

NINETEENTH JUDICIAL DISTRICT COURT FOR
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NO.

DIVISION “ ”

NORRIS HENDERSON, RONALD MARSHALL, and ERICA NAVALANCE

VERSUS

PHILLIP DEVILLIER and DEBBIE VILLIO

FILED: _____
DEPUTY CLERK

PETITION FOR DECLARATORY AND PERMANENT INJUNCTIVE RELIEF

NOW INTO COURT, through undersigned counsel, comes NORRIS HENDERSON, RONALD MARSHALL, and ERICA NAVALANCE (“Petitioners”), who respectfully file this Petition for Declaratory Relief and a Permanent Injunction against Defendants Phillip DeVillier and Debbie Villio, in their respective official capacities as the Speaker of the Louisiana House of Representatives (DeVillier) and as the Chair of the Administration of Criminal Justice (“ACJ”) (Villio).

PARTIES

1. Petitioner, Norris Henderson, is a citizen of the United States of America, and a resident and domiciliary of the Parish of Orleans, State of Louisiana.
2. Petitioner, Ronald Marshall, is a citizen of the United States of America, and a resident and domiciliary of the Parish of Orleans, State of Louisiana.
3. Petitioner, Erica Navalance, is a citizen of the United States of America, and a resident and domiciliary of the Parish of Orleans, State of Louisiana.
4. Made Defendants in this action are the following:
 - a. The Honorable Representative Phillip DeVillier, in his official capacity as the Speaker of the Louisiana House of Representatives. Representative DeVillier is a citizen of the United States of America and domiciled in the State of Louisiana.
 - b. The Honorable Representative Debbie Villio, in her official capacity as the Chair of the House Committee on the Administration of Criminal Justice. Representative Villio is a citizen of the United States of America and domiciled in the State of Louisiana.

JURISDICTION AND VENUE

5. Jurisdiction is properly vested in this Court pursuant to Louisiana Code of Civil Procedure Article 2.

6. The Court has jurisdiction to declare rights, status, and other legal relations pursuant to Louisiana Code of Civil Procedure articles 1871 and 1875 and may issue injunctive relief under articles 3601-13.

7. The Petitioners and Defendants are proper parties to this declaratory judgment action as they have or claim interests that would be affected by the declaration sought in this Petition. In addition, the injunctive relief the Petitioners seek would be properly issued against Defendants.

8. Venue in this Court is proper pursuant to Louisiana Revised Statutes § 13:5104, which provides that suits against the State of Louisiana, any state agency, and any officer or employee of the State “for conduct arising out of the discharge of his official duties or within the course and scope of his employment shall be instituted before the district court of the judicial district in which the state capitol is located” La. R. S. § 13:5104(A).

FACTUAL ALLEGATIONS

9. On Monday, February 19, 2024, the special legislative session on crime begins at the state capitol in Baton Rouge. From February 19, 2024 until March 1, 2024, the 105 House Representatives and 39 Senators elected last Fall to the Louisiana Legislature will consider twenty-four bills that would bring sweeping change to Louisiana’s criminal legal system and incarceration. These twenty-four bills were assigned to five legislative committees, with half of them in the House Committee for the Administration of Criminal Justice (“ACJ”). Together, these proposals are an attack on the most comprehensive criminal legal reforms in Louisiana’s history, passed in 2017 through the bipartisan Justice Reinvestment Initiative (“JRI”). JRI spurred a rapid decrease in Louisiana’s jail and prison population, allowing Louisiana to shed the unfortunate title of “incarceration capital of the world.” And as incarceration rates fell, *so did crime rates*, showing that Louisiana can make its communities safer while incarcerating fewer people.

10. Even experts at the conservative Pelican Institute agree that the JRI reforms have been a success, saving the state over \$100 million and allowing Louisiana to reinvest in programs that help victims of crimes and support reentry for people leaving prison.

11. The proposed bills during the special legislative session are dangerous, disingenuous, and extremely expensive. They nearly eliminate post-conviction relief, lower the

age to criminally charge children as adults, and cripple parole and public defender offices. Notably, many of these bills would *protect* bad legal actors who perpetuate Louisiana's rampant prosecutorial misconduct problem and eliminate pathways for innocent people in prison to gain freedom. Petitioners contend that these bills scheduled to be heard during the special crime session make Louisianan's less safe, and harm vulnerable people in the criminal legal system, their loved ones, and our communities.

