

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

BLOUNT PRIDE, INC. and )  
MATTHEW LOVEGOOD )

Plaintiffs - Appellants, )

v. )

No. 25-6072

RYAN K. DESMOND, in his )  
individual and official capacity as )  
the District Attorney General of )  
Blount County, Tennessee, and )

On Appeal from the U.S.  
District Court for the Eastern  
District of Tennessee  
Case No. 3:23-cv-00316

TONY CRISP, in his official )  
capacity as the Chief of Police for )  
the City of Maryville, Tennessee. )

Defendants - Appellees. )

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TENNESSEE  
Originating Case No. 3:23-cv-00316**

**BRIEF OF DEFENDANT/APPELLEE TONY CRISP, IN HIS OFFICIAL  
CAPACITY AS THE CHIEF OF POLICE FOR MARYVILLE,  
TENNESSEE**

Benjamin K. Lauderback, BPR No. 020855  
Brian R. Bibb, BRP No. 031024  
Watson, Roach, Batson & Lauderback, P.L.C.  
900 South Gay Street, 1500 Riverview Tower  
Post Office Box 131  
Knoxville, Tennessee 37901-0131  
(865) 637-1700

[blauderback@watsonroach.com](mailto:blauderback@watsonroach.com)  
[bbibb@watsonroach.com](mailto:bbibb@watsonroach.com)

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

## Disclosure of Corporate Affiliations and Financial Interest

Sixth Circuit

Case Number: 25-6072

Case Name: Blount Pride v. Ryan K. Desmond, et al.

Name of counsel: Brian R. Bibb

Pursuant to 6th Cir. R. 26.1, Tony Crisp in his official capacity

*Name of Party*

makes the following disclosure:

1. Is said party a subsidiary or affiliate of a publicly owned corporation? If Yes, list below the identity of the parent corporation or affiliate and the relationship between it and the named party:

No

2. Is there a publicly owned corporation, not a party to the appeal, that has a financial interest in the outcome? If yes, list the identity of such corporation and the nature of the financial interest:

No

### CERTIFICATE OF SERVICE

I certify that on December 5, 2025 the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by placing a true and correct copy in the United States mail, postage prepaid, to their address of record.

s/Brian R. Bibb

900 S. Gay Street

Knoxville, TN 37902

This statement is filed twice: when the appeal is initially opened and later, in the principal briefs, immediately preceding the table of contents. See 6th Cir. R. 26.1 on page 2 of this form.

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**STATEMENT IN SUPPORT OF ORAL ARGUMENT**

Pursuant to Federal Rule of Appellate Procedure 34(a), this Appellee respectfully requests that the United States Court of Appeals for the Sixth Circuit grant permission for counsel for the Appellees to present oral argument before the Court. Under Federal Rule of Appellate Procedure 34(a), oral argument will be allowed unless: (1) the appeal is frivolous; (2) the dispositive issue(s) have been decided; or (3) the facts presented in the briefs and record would not be significantly aided by oral argument.

It is the position of this Appellee that this Court's review of the facts and application of the law would be significantly aided by the presentation of oral argument on behalf of all parties.

**STATEMENT OF JURISDICTION**

The United States Court of Appeals for the Sixth Circuit has subject matter jurisdiction over this case pursuant to 28 U.S.C. § 1331, federal question, as the subject matter for this case arises out of and is brought pursuant to 42 U.S.C. § 1983. This Court has supplemental jurisdiction over pendent state law claims, if any, pursuant to 28 U.S.C. § 1367.

The United States Court of Appeals for the Sixth Circuit has appellate jurisdiction over this case pursuant to 28 U.S.C. § 1291, as the United States Court of Appeals for the Sixth Circuit embraces the United States District Court for the Eastern District of Tennessee, and 28 U.S.C. § 1295 grants exclusive jurisdiction to the United States Court of Appeals for the Sixth Circuit regarding an appeal of a decision of a District Court of the United States.

This Appellee does not contest that the appeal was timely filed or that the appeal was taken from a final order or judgment.

**STATEMENT OF ISSUES**

1. Whether the District Court correctly concluded that the Plaintiffs/Appellants lacked standing to seek prospective injunctive relief against Defendant/Appellee City of Maryville Police Chief Tony Crisp in his official capacity?

## STATEMENT OF THE CASE

This lawsuit arises out of the enactment of the Tennessee Adult Entertainment Act by the Tennessee General Assembly in its 2023 legislative session. The Tennessee Adult Entertainment Act (AEA) “makes it an offense to perform ‘adult cabaret entertainment’ on public property or anywhere it could be viewed by a minor. [Tenn. Code Ann.] § 7-51-1407(c)(1). This targets ‘adult-oriented performances that are harmful to minors ... that feature topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.’ [Tenn. Code Ann.] § 7-51-1401(3)(A). And ‘harmful to minors’ expressly incorporates a longstanding definition under Tennessee law, which focuses on whether a performance has ‘serious literary, artistic, political or scientific values for minors.’ [Tenn. Code Ann.] § 39-17-901(6) (emphasis added).” *Friends of George's, Inc. v. Mulroy*, 108 F.4th 431, 435 (6th Cir. 2024).

Litigation over the constitutionality and validity of the AEA began shortly after its passage. The first suit was filed in the United States District Court for the Western District of Tennessee in *Friends of George's Inc. v. Mulroy*. In that suit, Friends of George's, which is based in Memphis and “produces ‘drag-centric performances, comedy sketches, and plays’” *Friends of Georges, Inc. v. Mulroy*, 675 F. Supp. 3d 831, 843 (W.D. Tenn. 2023), filed a pre-enforcement challenge to the validity of the AEA. On March 31, 2023, the United States District Court for the

Western District of Tennessee entered a temporary restraining order prohibiting enforcement of the AEA. *Friends of George's, Inc. v. Tennessee*, 667 F. Supp. 3d 755, 766 (W.D. Tenn. 2023). That district court then permitted abbreviated discovery and consolidated the preliminary injunction hearing with trial on the merits. On June 2, 2023, the district court entered its order declaring the AEA unconstitutional and enjoined Shelby County District Attorney Steven J. Mulroy from enforcing the AEA within his jurisdiction of Shelby County, Tennessee. *Friends of George's, Inc. v. Mulroy*, 675 F. Supp. 3d 831, 879 (W.D. Tenn. 2023). It is important to emphasize that the injunction in *Friends of George's* was limited only to Shelby County. The State of Tennessee appealed.

While the appeal in *Friends of George's* was progressing, the present lawsuit was filed in the United States District Court for the Eastern District of Tennessee on August 30, 2024. The first Plaintiff was Blount Pride, Inc., which is a non-profit that “organizes and hosts an annual Pride festival in Blount County. The festival includes vendors, events, and entertainment, including drag performances by a number of individual artists.” (Complaint, Record “R.” 1, Page ID # 2). The second Plaintiff was Matthew Lovegood, “a drag artist who performs under the name ‘Flamy Grant.’” (Id.). The annual “Blount Pride” festival was scheduled to begin on the campus of Maryville College in Blount County, Tennessee on September 2, 2023, and Mr. Lovegood was to perform at that festival. (Complaint, R. 1, Page ID # 2 and

15). On August 29, 2023, Plaintiffs assert that they received a letter transmitted by email from Blount County District Attorney General Ryan Desmond. (Complaint, R. 1, Page ID # 14).

