

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2016-m442 SC

PHILIP A. GUNN, SPEAKER OF THE
MISSISSIPPI HOUSE OF REPRESENTATIVES

PETITIONER

VS.

REPRESENTATIVE J.P. HUGHES, JR.

FILED

MAR 24 2016

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

RESPONDENT

PETITION FOR INTERLOCUTORY APPEAL BY PERMISSION, OR IN
THE ALTERNATIVE, FOR EXTRAORDINARY WRIT OF PROHIBITION
ON MANDAMUS DIRECTED TO THE CIRCUIT COURT FOR THE
FIRST JUDICIAL DISTRICT OF HINDS COUNTY, MISSISSIPPI

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ATTORNEYS FOR PETITIONER

MOTION#

2016

1347

The Circuit Court for the First Judicial District of Hinds County, the Honorable Winston Kidd presiding, at 4:15 p.m. on March 23, 2016, entered without notice a temporary restraining order against the Honorable Philip Gunn, Speaker of the Mississippi House of Representatives. Because the Court acted in disregard of the plain language of M.R.C.P. 65(b) and the binding precedent of *Tuck v. Blackmon*, 798 So. 2d 402 (Miss. 2001), the order must be summarily reversed.

Speaker Gunn asks this Court to grant an interlocutory appeal, pursuant to M.R.A.P. 5, and to expedite its final consideration, as permitted by Rule 5(e). In the alternative, pursuant to M.R.A.P. 21 and Miss. Code Ann. § 9-1-19 (Rev. 2014), he seeks a writ of prohibition or mandamus directed to that Court to restrain the exercise of its supposed jurisdiction in contravention of the separation of powers doctrine embodied in Miss. Const. Art. 1 §§ 1-2 (1890).

STATEMENT OF THE FACTS

Late yesterday afternoon, the Honorable J.P. Hughes, Jr., Member of the Mississippi House of Representatives, handed Speaker Gunn a copy of the order entered at 4:15 p.m. by the Circuit Court. The order shows on its face that it was entered *ex parte* with no notice to the Speaker. Representative Hughes did not serve Speaker Gunn with a summons or with a copy of the papers he had filed with the Circuit Court. Later that evening, Speaker Gunn was able to retrieve from the Circuit Court's electronic filing system a copy of the Petition for Temporary Restraining Order and Request for Preliminary Injunction, Alternatively, for Issuance of a Writ of Mandamus filed against him by Representative Hughes. A copy of the petition is attached hereto and made a part

hereof as Exhibit 1, and a copy of the order is attached hereto and made a part hereof as Exhibit 2.¹

Although Representative Hughes has not filed a complaint, his petition attempts to allege that Speaker Gunn is acting contrary to Miss. Const. Art. 4, § 59 (1890), which provides that “every bill shall be read in full immediately before the vote on its final passage upon the demand of any member.” Representative Hughes admits under oath in paragraph 6 of his petition that the words of each bill are being read on the floor of the House. However, he complains that the words are being read by an automatic reading machine at a speed which he claims to be impossible to comprehend. Although he claims that the machine is incomprehensible, he does not allege that he or any other Member does not understand the bills being read. He nevertheless claims that he has been irreparably injured by this supposed violation of § 59, but he does not explain, as required by M.R.C.P. 65(b), “the efforts, if any, which have been made to give the notice and reasons supporting his claim that notice should not be required.”

On the basis of this sworn petition and without a hearing, the Court entered its temporary restraining order, requiring Speaker Gunn to “read or cause to be read all bills presented to the House of Representatives in a normal speed at an audible level comprehensive lever [*sic*] so that each Member of the House of Representatives has an opportunity to hear and understand each word.” The order does not “define the injury and state why it is irreparable and why the order was granted without notice,” as Rule 65(b) requires. It sets the matter to be heard at 9:00 a.m. on Monday, March 28, 2016.

On the morning of March 24, 2016, as authorized by Rule 65(b), Speaker Gunn filed his motion to dissolve the temporary restraining order. Attached to that motion was the affidavit of

¹ Because of the emergency nature of this petition, the copies are not certified.

the Honorable Andrew Ketchings, the Clerk of the House. The Clerk swore that each Member has been provided, at taxpayer expense, with an electronic computing device granting access, through the Internet, to the records of the House. The current status of every bill may be reviewed online by any Member as the bill is being read in the House chamber. Any Member who so requests may have a paper copy of any bill being read. The Clerk also explained that, under its Rules, the House is obliged to act on all bills by the deadline of midnight, Wednesday, March 30, 2016. Attached to his affidavit is a copy of the House calendar for March 24, 2016, showing that seven appropriations bills and 89 general bills await action by the House before the deadline. A copy of the motion to dissolve is attached hereto and made of part hereof as Exhibit 3.