12. On February 20, 2024, the House ACJ Committee scheduled public hearings for HB-4 and HB-6. As proposed, HB-4 forces district attorneys and judges to object when an incarcerated person files a post-conviction application ("PCR") that is after the filing deadline, if it had been heard before, or if over a year has passed since uncovering newly discovered evidence. As written, HB-4 removes all discretion from judges and prosecutors concerning procedural matters, so that the merits of a PCR could be heard when serious doubts about the legitimacy of the conviction exist.

13. As written, HB-6 proposes to add the electric chair, gas suffocation, and lethal injection using a secret process to hide what poisons are being used to kill people on death row.

14. On February 20, 2024, Petitioners Norris Henderson and Ronald Marshall traveled from New Orleans to Baton Rouge to observe, participate and testify on HB-4. Both Mr. Henderson and Mr. Marshall submitted the required red card indicating that they would like to testify in opposition to HB-4.

15. Likewise, also on February 20, 2024, Petitioner Erica Navalance traveled from New Orleans to Baton Rouge to observe, participate and testify on HB-6.

16. For the last two decades, Mr. Henderson has regularly testified at Louisiana Legislative Committee hearings regarding proposed legislation that affects those impacted by the criminal justice system. As someone with lived experiences with nearly all aspects of Louisiana's criminal justice, he regularly and consistently chooses to exercise his constitutional right to participate in public hearings about legislation that concerns these matters. This experience includes being the victim of violent crime, as he has lost family members and friends to violence, including my son and my brother.

17. This is the third year that Mr. Marshall has regularly testified at Louisiana Legislative Committee hearings regarding proposed legislation that affects those impacted by the criminal justice system. As someone with lived experiences with nearly all aspects of Louisiana's

criminal justice, he regularly and consistently chooses to exercise his constitutional right to participate in public hearings about legislation that concerns these matters. This experience includes being the victim of violent crime, as he has lost family members and friends to violence

18. As required by the Rules of the ACJ committee, on February 21, 2024, Mr. Henderson and Mr. Marshall filled out a red card indicating that they each wished to testify in opposition to the proposed HB-4.

19. At the beginning of the public hearing, Representative Byran Fontenot moved to limit the testimony at the public hearing to three minutes per speaker. This motion passed. Then, Representative Tony Bacala moved the Committee to depart from normal procedures by arbitrarily limiting the public testimony of the opponents of the bill to one hour of testimony. The ACJ Committee passed both Representative Fontenot's and Representative Bacala's motions.

20. Consequently, after one hour of testimony on HB-4, Defendant Villio, ended the portion of the public hearing for those in opposition to HB-4. In turn, even though Mr. Henderson and Mr. Marshall had filled out a red card indicating that they each wanted to testify about HB-4, Defendant Villio denied them their constitutional right to do so.

21. The ACJ Committee departure from normal procedure for public hearings on proposed legislation violated both Mr. Henderson's and Mr. Marshall's constitutional right to be heard and speak in opposition to HB-4. Mr. Henderson and Mr. Marshall each respectively witnessed at least nine witnesses being denied the right to participate in the public hearing for HB-4. In turn, the ACJ Committee illegally reported on and voted HB-4 to be heard on the Floor of the Louisiana House of Representatives. Defendant DeVillier must be enjoined from allowing HB-4 to be heard on the House Floor until the ACJ holds a proper public hearing in compliance with the Louisiana Constitution.

22. Petitioner Navalance has been an attorney working on death penalty litigation for over eight years. She regularly tracks legislation concerning the death penalty in Louisiana, as well as attends public hearings in the Legislature concerning death penalty bills.

23. On February 21, 2024, Petitioner Navalance initially filled out a red card indicating that she was in opposition to HB-6, but that she did not want to testify. She turned in her card before the hearing started. At least an hour before HB-6 was called, Petitioner Navalance decided that she did want to be heard and testify at the public hearing. Petitioner Navalance approached the Sergeant-at-Arms in the ACJ Committee Room and told her that she

now wanted to testify. Petitioner Navalance asked the Sergeant-at-Arms if she preferred that the Petitioner alter her original card, or submit a new red card that indicated she wanted to testify. The Sergeant-at-Arms instructed Petitioner Navalance to submit a new card, which she did.

24. When Defendant Villio called HB-6, she called several people up to testify in opposition to HB-6. My understanding is that these individuals all filled out a red card, like I did, indicating they wanted to testify in opposition to HB-6. Then, when Defendant Villio called the last two red cards to come speak, and it became clear that she was not going to call Petitioner Navalance, Petitioner Navalance again approached the Sergeant and clarified that this was the bill that she had substituted a card for and *did* want to speak. The Sergeant confirmed she had turned in Petitioner Navalance's new red card. Petitioner Navalance asked the Sergeant to please check to make sure that she would be called.