General Desmond's letter was directed to several leaders of Blount County governmental entities and law enforcement organizations, along with personnel from both Blount Pride and Maryville College. (Desmond Letter, R. 1-3, Page ID # 98-100). Among the recipients were City of Maryville City Manager Greg McClain and City of Maryville Police Chief Tony Crisp. (Desmond Letter, R. 1-3, Page ID # 98). General Desmond's letter speaks for itself, and General Desmond's prosecutorial judgments and opinions are not directly relevant to the Plaintiff's case against Chief Crisp. Regardless, General Desmond opined that the AEA was constitutional and enforceable, and that the injunction in *Friends of George's* did not bind Tennessee's 5<sup>th</sup> Judicial District. (Id.). While explaining that he would not prejudge any case, General Desmond indicated that any violation of the AEA would be prosecuted by his office. (Desmond Letter, R. 1-3, Page ID # 99). Finally, General Desmond addressed issues regarding potential counter-protestors at the planned Blount Pride event. (Desmond Letter, R. 1-3, Page ID # 100).

Contemporaneous with General Desmond's letter, the Plaintiffs' allege that Chief Tony Crisp had conversations with leadership at Maryville College. While Chief Crisp does not admit that Plaintiffs' Complaint is accurate, he does

acknowledge that those allegations must be taken as true for the purposes of reviewing the District Court's disposition of the motions to dismiss below. Relevant to the limited claims against Chief Crips, the Plaintiffs alleged:

79. Upon information and belief, on August 28, 2023, Defendant Crisp contacted Maryville College, requesting Maryville College provide a copy of the contract between Plaintiff Blount Pride and Maryville College.

80. The next day, August 29, 2023, Defendant Crisp called Bryan F. Coker, President of Maryville College, notifying Mr. Coker of Defendant Desmond's letter and asking to arrange a meeting between Defendant Desmond, Maryville College, and himself. Maryville College referred Defendant Crisp to Maryville College's legal counsel. Upon information and belief, counsel for Maryville College was subsequently contacted by Defendants Desmond and Crisp later that day, August 29, 2023.

81. During the call on August 29, 2023, Defendant Crisp also notified Mr. Coker that officials at Maryville College, including Mr. Coker, could face prosecution for a misdemeanor if they violated the Act.

(Complaint, R. 1, Page ID # 15-16).

Plaintiffs filed this suit on August 30, 2023. Plaintiffs originally sued City of Alcoa Chief of Police David Carswell and Blount County Sheriff James Berrong (both in their official capacities only) in addition to the present Defendants. Plaintiffs' original Complaint was a direct challenge to the validity and constitutionality of the AEA. (Complaint, R. 1, Page ID # 23). Plaintiff immediately sought a temporary restraining order and a preliminary injunction. (Motion for a Temporary Restraining Order and Preliminary Injunction, R. 2, Page ID # 135-159).

Plaintiffs sought an order enjoining the Defendants from enforcing the AEA and declaring the AEA unconstitutional and in violation of the First Amendment. (Motion for a Temporary Restraining Order and Preliminary Injunction, R. 2, Page ID # 156-157). A flurry of initial briefing between the Plaintiffs and General Desmond ensued prior to any appearance or involvement by Chief Crisp or the other named defendants. The District Court entered an order granting the Plaintiffs' request for a temporary restraining order on September 1, 2023, largely relying on the ruling of the United States District Court for the Western District of Tennessee in *Friends of George's*. (Memorandum Opinion and Order, R. 22, Page ID # 480-495). The parties subsequently stipulated to entry of a preliminary injunction pending the outcome of the *Friends of George's* appeal before this Court. (Joint Stipulation, R. 35, Page ID # 518-522). The District Court adopted the parties' stipulation, entered an order preliminarily enjoining the Defendants from enforcing the AEA, and stayed the case pending this Court's decision in *Friends of George's*. (Order, R. 43, Page ID # 536-537).

As stated above, *Friends of George's* dealt with a pre-enforcement challenge to the constitutionality and validity of the AEA by a drag-centric performance company in Memphis. This Court was tasked with determining whether Friends of George's had standing to assert a pre-enforcement challenge to the AEA. This Court

first evaluated the statute and applicable Tennessee law to determine the meaning of the AEA. This Court held:

[T]he AEA takes (1) adult-oriented performances lacking serious literary, artistic, political, or scientific value for a reasonable 17-year-old that (2) feature topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers and (3) prohibits them both in public and where minors may view them.

*Friends of George's, Inc. v. Mulroy*, 108 F.4th 431, 436 (6th Cir. 2024). This Court concluded that Friends of George's had not established that it had, or planned to, engage in conduct that would violate the AEA. This Court also determined that Friends of George's had not established that it intended to engaged in a course of conduct that was even arguably proscribed by the AEA. *Id.* at 437. This Court further concluded that conduct which is proscribed by the AEA would not be affected with a constitutional interest, as "there is no constitutional interest in exhibit indecent materials to minors." *Id.* at 438. Addressing the plaintiff's alternative argument, this Court held that the plaintiff had not shown a certainly impending threat of prosecution, and thus lacked pre-enforcement standing. *Id.* at 439-440. It should be noted that the Plaintiffs in the present case sought and were granted leave to intervene in *Friends of George's*, but this Court ultimately concluded that they too lacked standing. *Id.* at 440, n. 5. This Court reversed the decision of the United States District Court for the Western District of Tennessee and remanded the matter with instructions to dismiss for lack of standing. This Court denied Friends of George's

petition for rehearing en banc. The United States Supreme Court subsequently denied Friends of George's petition for a writ of certiorari.

After the end of the appeal process in *Friends of George's*, litigation resumed in front of the District Court in the present matter. The parties jointly sought dismissal of all claims against Defendants Berrong and Carswell, who were both dismissed by order entered on December 16, 2024. (Joint Motion to Dismiss, R. 52, Page ID # 549-552; Order, R. 53, Page ID # 553-554). That same day, the District Court entered a second order lifting the stay and ordered the parties to file briefs on the effect of the *Friends of George's* decision. (Order, R. 54, Page ID # 555-557). Plaintiffs then sought leave to amend their complaint. (Motion for Leave to Amend, R. 55, Page ID # 558-563). The parties submitted their respective briefs on the impact of *Friends of George's* and the Plaintiffs' standing to pursue their claims. (Briefs on Standing, R. 57, 58 and 63; Page ID # 585-594, 595-620, 661-675). General Desmond then filed a motion to dismiss on December 29, 2024. (Motion to Dismiss and Memorandum in Support, R. 59-60, Page ID # 621-651). This was the first responsive pleading that had been filed, and the Plaintiffs then filed their First Amended Complaint under Fed. R. Civ. P. 15(a)(1)(B). (First Amended Complaint, R. 64, Page ID # 676-692).

The Plaintiffs' First Amended Complaint substantially recast their claims for relief. They relied on the same allegations against Chief Crisp, but added the

allegation that Chief Crisp and the Maryville Police Department were initially hesitant to provide security for the 2023 event given the entered temporary restraining order, but that after communications between counsel, the City did provide security for the 2023 event. (First Amended Complaint, R. 64, Page ID # 685). Plaintiffs also alleged that the City of Maryville did not provide adequate security for their 2023 event and did not protect them from and exclude counter-protestors. (Id. at Page ID # 685-686). The Plaintiffs requested the following relief in their First Amended Complaint:

Permanently enjoin the Defendants from taking any further adverse action against the Plaintiffs or anyone with whom the Plaintiffs contract—including, without limitation, by threatening to enforce the AEA against them—for promoting a drag performance, holding a drag performance, or hosting Blount Pride.