Attached hereto and made a part hereto is Exhibit 4, a copy of a letter of March 24, 2016, from Speaker Gunn's counsel to Judge Kidd, requesting an immediate hearing on the motion to dissolve. Undersigned counsel represents that he has received an email from Judge Kidd's court administrator, who reported that Judge Kidd will not hear the motion until 9:00 a.m. on March 28, 2016.

QUESTIONS PRESENTED

1. Whether an *ex parte* temporary restraining order must be reversed where the order itself fails to satisfy the requirement of Rule 65(b) that it "shall define the injury and state why it is irreparable and why the order was granted without notice," particularly where the applicant has failed to show "by affidavit or by the verified complaint that immediately irreparable injury, loss or damage will result to the applicant before the adverse party can be heard in opposition," and he fails to "certif[y] to the court in writing the efforts, if any, which have been made to give the notice and reasons supporting his claim that notice should not be required."

2. Whether any relief, whether by temporary restraining order or preliminary injunction, is precluded under *Tuck v. Blackmon*, 798 So. 2d 402 (Miss. 2001), for lack of irreparable injury where the applicant has failed to allege any ignorance, confusion, or misunderstanding of the bills being read on the floor of the House pursuant to Miss. Const. Art. 4 § 59 (1890), and where the record affirmatively shows that each Member has full access to the text of each bill as it is being read.

3. Whether the granting of either a temporary restraining order or a preliminary injunction violates the separation of powers doctrine, as explained in *Tuck v. Blackmon*, where it has not been alleged and cannot be proven that the speaker's application of § 59 is being done "in a manifestly wrong manner which does critical harm to the legislative process." 798 So. 2d at 407.

STATEMENT OF THE CURRENT STATUS OF THE CASE

As explained in the statement of the facts, a hearing is scheduled in Circuit Court for 9:00 a.m. on Monday, March 28, 2016. Speaker Gunn has asked the Circuit Court to hear his motion to dissolve immediately on March 24, 2016, but the Court has not done so, nor has the Court advised when the motion to dissolve will be heard.

STATEMENT OF TIMELINESS

The temporary restraining order of which review is sought was entered on March 23, 2016. This petition is being filed within 21 days after that date, as required by Rule 5(a).

STATEMENT OF RELATED CASES

Speaker Gunn knows of no cases pending before this Court or any other court which are related to the matter for which interlocutory review is sought.

REASONS WHY RELIEF SHOULD BE GRANTED

I. THE ENTRY OF THE RESTRAINING ORDER CONSTITUTES PROCEDURAL SUBSTANTIVE, AND CONSTITUTIONAL ERROR.

A. Both the Petition and Temporary Restraining Order Fail to Satisfy the Requirements of Rule 65(b).

Rule 65(b) imposes unambiguous requirements on both the applicant for a temporary restraining order and upon the court which chooses to grant such an order without notice to the adverse party, as the Circuit Court did here. The applicant must cause it to “appea[r] from specific facts shown by affidavit by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition.” Moreover, he must “certif[y] to the court in writing the efforts, if any, which have been made to give the notice and supporting his claim that notice should not be required.” Representative Hughes wholly disregarded these requirements. First, he has not filed a complaint, verified or otherwise. According to M.R.C.P. 3(a), “A civil action is commenced by filing a complaint with the court.” Representative Hughes has failed even properly to commence a civil action, much less to show himself entitled to relief. Second, while his sworn petition attempts to allege irreparable harm in conclusory terms, he makes no effort to explain why he could not have given Speaker Gunn notice before seeking relief from that supposed harm. Finally, he fails to certify that he made any effort whatsoever to give notice to Speaker Gunn.

The Court likewise disregarded the requirements of Rule 65(b) that its temporary restraining order “shall define the injury and state why it is irreparable and why the order was granted without notice.” The brief order gives no explanation whatsoever of the injury the Court believed itself to be addressing. It says nothing about why the order was granted without notice. Its failure to comply with the plain language of Rule 65(b) is apparent on its face.

Few appellate decisions address the consequences of failure to comply with these unambiguous procedural requirements. This is because temporary restraining orders are not automatically appealable in federal court, and they must be reviewed, if at all, under extraordinary appellate procedures, such as those invoked here by Speaker Gunn under Rules 5 and 21.