25. Petitioner Navalance then observed the Sergeant approach an ACJ Committee staff member sitting adjacent to Defendant Villio to discuss her red-card. Petitioner Navalance saw them speak and point to her. Petitioner Navalance visibly indicated to this staff member that she wanted to speak.

26. After the last two people who were speaking finished, Defendant Villio began to read the remaining red cards into the record. Petitioner Navalance was not given the opportunity to speak or testify on HB-6.

27. At 5:00 P.M. today, February 21, 2024, Defendant DeVillier is scheduled to call HB-4 for its second-reading and consideration by the full House Floor. As of the filing of this motion, HB-6 has not yet been calendared by Defendant DeVillier for consideration for the House Floor.

28. Mr. Marshall traveled again on February 21, 2024 to the Louisiana State Capitol in Baton Rouge from New Orleans. He went to Baton Rouge to observe, participate and testify at the scheduled public hearings for several proposed bills being heard in the House Committee for the Administration of Criminal Justice (ACJ). As required by the Rules of the ACJ committee, on February 21, 2024, he filled out a red card indicating that he wished to testify in opposition to the proposed bills HB-9 and HB-10.

29. Just like on February 20, 2024, the ACJ Committee departed from normal procedures by arbitrarily limiting the public testimony of the opponents of the bill to one hour of testimony. Mr. Marshall was allowed to testify on HB-9 on February 21, 2024, but witnessed

Defendant Villio prevent at least three individuals from testifying even though they had filled out a red card wishing to testify in opposition to this HB-9. Then, Mr. Marshall was again prevented from participating and testifying at the public hearing for HB-10. He also witnessed Defendant Villio deny at least four additional individuals of their constitutional right to testify about HB-10.

30. The entire public hearing for HB-4, HB-6, HB-9 and HB-10 are all available for viewing online at the Louisiana Legislature's website.

31. Allowing Defendant Villio and Defendant DeVillier to proceed and allow HB 4, HB-6, HB-9 and HB-10 to continue to the House Floor violates the Petitioners' constitutional right to be heard and allowed to participate and testify at a public hearing before a Committee for any bill considered by the Louisiana Legislature.

32. In turn, the Petitioners, and the greater public, will suffer and have suffered irreparable harm if the relief requested is not granted, and the Defendants' actions are not immediately enjoined.

33. The Defendants' actions circumvent and undermine not only the Petitioners' legal rights, but also those of the New Orleans community at large.

RELIEF REQUESTED

34. **WHEREFORE**, the Petitioner prays that after due proceedings are had in this case that this Honorable Court

1. Declares as the action taken by the Defendant Villio to departed from normal procedures by arbitrarily limiting the public testimony of the opponents of HB-4, HB-6, HB-9, HB-10 to only one-hour violated the Petitioners' Constitutional Rights.

2. Issues an injunction that restrains, enjoins and prohibits Defendant DeVillier from permitting HB-4, HB-6, HB-9, and HB-10 from being "considered for final passage" until the ACJ Committee has "held a **public hearing** and reported on the bill." La. Const. Article III §15(D).

3. Awards Petitioner reasonable attorney fees and all costs of these proceedings;

4. Awards Petitioner all other general and equitable relief that may be appropriate under the circumstances.

Respectfully submitted,

/x/ **Emily H. Posner**
Emily H. Posner (La. Bar No. 35284)
General Counsel
Voice of the Experienced
4930 Washington Avenue; Suite D
New Orleans, Louisiana 70125

Phone: 225-746-8820

Email: emily@voiceoftheexperienced.org

Attorney for Petitioners

Please Serve:

1. The Honorable Representative Phillip DeVillier
Chambers of the House of Representatives
900 North Third Street
Baton Rouge, Louisiana 70804

2. The Honorable Representative Phillip DeVillier
439 Highway 758
Eunice, Louisiana 70535

3. The Honorable Representative Debbie Villio
House Committee Room 6
900 North Third Street
Baton Rouge, Louisiana 70804

4. The Honorable Representative Debbie Villio
5440 David Drive
Kenner, Louisiana 70065

3. Liz Murrill, Louisiana Attorney General
on behalf of the Honorable Representatives Phillip DeVillier and Debbie Villio
1885 North Third Street
Baton Rouge, Louisiana 70802