(First Amended Complaint, R. 64, Page ID # 690). The Plaintiffs' claims for prospective injunctive relief against Chief Crisp were based on their vague assertion of an intent to hold some future event within Chief Crisp's jurisdiction at some uncertain time in the future, potentially at their 2025 festival. (Id. at Page ID # 688). The First Amended Complaint seeks only prospective injunctive relief against Chief Crisp, in his official capacity only. Only Count I is applicable to Chief Crisp. There is a First Amendment retaliation claim brought against General Desmond in his individual and official capacities, but that claim is not brought against Chief Crisp.

(Id. at Page ID # 686-690). The Plaintiffs First Amended Complaint purportedly abandons any challenge to the constitutionality or validity of the AEA.

After the filing of the First Amended Complaint, Chief Crisp filed a motion to dismiss the case against him and to dissolve the preliminary injunction on January 17, 2026. (Motion to Dismiss and Memorandum in Support, R. 67, 68, Page ID # 715-742). General Desmond filed a motion to dismiss the First Amended Complaint on January 21, 2025. (Motion to Dismiss and Memorandum in Support, R. 70, 71, Page ID # 746-777). Plaintiffs filed a joint response to both motions on February 11, 2026. (Consolidate Response, R. 76, Page ID # 784-819). Both Defendants filed reply briefs in support of their underlying motions. (Reply Briefs in support Motions to Dismiss, R. 77, 78, Page ID # 820-845). On June 20, 2025, Chief Crisp filed a supplemental brief in support of his motion to dismiss, identifying that the 2025 Blount Pride Event was scheduled to take place in the City of Alcoa rather than the City of Maryville, and therefore outside of his jurisdiction. (Supplemental Brief in Support of Motion to Dismiss, R. 79, Page ID # 846-860). Plaintiffs responded in opposition. (Response to Supplemental Brief, R. 80, Page ID # 861-863). Plaintiffs filed a further supplement in support of their responses to the underlying motions to dismiss on September 3, 2025 outlining alleged issues with the 2025 Blount Pride Event (which, again, was scheduled to occur in the City of Alcoa rather than the City of Maryville.). (Supplemental Brief, R. 81, Page ID # 867-870). General Desmond

responded in opposition. (Response to Supplemental Brief, R. 82, Page ID # 875-879).

On October 24, 2025, the District Court entered its Memorandum Opinion and Order granting the motions to dismiss and dissolving the preliminary injunction. (Memorandum Opinion and Order, R. 84, Page ID # 887-905). First, the District Court recognized that the preliminary injunction had dissolved automatically by operation of its own language 21 days after issuance of the mandate in *Friends of George's* and that, in any event, the foundation for the preliminary injunction had been obviated by the decision in *Friends of George's*. (Id. at Page ID # 891-892). The District Court granted General Desmond's motion to dismiss, concluding that the Plaintiffs lacked standing to sue and that General Desmond was entitled to qualified immunity. (Id. at Page ID # 892-901). In reaching its decision, the District Court adopted the reasoning of this Court in *Friends of George's* with respect to the meaning of the AEA and the standing analysis. The District Court also granted Chief Crisp's Motion to Dismiss, finding that the Plaintiffs lacked standing and had not asserted an adequately concrete risk of future injury. (Id. at Page ID # 901-903). Finally, because the First Amended Complaint pled only a claim against Chief Crisp in his official capacity, the District Court held that the Plaintiffs had not adequately asserted a claim for municipal liability. (Id. at Page ID # 903-904). The District Court entered its Judgment Order dismissal all claims with prejudice and closing the case.

(Judgment Order, R. 85, Page ID # 906). The Plaintiffs filed their notice of appeal on November 21, 2025. (Notice of Appeal, R. 86, Page ID # 907-909).

## SUMMARY OF THE ARGUMENT

This lawsuit began as a straightforward challenge to the constitutionality of a Tennessee statute, the Tennessee Adult Entertainment Act (AEA). The Plaintiffs/Appellants asserted that Defendant/Appellee Chief Tony Crisp made indirect threats to enforce the AEA against Plaintiffs Blount Pride and Matthew Lovegood through Maryville College, the host venue for the 2023 Blount Pride event. However, this theory was plainly foreclosed by this Court’s decision in *Friends of George’s, Inc. v. Mulroy*, 108 F.4th 431 (6th Cir. 2024). The Plaintiffs reinvented their lawsuit, and recast their claims for relief in broader terms in an attempt to avoid the dispositive impact of *Friends of George’s*. Now, the Plaintiffs claim that Chief Crisp’s purported threats to enforce the AEA are actionable evidence of a future intent to restrict their expressive activity.

The Plaintiffs seek only prospective injunctive relief against Chief Crisp, who is sued only in his official capacity. Specifically, they seek to “permanently enjoin the Defendants from taking any further adverse action against the Plaintiffs or anyone with whom the Plaintiffs contract – including, without limitations, by threatening to enforce the AEA against them – for promoting a drag performance, holding a drag performance, or hosting Blount Pride.” (First Amended Complaint, R. 64, ¶ 93, Page ID # 688). The Plaintiffs’ claims fail for three reasons. First, their efforts to nuance and recast their claims for relief do not avoid that they still

functionally seek a declaration that the AEA is invalid. The Plaintiffs claims can only succeed if the AEA cannot constitutionally be enforced against them. Second, the Plaintiffs have not established that Chief Crisp, or any agent of the City of Maryville, actually engaged in conduct that violated their First or Fourteenth Amendment rights. Chief Crisp had no direct interaction with the Plaintiffs. He was entitled to presume that the AEA is valid and enforceable. And his actions were not sufficient to establish a predicate constitutional violation. Without a constitutional violation there is no claim for relief under 42 U.S.C. § 1983, prospective or otherwise. Third, the Plaintiffs' claims for prospective injunctive relief are impermissibly speculative. Neither the First Amended Complaint nor the record before the District Court show that there is any impending or reasonably certain likelihood that Chief Crisp will take specific, concrete action in the future that is both unconstitutional and subject to being enjoined. In fact, there is no proof in the record of any kind that any future organized event will certainly take place within Chief Crisp's limited jurisdiction of the City of Maryville. For all these reasons, and as more fully explained below, the decision of the District Court should be affirmed in all respects.