Nevertheless, the Supreme Court of the United States has directly addressed the constitutional underpinnings of these requirements. In *Carroll v. President & Commrs. of Princess Anne*, 393 U.S. 175 (1968), the Court reviewed a 10-day temporary restraining order issued by a Maryland court under Maryland law. That 10-day order issued without notice, was affirmed by the highest appellate court of Maryland. *Id.*, at 177. The Supreme Court of the United States found the issue not to be moot, *id.*, at 179, and ruled the issuance without notice to be unconstitutional:

There is a place in our jurisprudence for ex parte issuance without notice, of temporary restraining orders of short duration; but there is no place within the area of basic freedoms guaranteed by the First Amendment for such orders where no showing is made that it is impossible to serve or to notify the opposing parties and to give them an opportunity to participate.

Id., at 180. Just as the Supreme Court of the United States reversed the Maryland judgment in that case, *id.*, at 185, this Court likewise must reverse the issuance of the temporary restraining order.

B. Representative Hughes Cannot Meet the Four Required Elements for Injunctive Relief Where, as Here, Irreparable Harm Cannot be Shown.

As this Court is well aware, injunctive relief may be granted without a trial on the merits only under the most unusual of circumstances. Four elements must be established:

(i) there exists a substantial likelihood that the [movant] will prevail on the merits; (ii) the injunction is necessary to prevent irreparable harm; (iii) the threatened injury to the [movant] outweighs the harm an injunction might do to the [opposing party]; and (iv) granting a preliminary injunction is consistent with the public interest.

Official Comment M.R.C.P. 65, quoting *Littleton v. McAdams*, 60 So.3d 169, 171 (Miss. 2011). Representative Hughes has not alleged these four elements, and he cannot prove them.

As explained in Part I.C hereafter, there is no likelihood that Representative Hughes will prevail on the merits in light of this Court's binding ruling in *Tuck v. Blackmon*. In the separate motion for stay being filed today, Speaker Gunn demonstrates that the harm to him and to the House of Representatives outweighs any supposed harm to Representative Hughes, and why granting injunctive relief is not consistent with the public interest. At this point, it is sufficient to show that under the precedent of *Tuck v. Blackmon*, Representative Hughes cannot show any harm, much less irreparable harm.

In that case, Senator Blackmon and several colleagues obtained an injunction from the Chancery Court of the First Judicial District of Hinds County against Lieutenant Governor Amy Tuck, requiring her to comply with § 59 of the Constitution as understood by the Chancery Court. Final judgment was quickly entered, and Lieutenant Governor Tuck appealed. 798 So. 2d at 405. This Court reversed, finding that no irreparable injury had been alleged or proven:

The complaint, although sworn to, merely asserts the violation of Section 59 as a violation of plaintiffs' right and that they have no other remedies at law, and, in general terms will irreparably injured unless the Lieutenant Governor is restrained from enforcing her rulings. Such a statement is not a clear and specific statement of irreparable injury.

Id., at 409. The Court had already observed that no injury had befallen the senators.

They do not suggest that they or other senators were uninformed as to the text of either the bill or conference report or that they had not been distributed; nor do they argue that there was confusion or misunderstanding of those texts or their import.

Id., at 408. Representative Hughes's attempted allegation of irreparable injury in paragraph 8 of his petition is stated in the sort of "general terms" found defective by this Court in *Tuck*. Not only

has Representative Hughes made no effort to allege injury in fact, but the Clerk's affidavit establishes that any such allegation would be false. Every word of every bill is available to every Member on paper and through electronic devices as it is being read. Representative Hughes does not allege that he and his colleagues do not or cannot understand the bills being read on the House floor. Unto these circumstances, *Tuck* concludes a finding of irreparable injury.

Because there can be no showing of irreparable injury in this case, the entry of a temporary restraining order was reversible error. Moreover, this Court should preclude the Circuit Court from granting a preliminary injunction on the allegations contained in the petition.

C. The Circuit Court's Interference with the Speaker's Implementation of § 59 on the Floor of the House Violates the Separation of Powers.

In *Tuck*, the senators argued that § 59 required the reading of conference reports, as well as bills. Acknowledging the importance of § 59, the Court relied on precedent establishing legislative priority in implementing the constitutional provisions governing its procedures:

The sound view . . . is to regard all of the provisions of the constitution as mandatory, and those regulating the legislative department as addressed to and mandatory to that body, and with which the courts have nothing to do in the way of revision of how the legislature has performed its duty in the matters confided exclusively to it by the constitution.

