessee Public Participation Act. Based upon the Parties' filings, the arguments of counsel, and the entire record, the Court FINDS and ORDERS as follows:

1. Under Tennessee Code Annotated section 20-17-105(a), the Defendant has the initial burden of making a prima facie case that the Plaintiff's legal action against him is based on, relates to, or is in response to the Defendant's exercise of the right to free speech, right to petition, or right of association.

2. Based on the admissible evidence offered in support of the Defendant's petition, Court finds that the Defendant has carried his initial burden on several grounds. The Plaintiff's action was filed in response to the Defendant's exercise of the right of free speech about the government and a public official or public figure, among other matters of public concern. *See* Tenn. Code Ann. § 20-17-103(3), (6)(C), & (D). In addition, the Plaintiff's action was filed in response to the Defendant's exercise of the right to petition by encouraging consideration or review of an issue by a governmental body. *See* § 20-17-

103(4)(A). Thus, the Tennessee Public Participation Act applies.

3. Because the Defendant has met his initial burden, the burden shifts to the Plaintiff to establish a prima facie case for each essential element of the claim in the legal action. *See* § 20-17-105(b). If the Plaintiff fails to meet his burden, “the court shall dismiss the legal action[.]” *Id.*

4. The Plaintiff has failed to meet his burden under section 20-17-105(b). It is not possible for the Court to determine what the essential elements of the Plaintiff’s claim are, because the Court cannot determine from the Plaintiff’s Complaint what his claim is. Defamation of character was suggested to the Court in oral argument, but it is not pled in the Plaintiff’s Complaint, and the essential elements of defamation—including injury—are not established by admissible evidence.

5. Because the Plaintiff has failed to meet his burden under section 20-17-105(b), this Court is required to grant the Defendant’s Tennessee Public Participation Act Petition and dismiss the case with prejudice. *See* § 20-17-105(b), (e).

6. The Court also is required to award “costs, reasonable attorney’s fees, discretionary costs, and other expenses incurred in filing and prevailing upon the petition” under section 20-17-107(a)(1). The Defendant is directed to submit an affidavit of attorney’s fees, and the Court will hold an additional hearing if necessary.

7. The Plaintiff may immediately appeal this order as of right under section 20-17-106.

8. Costs taxed to Plaintiff. JRD  
IT IS SO ORDERED.

ENTERED this the 21 day of February, 2025

DAVID R. DUGGAN  
CIRCUIT COURT JUDGE

APPROVED FOR ENTRY BY:

/s/ Daniel A. Horwitz  
DANIEL A. HORWITZ, BPR #032176  
SARAH L. MARTIN, BPR #037707  
MELISSA K. DIX, BPR #038535  
HORWITZ LAW, PLLC  
4016 WESTLAWN DR.  
NASHVILLE, TN 37209  
(615) 739-2888  
daniel@horwitz.law -  
sarah@horwitz.law  
melissa@horwitz.law

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I certify that on February 20, 2025, a true and exact copy of the foregoing has been served via USPS mail, postage prepaid, via the Court's e-filing system, or via electronic mail to:

Gary M. Prince, BPR #010091  
O'Neil, Parker & Williamson, PLLC  
7610 Gleason Drive, Suite 200  
Knoxville, TN 37919  
[gprince@opw.com](mailto:gprince@opw.com)  
(865) 546-7190

*Counsel for Plaintiff*

By: /s/ DANIEL A. HORWITZ  
DANIEL A. HORWITZ, BPR #037707

**CERTIFICATE OF SERVICE**  
I hereby certify that a true, correct and exact copy of the foregoing has, this day and date, been mailed to the persons listed below at the addresses shown, by depositing same in the U.S. Mail, first class postage prepaid.

Gary Prince  
Daniel Horwitz  
This 25 Day of February, 2025  
CHRIS CANTRELL, CIRCUIT COURT CLERK  
BY [Signature]