## LAW AND ARGUMENT

### **I. Standard of Review**

This is an appeal from a grant of a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Review of decision on a motion to dismiss under Rule 12(b)(6) is de novo. *Brent v. Wayne Cnty. Dep't of Hum. Servs.*, 901 F.3d 656, 675 (6th Cir. 2018). This Court will “construe the complaint in the light most favorable to the plaintiff, accept its allegations as true, and draw all reasonable inferences in favor of the plaintiff.” *Royal Truck & Trailer Sales & Serv., Inc. v. Kraft*, 974 F.3d 756, 758 (6th Cir. 2020). However, this Court need not accept conclusory statements or legal conclusions as true. *Dakota Girls, LLC v. Philadelphia Indem. Ins. Co.*, 17 F.4th 645, 648 (6th Cir. 2021). This Court will further “ask whether the complaint “contain[s] sufficient factual matter ... to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

### **II. The District Court correctly concluded that the Plaintiffs lacked standing to seek prospective injunctive relief against Chief Crisp in his official capacity.**

Standing is a foundational requirement of pursuing a federal claim. “[T]hose who seek to invoke the power of federal courts must allege an actual case or controversy.” *United States ex. rel Nguyen v. City of Cleveland*, No. 16-3379, 2017 WL 4677202, at \*2 (6th Cir. Mar. 3, 2017) (quoting *O’Shea v. Littleton*, 414 U.S. 488, 493 (1974)). “Article III limits the judicial power of the United States ... and ‘Article III standing ... enforces the Constitution’s case-or-controversy

requirement.” *Soehnlén v. Fleet Owners Ins. Fund*, 844 F.3d 576, 581 (6th Cir. 2016) (quoting *Hein v. Freedom From Religion Found., Inc.*, 551 U.S. 587, 597–98 (2007)). A plaintiff must show “(1) that he has suffered an ‘injury in fact,’ (2) that there is a ‘causal connection between the injury and the conduct complained of,’ and (3) that it is ‘likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.’” *Kiser v. Reitz*, 765 F.3d 601, 607 (6th Cir. 2014) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992)).

Before addressing standing in detail, it is worth emphasizing the particular conduct alleged by Chief Crisp and the remedy the Plaintiffs seek. Chief Crisp was sued in his official capacity only. As to Chief Crisp, the Plaintiffs allege only that:

- (1) Chief Crisp was a recipient of General Desmond’s disputed letter. (First Amended Complaint, R. 64, Page ID # 682-683).
- (2) On August 28, 2023, Chief Crisp contacted Maryville College and requested a copy of its contract with Blount Pride for the 2023 Blount Pride event. (Id. at Page ID # 683).
- (3) The following day, Chief Crisp called the president of Maryville College to make him aware of General Desmond’s letter. (Id.).
- (4) During a subsequent phone call with the legal counsel for Maryville College involving Chief Crisp and General Desmond, Chief Crisp warned

leadership of Maryville College that officials from Maryville College could be arrested if conduct in violation of the AEA occurred. (Id.)

(5) After entry of the temporary restraining order below, Chief Crisp initially indicated that he did not feel Maryville Police could participate as security officers for the Blount Pride event. (Id. at Page ID # 685).

(6) Those Maryville officers did ultimately provide security for the event, but the Plaintiffs allege they did not do a good job and failed exclude and prevent the involvement of counter-protesters. (Id. at Page ID # 685-686).

Only Count I is directed against Chief Crisp in his official capacity, which asserts a violation of the Plaintiffs' First and Fourteenth Amendment rights and seeks injunctive relief only. With respect to Chief Crisp, the First Amended Complaint does not allege that Chief Crisp communicated directly with Blount Pride or Mr. Lovegood at all, or made any direct threats to arrest or enforce the AEA. In essence, the Plaintiffs allege that Chief Crisp violated their constitutional rights by speaking with Maryville College leadership indicating that an arrest could be made if conduct occurred which violated the AEA, and not ensuring that police officers under his command excluded counter-protestors from the Blount Pride event.

Again, the Plaintiffs seek only injunctive relief against Chief Crisp. They asked the District Court to "permanently enjoin the Defendants from taking any further adverse action against the Plaintiffs or anyone with whom the Plaintiffs

contract – including, without limitation, by threatening to enforce the AEA against them – for promoting a drag performance, holding a drag performance, or hosting Blount Pride.” (Id. at Page ID # 688). Plaintiffs seek only prospective relief. They claim that Chief Crisp’s past conduct (his alleged conversation with leadership at Maryville College and his actions in managing the Maryville Police Department’s security presence at the 2023 event) is evidence of a present and certain intent to interfere with future events. Plaintiffs generally allege:

89. In the future, Plaintiff Blount Pride and Plaintiff Lovegood intend to continue hosting Blount Pride and performing in drag, respectively, within the Defendants’ jurisdiction.

90. Blount Pride’s planned 2025 festival, at minimum, will include a drag performance by Plaintiff Lovegood.

91. The Plaintiffs intend to promote that performance in the same way they promoted Plaintiff Lovegood’s 2023 performance.

(Id.). Plaintiffs further affirmatively maintain that the 2023 event did not involve obscene or sexually explicit performances that would be prohibited by the AEA. (Id. at Page ID # 681-682, 688-689). Given this context, it is plain that the Plaintiffs lack standing to seek prospective injunctive relief under any of the pled theories.

**A. The Plaintiffs lack standing to mount either a direct or indirect challenge to the validity of the AEA.**

Although an injury is generally described as “concrete and particularized”, a plaintiff may raise a pre-enforcement action, challenging the constitutionality of a statute where “threatened enforcement [is] sufficiently imminent.” *Spokeo, Inc. v.*

*Robins*, 578 U.S. 330, 339 (2016); *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159 (2014). While the Plaintiffs originally challenged the constitutionality of the AEA, the operative complaint recast that claim for injunctive relief and acknowledged their inability to mount a direct constitutional challenge: They recognized below “that they will not be able to obtain a ‘judgment declaring that the [AEA] is unconstitutional under the First and Fourteenth Amendments to the United States Constitution.’” (Plaintiffs’ Brief on Standing, R. 57, Page ID # 588). The Plaintiffs repeatedly disclaim any intent to challenge the constitutionality of the AEA in their brief. However, the Plaintiffs do not appear to have completely abandoned their challenge to the AEA. Their First Amended Complaint contained several less than subtle challenges to the AEA’s constitutional validity. (First Amended Complaint, R. 64, ¶¶ 44-45, 78-79, 96-97 Page ID # 682, 686, 689). Any challenge, direct or indirect, to the constitutionality or validity of the AEA would be functionally identical to that raised by the plaintiff in *Friends of George’s*. Therefore, this Court’s decision in *Friends of George’s, Inc. v. Mulroy*, 108 F.4th 431 (6th Cir. 2024) governs. That holding would squarely apply to any request for prospective injunctive relief that implicates the constitutionality or validity of the AEA. *Friends of George’s* establishes for the purposes of this case that the Plaintiffs lack pre-enforcement standing. Like the *Friends of George’s* plaintiff, the Plaintiffs in the instant case do not allege an intent to engage in a course of conduct that would

violate the AEA, and that any conduct which violates the AEA would not be subject to First Amendment protection. *Friends of George's*, 108 F.4th at 437-39. To the extent the Plaintiffs' First Amended Complaint can be fairly construed to bring a direct or indirect challenge to the constitutionality or validity of the AEA, such a theory is foreclosed by *Friends of George's* and was properly dismissed below.