Id., at 407, quoting *Ex Parte Wren*, 63 Miss. 512, 534 (1886). The Court explained that the Court should presume to interfere with the internal affairs of the Legislature only in the most extreme circumstances:

To stop the ongoing legislative process while seeking court decisions on the propriety of internal practices will do service to neither branch of government . . . Section 59 appears in the "Rules of Procedure" of Article 4 of the Constitution, and the rules of the Senate, whether internally generated or found in the Constitution, are addressed to the Senate where they must be interpreted and applied. Only where that body (or in this case the President of the Senate, who is, by its Rules, vested with authority to make rulings on points of order) exercises

the responsibility in a manifestly wrong manner which does critical harm to the legislative process is judicial intervention justified.

Tuck, 798 So. 2d at 407. Because the senators did not claim any ignorance or confusion regarding the conference report, the Court found it impossible to conclude that “the ruling resulted in damage to the legislative process.” *Id.*, at 408.

Here, Speaker Gunn has the same primary responsibility for enforcing the procedural requirement of § 59 in the House that Lieutenant Governor Tuck had in the Senate. Representative Hughes does not even allege that he has exercised that authority “in a manifestly wrong manner.” Indeed, Representative Hughes admits in paragraph 6 of his petition that the literal terms of § 59 are being satisfied because every word of every bill is being read in the House chamber. Particularly because there is no evidence of confusion, and because the sworn record establishes that there could be no confusion, this Court should uphold Speaker Gunn’s implementation of § 59. It must conclude, as it did with regard to Lieutenant Governor Tuck, that “[i]t is impossible for us to say that [his] ruling was arbitrary or manifestly wrong.” *Id.*, at 409.

II. THIS COURT SHOULD HEAR AND RESOLVE THIS MATTER EITHER BY EXTRAORDINARY WRIT OR BY INTERLOCUTORY APPEAL

Because a final judgment had been entered in *Tuck*, there was no need for this Court to consider the basis of its jurisdiction. This Court simply entertained an ordinary appeal on an expedited basis. Because no final judgment has been entered in this case, a basis for Supreme Court jurisdiction must be shown.

This Court reviewed and reversed the improper entry of a temporary restraining order pursuant to an extraordinary writ under Rule 21 in *In re Wilbourn*, 597 2d 1381 (Miss. 1991). There, the Circuit Court for the First Judicial District of Hinds County had issued a temporary restraining order preventing the Hinds County Election Commission from certifying the winner of

an election. The Election Commission and one of the candidates promptly sought extraordinary relief from this Court under Rule 21. “A five-member panel of this Court issued an order calling for a response to the petition and staying proceedings in the trial court pending consideration of this petition by the *en banc* conference.” *Id.*, at 1383-84. After reviewing cases in which courts had been instructed to stay out of the election process, the Court reversed holding “On the basis of this non-interference doctrine, the TRO should not have been entered to stop the Election Commission from performing its statutory duties.” *Id.*, at 1385. Similarly, as *Tuck* holds, courts should not interfere with the work of the Legislature. The Circuit Court’s erroneous temporary restraining order may be reviewed and reversed on petition for extraordinary writ under Rule 21, just as this Court did in *In Re Wilbourn*.

Alternatively, this Court has undoubted power to review the temporary restraining order under Rule 5. Rule 5(a) provides:

An appeal from an interlocutory order may be sought if a substantial basis exists for a difference of opinion on a question of law as to appellate resolution may:

- (1) Materially advanced determination of the litigation and avoid exceptional expense to the party; or
- (2) Protect a party from substantial and irreparable injury; or
- (3) Resolve an issue of general importance in the administration of justice.

At least the first two of these requirements are satisfied here.

The Circuit Court has not agreed to consider the motion to dissolve before the hearing presently scheduled for Monday, March 28, 2016. Ordinarily, it might not seem material to advance a resolution of injunctive relief by a mere three or four days. Under these circumstances, however, a decision on March 24 or 25 makes a material difference. As the Clerk’s affidavit

establishes, almost a hundred bills await action before the deadline at midnight on March 30, 2016. The reading of every one of those bills at a conversational pace will unnecessarily delay and obstruct the work of the Legislature. Particularly because Good Friday and Easter fall between the filing of this petition and the Circuit Court's consideration of the motion to dissolve on March 28, prompt resolution of this issue is essential.

