

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

The Nashville Community Bail Fund,

Plaintiff,

v.

Hon. Howard Gentry, Criminal Court
Clerk; *in his official capacity;*

Defendant.

Case No. 3:20-cv-00103

Judge Aleta A. Trauger

PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION

Plaintiff, the Nashville Community Bail Fund, on behalf of itself, its board and staff, and its participants, moves this Court for a Preliminary Injunction pursuant to Fed. R. Civ. P. 65. Plaintiff seeks an order enjoining Defendant Howard Gentry from (1) enforcing Davidson County Local Rule Governing Bail Bonds 10(B) as well as (2) enforcing his office’s policy of conditioning the acceptance of cash bonds on receipt of a signed form acknowledging future payment of criminal debts from that cash bond (collectively “the garnishment policies”).

The garnishment policies condition pretrial release via cash bond deposits on the use of bond money to pay future court debts. Garnishment occurs automatically, including in cases where the arrestee appears for all required court dates. The garnishment policies do not promote the acceptable purpose of bail, which is

reasonably assuring court appearance. Rather, the policies conflate the purposes of bail, chill the exercise of the right to pretrial liberty, and injure Plaintiff and its participants.

As detailed more fully in the accompanying Memorandum of Law and declarations in support thereof, preliminary injunctive relief is warranted. Plaintiff is substantially likely to prevail on its claim that the garnishment policies violate the excessive bail clause of the Eighth Amendment to the U.S. Constitution because the policies convert cash bond deposits into local revenue, rather than promote a compelling interest such as court appearance. Plaintiff and its participants will be irreparably harmed in the absence of injunctive relief, as Plaintiff stands to lose considerable portions of its revolving fund and thus will be forced to diminish, and ultimately cease, its operations assisting low-income Nashvillians incarcerated because they cannot afford their bail. Moreover, the balance of equities weighs firmly in Plaintiff's favor and the relief it requests will further the public interest.

Wherefore, for the foregoing reasons and those set forth in the accompanying Memorandum in Support and declarations, Plaintiff respectfully requests that the Court enter a preliminary injunction prohibiting enforcement of both garnishment policies while this case proceeds to a final disposition.

Respectfully submitted,

/s/ Thomas H. Castelli
Thomas H. Castelli (BPR# 24849)

On behalf of attorneys for Plaintiff

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* = *pro hac vice application*
forthcoming

Certificate of Service

I hereby certify that a true and exact copy of the foregoing *Motion for Preliminary Injunction* will be served on counsel for Howard Gentry identified below contemporaneously with the Summons and Complaint via hand delivery on the 6th day of February 2020:

Hon. Howard Gentry, Criminal Court Clerk
c/o Bob Cooper, Director
Metro-Nashville Government Department of Law
Metro Courthouse, Suite 108
P.O. Box 196300
Nashville, TN 37219-6300

/s/Thomas H. Castelli
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