**B. The Plaintiffs have not asserted a colorable ground for prospective injunctive relief.**

1. The Plaintiffs seek a functional declaration that the AEA is unconstitutional.

The District Court below correctly recognized that the request for injunctive relief sought, in substance, a functional ruling on the constitutionality and validity of the AEA. (Memorandum Opinion and Order, R. 84, Page ID # 901) (“...Crisp argues, plaintiffs’ First Amended Complaint seeks a ‘functional’ declaration that the AEA is unconstitutional as they ultimately ask the Court to enjoin both Defendant Crisp and Defendant Desmond from enforcing it against them in the future. The Court agrees with Chief Crisp’s assessment.”). Plaintiffs still sought injunctive relief that directly implicated the validity or invalidity of the AEA. Plaintiffs sought an injunction preventing Chief Crisp from “threatening to enforce the AEA against them[.]” (First Amended Complaint, R. 64, Page ID # 688). Plaintiffs are caught in a quandary. If, as they allege, their potential future conduct will not violate the AEA, then they have nothing to fear. Assuming there is no independent criminal conduct,

there would be no basis for Chief Crisp or any of his officers to effect a seizure. If, instead, they intend to engage in future conduct that violates the AEA and wish to mount a direct challenge to the AEA, such a pathway is foreclosed by *Friends of George's* and would directly conflict with the language of thier First Amended Complaint below.

The AEA is presumptively constitutional. *See Hartford Fire Ins. Co. v. Lawrence, Dykes, Goodenberger, Bower & Clancy*, 740 F.2d 1362, 1366 (6th Cir. 1984) (“state legislatures are presumed by federal courts to have acted constitutionally in making laws.”). State statutes “are entitled to the presumption of constitutionality until their invalidity is judicially declared.” *Freed v. Thomas*, 81 F.4th 655, 660 (6th Cir. 2023) (quoting *Davies Warehouse Co. v. Bowles*, 321 U.S. 144, 153 (1944)). “In evaluating the constitutionality of a statute, we begin with the presumption that an act of the General Assembly is constitutional.” *Waters v. Farr*, 291 S.W.3d 873, 882 (Tenn. 2009). As this Court has explained:

...A prudent officer, in the course of determining whether respondent had committed an offense under all the circumstances shown by this record, should not have been required to anticipate that a court would later hold the ordinance unconstitutional... Police are charged to enforce laws until and unless they are declared unconstitutional. The enactment of a law forecloses speculation by enforcement officers concerning its constitutionality—with the possible exception of a law so grossly and flagrantly unconstitutional that any person of reasonable prudence would be bound to see its flaws. Society would be ill-served if its police officers took it upon themselves to determine which laws are and which are not constitutionally entitled to enforcement.

*Risbridger v. Connelly*, 275 F.3d 565, 573 (6th Cir. 2002) (quoting *Michigan v. DeFillippo*, 443 U.S. 31, 38 (1979)). “Police officers cannot be expected to be sophisticated constitutional law experts.” *United States v. Malveaux*, No. 1:01-CR-083, 2001 WL 34079478, at \*3 (E.D. Tenn. Sept. 26, 2001), *aff’d*, 350 F.3d 555 (6th Cir. 2003). The Maryville Police Department and Chief Crisp were entitled to presume that the AEA was valid and enforceable, much as they presume that other similar criminal statutes are valid and enforceable.

Of course, Chief Crisp (nor any agent or employee of the City of Maryville) never actually enforced the AEA or effected a Fourth Amendment seizure. In fact, the First Amended Complaint fails to allege any direct contact whatsoever between Crisp and the Plaintiffs – nor does it allege that the Plaintiffs were even aware of Chief Crisp’s communications with Maryville College. No First or Fourteenth Amendment claim can be premised upon Chief Crisp’s “threats” to enforce a presumptively constitutional law. Plaintiffs are essentially seeking a constitutionality determination by the back door. The officers are entitled to enforce the AEA unless it is unconstitutional; in order to enjoin the officers from enforcing that statute, the District Court would have to declare it unconstitutional.

This runs afoul of *Friends of George’s*, which precludes any attempt to make a pre-enforcement attack on the validity or constitutionality of the AEA. And the Plaintiffs cannot bring a functional challenge to the AEA by questioning Chief

Crisp's alleged reliance on its terms. For the purposes of evaluating the constitutionality of Chief Crisp's alleged communications with Maryville College personnel, the AEA must be presumed valid. The Plaintiffs therefore failed to state a claim below, and lacked standing to pursue prospective injunctive relief prohibiting Chief Crisp and his department from enforcing the AEA against them.

2. The First Amended Complaint did not state a valid constitutional claim against Chief Crisp in his official capacity.

In order to state a claim under 42 U.S.C. § 1983 and obtain prospective injunctive relief, the Plaintiffs must plead and prove a constitutional violation. *See Taylor v. Michigan Dep't of Nat. Res.*, 502 F.3d 452, 458 (6th Cir. 2007); *Cnty. Mental Health Servs. of Belmont, Harrison & Monroe Ctys., Ohio v. Mental Health & Recovery Bd. of Belmont, Harrison & Monroe Ctys.*, 395 F. Supp. 2d 644, 652 (S.D. Ohio 2004). Injunctive relief under § 1983 is designed to remedy ongoing constitutional harms. *See Howard v. City of Detroit*, No. 20-10382, 2023 WL 6396582, at \*4 (E.D. Mich. Sept. 30, 2023). The First Amended Complaint does not state a claim or establish that a constitutional violation has occurred.

It is important to recognize what the Plaintiffs did **not** plead. No individual capacity claim was pled against Chief Crisp, and the statute of limitations to bring such a claim has long expired. *E.g., Eidson v. State of Tennessee Dep't of Children's Servs.*, 510 F.3d 631, 634 (6th Cir. 2007). Suit was not brought against the City of Maryville, and no custom, policy or practice claim has been pled pursuant to *Monell*

*v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658 (1978). Plaintiffs only brought suit against Chief Crisp in his official capacity, and sought only prospective injunctive relief. *Gischel v. Univ. of Cincinnati*, 302 F. Supp. 3d 961, 975 (S.D. Ohio 2018) (“Section 1983 claims against individual defendants acting in their official capacities are permitted when the plaintiff seeks only prospective injunctive relief.”). Regardless, Plaintiffs could not seek damages against Chief Crisp in his official capacity where no basis for *Monell* liability has been pled. *See Patton v. Louisville Jefferson Cnty. Metro Gov't*, No. 3:18-CV-00346-RGJ, 2019 WL 5196384, at \*4 (W.D. Ky. Oct. 15, 2019); *Studstill El v. Sollars*, No. 16-14374, 2017 WL 5885383, at \*1 (E.D. Mich. Feb. 17, 2017).

Count I pled alleged violations of the First and Fourteenth Amendment. The contours of both of these claims are unclear. With respect to Chief Crisp specifically, Plaintiffs first allege that he contacted Maryville College leadership to advise them of Defendant Desmond’s letter and warn them that the AEA may be enforced if conduct in violation of the AEA occurred at the 2023 Pride event. As General Desmond explained in his briefing below, nothing in his letter prejudged any prosecutorial decision, nor did his letter conclude that the proposed 2023 Pride event would necessarily include conduct violative of the AEA. (Defendant Desmond’s Motion to Dismiss, R. 59, Page ID # 647-650). But even if it did, this theory cannot support a claimed constitutional violation for three reasons: (1) as explained in the

preceding section, Chief Crisp was entitled to presume that the AEA is constitutional and rely upon its terms; (2) Plaintiffs cannot mount a functional challenge to the AEA by alleging that Chief Crisp's "threats" to enforce it amounted to a violation of their First Amendment rights; and (3) the alleged conduct, in totality, does not state a claim under the First or Fourteenth Amendment.