For the same reason, issuance of prompt relief will protect Speaker Gunn and the House from grave harm. There is no way to know whether the work of the House can be completed by the March 30 deadline if the temporary restraining order remains in place. If that work cannot be completed, there is nothing that either the Speaker or the Court can do to repair it. Unfinished business can be discharged, if at all, only under the special session called by the Governor at the expense of the taxpayers. No remedy is available at law for that cost and inconvenience. It can be avoided only by early action by this Court.

Under these circumstances, immediate review by this Court is essential. Rule 5 provides an avenue for review, as does Rule 21. This Court should grant the petition and take action.

III. THIS COURT SHOULD EXPEDITE ITS REVIEW UNDER RULE 5(e).

Rule 5(e) describes this Court's authority to expedite the consideration of an interlocutory appeal. Speaker Gunn believes that this Court may enforce compliance with Rule 65(b) and the binding precedent of *Tuck v. Blackmon* without full briefing and oral argument. This Court should grant relief at the earliest possible date.

Speaker Gunn does not suggest that Representative Hughes should be denied the right to reply. Rule 5(b) provides 14 days within which Representative Hughes and the trial judge may file an answer to the petition. As it did in *In re Wilbourn*, this Court should direct Representative Hughes to file an answer under Rule 21(b).

In the meantime, Speaker Gunn is applying by separate motion for a stay of the temporary restraining order. That stay will permit the House to conduct its business in an expeditious fashion while this Court considers the merits of this petition. When this Court resolves the petition, it should reverse the temporary restraining order and bar the granting of preliminary injunctive relief.

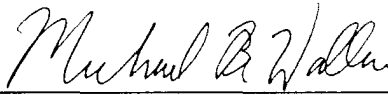
Speaker Gunn at this time is not asking this Court to dismiss the petition in its entirety. If Representative Hughes wishes to present his constitutional claim to a court, he may be allowed to file the proper complaint, and Speaker Gunn will respond in a timely fashion. While Speaker Gunn believes that the constitutional claim that Representative Hughes seems to be asserting has no merit, he does not seek at this point to bar its judicial consideration. He merely seeks emergency relief so that the House may complete its business this session.

CONCLUSION

For the reasons stated herein, Speaker Gunn asks that this Court reverse the temporary restraining order of March 23, 2016, and bar the Circuit Court from issuing any preliminary injunctive relief on Representative Hughes's petition.

Respectfully submitted,

PHILIP A. GUNN

BY: 
MICHAEL B. WALLACE (MSB #6904)
CHARLES E. COWAN (MSB #104478)

OF COUNSEL:

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CERTIFICATE OF SERVICE

I, Michael B. Wallace, do hereby certify that I have this day caused to be delivered by hand the foregoing pleading or other paper to the following:

Representative J.P. Hughes, Jr.
400 High Street
Jackson, MS 39201

Honorable Winston L. Kidd
407 East Pascagoula St.
Jackson, MS 39205

THIS, the 24th day of March, 2016.



MICHAEL B. WALLACE

CIRCUIT
IN THE COURT OF THE FIRST JUDICIAL
DISTRICT OF HINDS COUNTY, MISSISSIPPI

FILED

MAR 23 2016

ZACK WALLACE, CIRCUIT CLERK

BY _____ D.C.

**J. P. HUGHES, JR. REPRESENTATIVE OF
MISSISSIPPI DISTRICT 12**

PETITIONER

VS.

CAUSE NO:

16-198

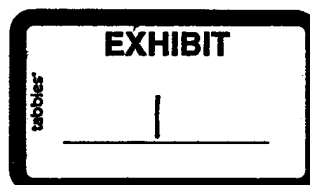
**MISSISSIPPI STATE REPRESENTATIVE
HOUSE SPEAKER, PHILIP A. GUNN**

RESPONDENT

**PETITION FOR TEMPORARY RESTRAINING
ORDER AND REQUEST FOR PRELIMINARY INJUNCTION,
ALTERNATIVELY, FOR ISSUANCE OF A WRIT OF MANDAMUS**

COMES NOW the Petitioner, J. P. Hughes, Jr., State Representative of Mississippi House District 12, who petitions this Honorable Court to issue a temporary restraining order and request for preliminary injunction, or, alternatively, the Petitioner requests the issuance of Writ of Mandamus directing the Respondent, Mississippi State Representative House Speaker, Philip A. Gunn to comply with the Mississippi Constitution, specifically, Article 4, Section 59, and the requirement that the Bills before the Mississippi House of Representatives "shall be read in full . . . upon demand of any member." Such reading should be in a manner so as the Petitioner and members of the House of Representatives can understand what is being presented to them prior to a vote. In support of its Petition, your Petitioner, avers and gives notice of the following:

1. Your Petitioner is a member in good standing of the Mississippi House of Representatives, House District 12.
2. The Respondent, Mississippi State Representative Philip A. Gunn, is the Speaker of the Mississippi House of Representatives and may be served with lawful process at Mississippi State Capitol, House of Representative, Room 306 or the House Floor, 400



High Street, Jackson, Mississippi 39201.

3. This Petition is brought pursuant to Rule 65 of the Mississippi Rules of Civil Procedure that confers jurisdiction upon this Honorable Court to hear and adjudicate this matter, as irreparable harm is occurring and will continue to occur without this Court enjoining the unconstitutional acts occurring within the House of Representatives.
4. It is well established over 200 years ago in Marbury v. Madison, 5 U.S. 137 (1803), that it is the rights of the citizens to have the laws of the land followed:
 - a. The Government of the United States [indeed, Mississippi] has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right.
 - b. This very right, when withheld, must have a remedy, and every injury its proper redress.
 - c. The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury. One of the first duties of government is to afford that protection.
 - d. In all other cases, it is a general and indisputable rule that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.
5. Members of the House of Representatives have been refused their Constitutional right to have bills presented to the House to be read in full, pursuant to Article 4, Section 59, Mississippi Constitution. More specifically, members have been recognized by the Speaker for the purpose of making demand pursuant to Article 4, Section 59, but their requests have not been granted.


6. The Respondent has only partially obliged that request by having the words of the bills read by an electronic device (set on the highest speed adjustment, #10) such that the same is being read artificially and so quickly that no human ear nor mind can comprehend the words of the bills.
7. Such electronic reading at an unintelligible speed is in direct contravention of the Mississippi Constitution of the Great State of Mississippi, and all of its people whom the representatives have been elected to act on behalf of.
8. By failing to follow the letter and spirit of the Mississippi Constitution and having the bills read aloud for the body in a manner so they can be understood, there is irreparable harm which has occurred and will continue to occur, all as a direct and proximate result of the actions and inactions of the Respondent.
9. A true and correct audio copy of the rate speed which has been and continues to be read is available by the live stream of the Mississippi Legislature Simulcast, at <http://www.legislature.ms.gov/Pages/default.aspx>, which is hereby incorporated herein by reference as if copied in full in words and figures.
10. Petitioner request that this Court Orders that the bills presented for vote to the Lawmakers of the State of Mississippi, if so requested, be read at a speed and audible level of normal comprehension by each Representative within the House chamber.

WHEREFORE, PREMISES CONSIDERED, your Petitioner would pray that this Honorable Court would issue a temporary restraining order and after a trial on the merits enroll a permanent preliminary injunction against the Respondent, mandating each request bill be read at a speed and audible level of normal comprehension by each Representative within the House chamber.

Petitioner also alternatively requests a Writ of Mandamus for the same relief.

Petitioner also asks for such other and further equitable relief that this court deems just and appropriate under the facts and circumstances properly before the court

RESPECTFULLY SUBMITTED this the 23rd day of March, 2016.


HOUSE REPRESENTATIVE J. P. HUGHES
400 HIGH STREET, ROOM #
JACKSON, MS 39201
(662) 816-2888

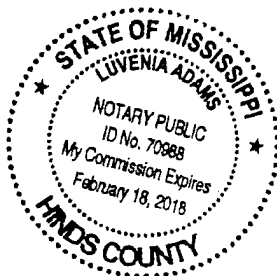
PREPARED BY:
J. P. Hughes, Jr.
MS Bar # 8967
New Mississippi Capitol
400 High Street
State Legislature Chamber
Jackson, MS 39201
662-816-2888

STATE OF MISSISSIPPI

COUNTY OF HINDS

Personally appeared before me, the undersigned authority in and for the district aforesaid, J. P. Hughes, Jr., who, after having been first duly sworn, signed said document before me, for all intents and purposes, after having fully read and understood the same.

This the 23rd day of March, 2016.




NOTARY PUBLIC

CIRCUIT
IN THE CIRCUIT COURT OF THE FIRST JUDICIAL
DISTRICT OF HINDS COUNTY, MISSISSIPPI

FILED
MAR 23 2016
ZACK WALLACE, CIRCUIT CLERK
BY _____ D.C.