Addressing the simpler matter first, the First Amended Complaint did not state a clear Fourteenth Amendment claim. The Fourteenth Amendment was mentioned only in the first paragraph of the First Amended Complaint and in the caption of Count I. (First Amended Complaint, R. 64, Page ID # 676, 686). It is unclear if the Fourteenth Amendment was pled only in its capacity as the amendment that makes the First Amendment applicable to state and municipal defendants, or if there was some attempt to plead an independent due process or equal protection claim. Neither Chief Crisp nor the Court is required to engage in guesswork on the substance or meaning of these unclear references. Regardless, any inartfully pled substantive due process claim would be redundant and would have been properly dismissed below for the same reasons as the First Amendment claim. *See Spencer v. City of Hendersonville*, 487 F. Supp. 3d 661, 682 (M.D. Tenn. 2020).

Plaintiffs' First Amended Complaint does not state a claim against Chief Crisp for a First Amendment violation. He is not sued for First Amendment retaliation in Count II. Plaintiffs purportedly brought a direct First Amendment challenge, arguing

that Chief Crisp's actions interfered with their right to speak. But the First Amended Complaint alleges no direct interaction of any kind between Crisp and either Blount Pride or Lovegood. The First Amended Complaint alleges only that Crisp spoke with Maryville College leadership, and it does not allege that there was any impact on their expressive conduct as a result of those conversations. Plaintiffs were able to engage in their expressive activity unhindered. Chief Crisp joins in General Desmond's arguments on the lack of sufficient allegations to show that the Defendants' conduct would have or actually did chill expressive conduct. *See generally Whiting v. City of Athens*, 699 F. Supp. 3d 652, 660 (E.D. Tenn. 2023) (collecting authority on adverse action under the First Amendment).

Plaintiffs' allegation that Chief Crisp initially withdrew security protection for the event before subsequently reinstating it also does not support a First Amendment claim. Plaintiffs essentially allege that Maryville police did not protect them from counter-protestors or exclude counter-protestors from the event. But the City has no obligation to shield the Plaintiffs from counter-protestors, and cannot take action that excludes countervailing viewpoints. *See Bible Believers v. Wayne Cnty., Mich.*, 805 F.3d 228 (6th Cir. 2015); *McGlone v. Metro. Gov't of Nashville*, 749 F. App'x 402, 409 (6th Cir. 2018). The government cannot exclude countervailing viewpoints from public spaces, even those deemed unwelcome or offensive. *Snyder v. Phelps*, 562 U.S. 443, 458 (2011). This alleged confusion over the scope of the temporary

restraining order in the hours following its entry does not somehow presage future First Amendment violations. And it is noteworthy that the Plaintiffs sought no relief before the District Court for any alleged conduct that violated the preliminary injunction or temporary restraining order. There are simply insufficient allegations in the First Amended Complaint to support a claimed constitutional violation or justify prospective injunctive relief.

If there was no constitutional violation, there was no legal basis to grant the Plaintiffs injunctive relief. The requested “interference” injunction is simply too speculative, particularly with respect to Chief Crisp. Again, there is no allegation that Crisp had direct contact of any kind with the Plaintiffs about potential enforcement of the AEA prior to the 2023 event. The lack of clarity over the scope of the temporary restraining order and the role Maryville police could (or should) play in the 2023 event while subject to the TRO is not evidence of future First Amendment interference.<sup>1</sup> None of this warrants the Plaintiffs’ requested injunctive

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<sup>1</sup> Though the Plaintiffs argue that the District Court’s entry of the temporary restraining order is evidence of unconstitutional conduct that supports entry of prospective injunctive relief, they are mistaken. The temporary restraining order was entered on the basis of a finding that the AEA was unconstitutional, and the foundation of that TRO was destroyed by this Court’s decision in *Friends of George’s*. The District Court fully recognized this in its opinion below. (Memorandum Opinion and Order, R. 84, Page ID # 891-892). What is more, the Plaintiffs’ current basis for injunctive relief is entirely different than their original basis for injunctive relief. They now claim to not be challenging the validity of the AEA, and instead seek injunctive relief on a general First Amendment interference theory. Given the change of theory and the intervening change of law, the District

relief, which broadly seeks to “permanently enjoin the Defendants from taking any further adverse action against the Plaintiffs or anyone with whom the Plaintiffs contract – including, without limitations, by threatening to enforce the AEA against them – for promoting a drag performance, holding a drag performance, or hosting Blount Pride.” (First Amended Complaint, R. 64, ¶ 93, Page ID # 688). The Plaintiffs’ First Amended Complaint fails to state a claim upon which relief can be granted as to Chief Crisp, and Chief Crisp was properly dismissed below.

3. The Plaintiffs’ claim for prospective injunctive relief against Chief Crisp is impermissibly speculative.

Plaintiffs generally allege that: (1) Chief Crisp’s alleged past conversations with Maryville College leadership warning that the AEA may be enforced if conduct prohibited by the AEA occurred at the 2023 Pride event; and (2) Chief Crisp’s alleged hesitancy to involve Maryville Police Department personnel in security services for the 2023 Pride event after entry of the temporary restraining order both constitute grounds to enter a broad and poorly defined permanent injunction against him in his official capacity. These allegations are inadequate to show a reasonably certain likelihood of *future* unconstitutional conduct that warrants entry of prospective injunctive relief.

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Court’s previous entry of a temporary restraining order is frankly irrelevant to the inquiry of whether the Plaintiffs have shown a reasonably certain likelihood of future injury and attendant right to prospective injunctive relief.

Plaintiffs must establish standing to bring their claims against Chief Crisp independent of any standing to bring any claims against General Desmond. While Chief Crisp does not assert any wrongdoing on the part of General Desmond, the Court still must distinguish between the actions of each Defendant for the purposes of the standing analysis. A plaintiff must separately demonstrate standing for their claims against each defendant. *Universal Life Church Monastery Storehouse. v. Nabors*, 35 F.4th 1021, 1031 (6th Cir. 2022). To establish standing, the Plaintiffs must show “a fairly traceable connection between the plaintiff’s injury and the complained-of conduct of the defendant.” *Buchholz v. Meyer Njus Tanick, PA*, 946 F.3d 855, 866 (6th Cir. 2020). In short, the asserted injury must be “the consequence of the defendants’ actions[.]” *Warth v. Seldin*, 422 U.S. 490, 505 (1975). An injury is not fairly traceable to the actions of the defendant where the plaintiff “inflicted the harm on themselves based on their fears of hypothetical future harm.” *Crawford v. United States Dep’t of Treasury*, 868 F.3d 438, 456 (6th Cir. 2017) (cleaned up). Plaintiffs ask the Court to “permanently enjoin the Defendants from taking any further adverse action against the Plaintiffs or anyone with whom the Plaintiffs contract – including, without limitations, by threatening to enforce the AEA against them – for promoting a drag performance, holding a drag performance, or hosting Blount Pride.” (Doc. 64, ¶ 93, Page ID # 688).