**J. P. HUGHES, JR. REPRESENTATIVE OF
MISSISSIPPI DISTRICT 12**

PETITIONER

VS.

CAUSE NO: 16-198

**MISSISSIPPI STATE REPRESENTATIVE
HOUSE SPEAKER, PHILIP A. GUNN**

RESPONDENT

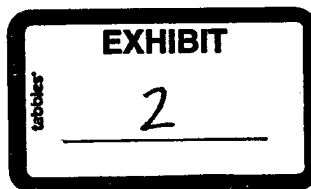
**ORDER GRANTING TEMPORARY RESTRAINING
ORDER AND SETTING CASE FOR HEARING PURSUANT TO RULE 65 (b)**

This Matter came on to be heard on the Petitioner *ex parte* request for a temporary restraining order and the Court having reviewed the pleadings, confirmed that jurisdiction is appropriate and after having heard argument of counsel does find that in accordance with Rule 65 (b) the same is well taken and should be granted. Therefore, it is:

ORDERED and ADJUDGE that a temporary restraining order shall issue upon the Respondent, and the Respondent shall, consistent with Article 59 of the Mississippi Constitution, read or cause to be read all bills presented to the House of Representatives in a normal speed and audible level comprehensive level so that each member of the House of Representatives has an opportunity to hear and understand each word of each such properly requested reading. It is:

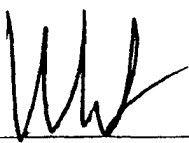
ORDERED and ADJUDGED that the Petitioner shall post a bond as security in the amount of \$ 500.00 as required by Rule 65. It is further:

ORDERED and ADJUDGED that this temporary restraining order shall terminate ten (10) days from the date and time listed below. This case is set for a hearing on the temporary



restraining order on the 28th day of March, 2016, at the Hinds County ~~Chancery~~ ^{Circuit} Courthouse located in Jackson, Mississippi, at 9 (a.m.)/p.m. unless for good cause shown a proper order is issued extending the date, place and time of the hearing as required by Rule 65 of the Mississippi Rules of Civil Procedure. This order shall be forthwith filed in the office of the ~~Chancery~~ ^{Circuit} Clerk.

SO ORDERED, ADJUDGED AND DECREED, this the 23rd day of March, 2016, at 4¹⁵ a.m. (p.m.)


CIRCUIT JUDGE

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL
DISTRICT OF HINDS COUNTY, MISSISSIPPI**

**J.P. HUGHES, JR., REPRESENTATIVE
OF MISSISSIPPI DISTRICT 12**

PETITIONER

V.

CAUSE NO. 16-198

**MISSISSIPPI STATE REPRESENTATIVE
HOUSE SPEAKER, PHILIP A. GUNN**

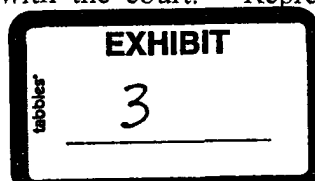
RESPONDENT

MOTION TO DISSOLVE

Comes now the Honorable Philip Gunn, Speaker of the Mississippi House of Representatives and named defendant in this action, and respectfully moves this Court, pursuant to M.R.C.P. 65(b), to vacate its temporary restraining order entered without notice on March 23, 2016, for failure and inability to comply with M.R.C.P. 65(b), and would show unto the Court in support thereof the following:

1. The order truthfully declares in its first sentence that it was entered on the *ex parte* request of the Honorable J. P. Hughes, Jr., Member of the House of Representatives and plaintiff herein. Rule 65(b) sets several requirements before a temporary restraining order may be issued without notice to the adverse party. Representative Hughes and the order itself failed to comply with several of these requirements.

2. First, "specific facts [must be] shown by affidavit or the verified complaint." Representative Hughes has filed no complaint at all, but rather a supposed petition for temporary restraining order and preliminary injunction. It cannot be determined whether Representative Hughes has a substantial likelihood of success on the merits of his complaint because he has not filed a complaint, nor has he attempted to state a claim. M.R.C.P. 3(a) begins, "A civil action is commenced by filing a complaint with the court." Representative Hughes has not properly



commenced a civil action, and cannot be granted any relief in the absence of a validly commenced action.