Though Chief Crisp does not concede (and expressly disputes) that any wrongful action was taken by any party, the ultimate authority for prosecuting violations of local criminal law rests with the district attorney general. *See Universal Life*, 35 F.4th at 1032 (citing Tenn. Code Ann. § 8-7-103(1)). Local law enforcement can make an arrest but have no control over ultimate prosecutorial decisions. The First Amended Complaint does not allege that Chief Crisp arrested any attendee or performer at any Blount Pride event, or even that he threatened to do so. It only alleges contact between Chief Crisp and leadership at Maryville College, and an admonition by Chief Crisp “that officials at Maryville College – including [its president] – could face prosecution if they permitted Blount Pride to go forward as planned.” (First Amended Complaint, R. 64, Page ID # 684). The only alleged direct contact with Blount Pride was the letter sent by General Desmond outlining his interpretation of the AEA and indicating that potential prosecution could follow if conduct at the 2023 Blount Pride event violated the AEA. General Desmond’s letter merely notified the recipients of his authority to criminally prosecute any potential violation of the AEA. Desmond emphasized that he would not prejudge the matter, and acknowledged that the Blount Pride event may not violate the AEA. Chief Crisp was only a recipient of that letter. It is therefore unclear how the Plaintiffs’ alleged injuries are “fairly traceable” to the actions of Chief Crisp. Plaintiffs do not allege any individual impacts on either Blount Pride or Matthew Lovegood as a result of

Chief Crisp's alleged conversations with the leadership at Maryville College. They do not allege any direct contact or threats by Chief Crisp. Nor does Chief Crisp's status as a mere recipient of the letter sent by DA Desmond make the Plaintiffs' purported injuries fairly traceable to Chief Crisp's actions.

"Federal courts may only adjudicate actual, ongoing controversies." *Memphis A. Philip Randolph Inst. v. Hargett*, 2 F.4th 548, 557 (6th Cir. 2021) (cleaned up). There must be a "genuine dispute[]" between adverse parties, where the relief requested would have a real impact on the legal interests of the parties." *Id.* (quoting *Libertarian Party of Ohio v. Blackwell*, 462 F.3d 579, 584 (6th Cir. 2006)). "If issues presented are no longer live or the parties lack a legally cognizable interest in the outcome, then the case is moot and the court has no jurisdiction." *Id.* (cleaned up). Given the decision in *Friends of George's* and the scope of the First Amended Complaint, there is no ongoing case or controversy between the Plaintiffs and Chief Crisp. The 2023 event went forward as planned. The Plaintiffs claims regarding hypothetical future events that may or may not take place within the City of Maryville are purely speculative. Past actions are only relevant to the extent they are indicative of a future and certain need for prospective injunctive relief.

To establish standing, a plaintiff must "have suffered an injury in fact, that was caused by the conduct complained of, and which a favorable decision is likely to redress." *Kareem v. Cuyahoga Cnty. Bd. of Elections*, 95 F.4th 1019, 1022 (6th

Cir. 2024) (cleaned up). “The basic inquiry [of Article III standing] is whether the conflicting contentions of the parties present a real, substantial controversy between parties having adverse legal interests, a dispute definite and concrete, not hypothetical or abstract.” *Thomas v. Copeland*, 758 F. App’x 377, 382 (6th Cir. 2018). “[T]he injury must be ‘actual or imminent,’ rather than ‘conjectural’ or ‘hypothetical.’” *Kareem*, 95 F.4th at 1022. The fear of future harm is not an injury in fact unless the future harm is “certainly impending.” *Buchholz v. Meyer Njus Tanick, PA*, 946 F.3d 855, 865 (6th Cir. 2020). A party’s “subjective apprehension” of future enforcement alone is insufficient to establish standing. *Kareem*, 95 F.4th at 1023. Mere speculation and assumptions about how the government will act in a future, hypothetical scenario are insufficient to establish an injury in fact and meet the Article III standard. *Kanuszewski v. Michigan Department of Health and Human Services*, 927 F.3d 396, 410 (6th Cir. 2019); *see also Holman v. Vilsack*, 582 F. Supp. 3d 568, 579 (W.D. Tenn. 2022).

The Plaintiffs’ claims for prospective relief against Chief Crisp are entirely speculative. The Plaintiffs assert that Chief Crisp’s past conduct (his alleged conversation with leadership at Maryville College and his actions in managing the Maryville Police Department’s security presence at the 2023 event) are evidence of a present and certain intent to interfere with future events. The assertion is not supported by the First Amended Complaint or the record below. The First Amended

Complaint asserted an intention to hold a pride festival in 2025 (even though they concede they did not hold a traditional pride festival in 2024 (First Amended Complaint, R. 64, Page ID # 686)). The First Amended Complaint asserted that the planned 2025 event would feature a drag performance by Plaintiff Lovegood advertised in a substantially similar fashion to the 2023 event. Though the 2023 event took place at Maryville College, that institution “declined to host Blount Pride’s 2024 festival[.]” (First Amended Complaint, R. 64, Page ID # 686). The allegations in the First Amended Complaint do not establish that any planned future event is likely to occur within the corporate limits of the City of Maryville.

Events following the filing of this action further emphasized the speculative nature of the Plaintiffs’ request for prospective injunctive relief. There appears to be no dispute that, with the exception of the participation of counter-protestors, the 2023 Pride Event went forward without interference by Chief Crisp. (First Amended Complaint, R. 64, Page ID # 685-686). Though they allege that Chief Crisp and the Maryville Police Department failed to provide “adequate security”, Blount Pride was nonetheless able to put on a 2024 rally/protest, also apparently without interference from Chief Crisp. (Declaration of Shannon Bryant, R. 80-1, Page ID # 865). The 2025 Blount Pride event took place in the City of Alcoa, another municipality in Blount County outside of Chief Crisp’s jurisdiction. (Supplemental Brief in Support of Motion to Dismiss, R. 79, 79-1, Page ID # 846-860). Blount Pride scheduled an

event, including a performance by Mr. Lovegood, within Chief Crisp's jurisdiction on August 17, 2025. (Declaration of Shannon Bryant, R. 80-1, Page ID # 866). This event also apparently took place without any interference from Chief Crisp or the Maryville Police Department. It is noteworthy that the preliminary injunction had dissolved by the date of all of the subsequent events discussed above. (*See* Memorandum Opinion and Order, R. 84, Page ID # 892).

Obviously Chief Crisp and his agency, generally speaking, lack jurisdiction to enforce the AEA (or any other criminal statute) outside of the corporate limits of the City of Maryville. As the record shows with the 2025 Pride Event, it is likely that future events will take place in Alcoa, Townsend or in an unincorporated area of Blount County, in which case there would be no need for injunctive or declaratory relief of any kind against Chief Crisp. There are no concrete allegations of future events planned within Chief Crisp's jurisdiction. Any allegation of a need to be protected from future acts by Chief Crisp is entirely chimerical. Plaintiffs' claims "rest[] on a speculative chain of possibilities that does not establish that their potential injury is certainly impending[.]" *Clapper v. Amnesty Int'l USA*, 568 U.S. 398 (2013). In short, the Plaintiffs' request for prospective relief is too speculative to afford them standing. The claimed injury is not actual, imminent or certainly impending; it is instead conjectural and hypothetical. *Kareem*, 95 F.4th at 1022; *Buchholz*, 946 F.3d at 865.

Nor may the Plaintiffs avail themselves of the theory that Chief Crisp, or one of his agents, might mistakenly effect a seizure under the AEA. Plaintiffs go to great pains to emphasize that their past and anticipated future conduct will not violate the AEA as the same was construed by the *Friends of George's* court. (First Amended Complaint, R. 64, ¶¶ 39-43, 95-98, Page ID # 681-682 688-689). If their conduct has not and will not violate the AEA, then they have nothing to fear from that statute. The First Amended Complaint did not allege any threat of any kind of arrest of any Blount Pride member or Mr. Lovegood by Chief Crisp. In fact, the First Amended Complaint alleged no pertinent direct contact at all between the Plaintiffs and Chief Crisp. Regardless, a “fear of wrongful prosecution and conviction under the AEA is inadequate to generate a case or controversy the federal courts can hear.” *Friends of George's*, 108 F.4th at 440 (quoting *Glenn v. Holder*, 690 F.3d 417, 422 (6th Cir. 2012)) (cleaned up); *see also Clark v. Stone*, 998 F.3d 287, 296 (6th Cir. 2021) (finding no standing where parents had a “fear of being wrongfully prosecuted for lawful corporal punishment” because “ the mere subjective fear that [they] will be subjected again to an allegedly illegal action is not sufficient to confer standing.”). Nor may the Plaintiffs “rely on an argument that the [AEA] might be misconstrued by law enforcement.” *Friends of George's*, 108 F.4th at 437. The only substantive action that has occurred is a perceived wrongful threat to enforce the AEA, for which *Friends of George's* clearly proscribes any further review. There is no live case or

controversy, and the District Court rightly concluded that the Plaintiffs lack standing to further pursue this action.

## **CONCLUSION**

For all the reasons set out in this Brief, the decision of the United States District Court for the Eastern District of Tennessee granting the Motion to Dismiss filed by Defendant/Appellee Tony Crisp, in his official capacity as the Chief of Police for the City of Maryville, Tennessee, was correct. The final order of the District Court dismissing this matter should therefore be affirmed in full.

RESPECTFULLY submitted this 22<sup>nd</sup> day of April, 2026.

**TONY CRISP, in his official capacity as the Chief of  
Police for the City of Maryville, Tennessee**

By: /s/Brian R. Bibb  
Benjamin K. Lauderback, BPR No. 020855  
Brian R. Bibb, BPR NO. 031024  
WATSON, ROACH, BATSON &  
LAUDERBACK, P.L.C.  
1500 Riverview Tower  
900 South Gay Street, P.O. Box 131  
Knoxville, Tennessee 37901-0131  
(865) 637-1700  
[blauderback@watsonroach.com](mailto:blauderback@watsonroach.com)  
[bbibb@watsonroach.com](mailto:bbibb@watsonroach.com)

**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(B) and (C), the undersigned certifies that the word and line count according to the word processing system on which this brief was prepared indicates that the brief contains 8,621 words and the font is Times New Roman 14.

s/Brian R. Bibb

BENJAMIN K. LAUDERBACK, BPR No. 020855  
BRIAN R. BIBB, BPR No. 031024

April 22, 2026

Date

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

Zee Scout  
ACLU Foundation of Tennessee  
P.O. Box 120160  
Nashville, TN 37212  
[zscout@aclu-tn.org](mailto:zscout@aclu-tn.org)

Daniel A. Horwitz  
Sarah L. Martin  
HORWITZ LAW, PLLC  
4016 Westlawn Dr.  
Nashville, TN 37209  
[daniel@horwitz.law](mailto:daniel@horwitz.law)  
[sarah@horwitz.law](mailto:sarah@horwitz.law)

James Matthew Rice  
Madeline W. Clark  
Tennessee Attorney General's Office  
P.O. Box 20207  
Nashville, TN 37202-0207  
[matt.rice@ag.tn.gov](mailto:matt.rice@ag.tn.gov)  
[madeline.clark@ag.tn.gov](mailto:madeline.clark@ag.tn.gov)

Stella Yarbrough  
Herzfeld Suetholz Gastel  
Leniski and Wall, PLLC  
1920 Adelia St., Ste 300  
Nashville, TN 37212  
[stella@hsglawgroup.com](mailto:stella@hsglawgroup.com)

Dated this 22<sup>nd</sup> day of April, 2026.

/s/ Brian R. Bibb  
BENJAMIN K. LAUDERBACK, BPR No. 020855  
BRIAN R. BIBB, BRP No. 031024

**DESIGNATION OF RELEVANT DISTRICT COURT DOCUMENTS**

Defendant/Appellee Tony Crisp, in his official capacity as Chief of Police for the City of Maryville, Tennessee provides the following designation of relevant District Court documents:

<u>Description of Entry</u>	<u>Date Filed</u>	<u>Record Entry No.</u>	<u>Page ID # Range</u>
Complaint	08/30/23	1	1-26
Defendant Ryan Desmond Letter	08/30/23	1-3	1-3
Plaintiffs' Motion for a Temporary Restraining Order and Preliminary Injunction with Incorporated Memorandum of Law	08/30/23	2	1-25
Memorandum Opinion and Order	09/01/23	22	1-16
Joint Stipulation to Preliminary Injunction	09/05/23	35	1-5
Order	09/06/23	43	1-2
Joint Motion to Dismiss Defendants Berrong, Carswell, and Skrmetti	11/18/24	52	1-4
Order	12/16/24	53	1-2
Order	12/16/24	54	1-3
Plaintiffs' Motion for Leave to File a First Amended Complaint and Incorporated Memorandum of Law	12/16/24	55	1-6
Plaintiffs' Response to the Court's Briefing Order	12/18/24	57	1-10
Defendant Desmond's Response to the Court's Briefing Order	12/29/24	58	1-26
Defendant Ryan K. Desmond's Motion to Dismiss and Dissolve the Preliminary Injunction	12/29/24	59	1-4
Memorandum in Support of Defendant Ryan K. Desmond's Motion to Dismiss and Dissolve the Preliminary Injunction	12/29/24	60	1-27
Defendant Tony Crisp's Brief on Standing	12/30/24	63	1-15
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Defendant Tony Crisp's Motion to Dismiss First Amended Complaint and Motion to Dissolve Preliminary Injunction	01/17/25	67	1-4
Defendant Tony Crisp's Memorandum in Support of his Motion to Dismiss First Amended Complaint and Motion to Dissolve Preliminary Injunction	01/17/25	68	1-24
Defendant Ryan K. Desmond's Motion to Dismiss Plaintiffs' Amended Complaint	01/21/25	70	1-4
Memorandum in Support of Defendant Ryan K. Desmond's Motion to Dismiss Plaintiffs' Amended Complaint	01/21/25	71	1-28
Plaintiffs' Consolidated Response in Opposition to Defendants' Motions to Dismiss	02/11/25	76	1-36
Reply to Plaintiffs' Response to Defendant Tony Crisp's Motion to Dismiss First Amended Complaint and Motion to Dissolve Preliminary Injunction	02/18/25	77	1-15
Reply Brief in Support of Defendant Ryan K. Desmond's Motion to Dismiss	02/18/25	78	1-11
Supplemental Brief in Support of Defendant Tony Crisp's Motion to Dismiss First Amended Complaint and Motion to Dissolve Preliminary Injunction	06/20/25	79	1-4
Plaintiffs' Response to Defendant Crisp's Supplement to Motion to Dismiss	06/30/25	80	1-3
Declaration of Shannon Bryant	06/30/25	80-1	1-4
Supplement to Plaintiff's Response in Opposition to Defendant Desmond's Motion to Dismiss	09/03/25	81	1-4
Defendant Ryan K. Desmond's Response to Plaintiffs' Supplemental Notice	09/08/25	82	1-5
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Notice of Appeal	11/21/25	86	1-3