3. Second, Rule 65(b) goes on to declare that it must be shown “that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition.” The petition attempts to allege in paragraph 8 that irreparable injury is occurring, but the petition fails to satisfy the standard set by the Supreme Court of Mississippi in *Tuck v. Blackmon*, 798 So.2d 402 (Miss. 2001). Ruling that no damage had been alleged or proven, the Court held:

They do not suggest that they or other senators were uninformed as to the text of either the bill or the conference report or that they had not been distributed; nor do they argue that there was confusion or misunderstanding of those texts or their import.

Id., at 408. Moreover, nowhere does the petition establish by sworn evidence that relief must be granted so quickly that notice could not be given to Speaker Gunn. *See id.*, at 409.

4. Third, Rule 65(b) requires certification in writing to the Court of “the efforts, if any, which have been made to give the notice and reasons supporting his claim that notice should not be required.” Representative Hughes makes no such certification anywhere in his petition.

5. Fourth, Rule 65(b) requires that a temporary restraining order entered without notice “shall define the injury and state why it is irreparable and why the order was granted without notice.” This Court’s order does none of those things. It does not define any injury to Representative Hughes or anybody else. It does not state why such injury, if it exists, is irreparable. It does not say why the order was granted without notice to Speaker Gunn.

6. Attached hereto and made a part hereof as Exhibit 1 is the affidavit of the Honorable Andrew Ketchings, Clerk of the Mississippi House of Representatives. The affidavit establishes that neither Representative Hughes nor any other member of the House of Representatives has

suffered any cognizable injury in fact from the manner in which bills are read in the House of Representatives so as to comply with Article 4, § 59 of the Mississippi Constitution of 1890. Representative Hughes admits in paragraph 6 of his petition that the words of the bills are being read in the House chamber. While he objects to the quality of the reading, at no point does he swear that he or anyone else lacks any understanding of any bill that has been read. As the Clerk's affidavit makes clear, every Member of the House has been furnished, at taxpayer expense, with an electronic computing device upon which every word of every bill is available for reading, so that every Member can follow along with the words being read. In addition, any Member who so requests may receive a printed paper copy of every bill. There is no allegation that any Member of the House is less than fully capable of reading every bill. Because the House has provided the means by which every bill being read can be understood by every Member, no injury, much less irreparable injury, has been alleged or can be proven.

7. For all of these reasons, the petition is defective on its face, and the order is defective on its face. Because the record cannot support the order, and because the order itself violates the plain language of Rule 65(b), the order must be dissolved.

8. The petition also seeks the granting of a preliminary injunction. The official comment to Rule 65 describes the four considerations that must be established before a preliminary injunction can be granted:

(i) there exists a substantial likelihood that the [movant] will prevail on the merits; (ii) the injunction is necessary to prevent irreparable harm; (iii) the threatened injury to the [movant] outweighs the harm an injunction might do to the [opposing party]; and (iv) granting a preliminary injunction is consistent with the public interest.

Official Comment M.R.C.P. 65, quoting *Littleton v. McAdams*, 60 So.3d 169, 171 (Miss. 2011).

Representative Hughes has not alleged these four elements, and he cannot prove them.

9. Most obviously, for the reasons stated in paragraphs 3 and 6 above, Representative Hughes cannot prove any injury, much less irreparable injury.

10. Further, for the reasons stated in paragraph 2 above, Representative Hughes cannot establish that he has a substantial likelihood of success on the merits of his complaint because he has filed no complaint. Moreover, assuming that any complaint Representative Hughes might ultimately file alleges that the practices of the House of Representatives violate § 59 of the Constitution, he cites no authority and no reasoning supporting his position. Section 59 requires that all bills be read before final passage on demand of any Member, and Representative Hughes admits under oath in paragraph 6 of his petition that all bills are being read before final passage. While he alleges in paragraph 8 of his petition that Speaker Gunn is “failing to follow the letter and spirit of the Mississippi Constitution,” he provides no legal precedent or historic evidence of what the spirit of § 59 might be. Moreover, he cites no Mississippi authority to show that this Court has been charged by the Constitution with directing the affairs of the House of Representatives. To the contrary, the Supreme Court of Mississippi has recognized that each House of the Legislature is entitled to great deference in the conduct of its own affairs. In an earlier case in which a trial court issued coercive relief purporting to enforce § 59 of the Constitution, the Supreme Court reversed, saying:

Only where that body (or in this case, the President of the Senate who is, by its rules, vested with authority to make rulings on points of order) exercises the responsibility in a manifestly wrong manner which does critical harm to the legislative process is judicial intervention justified.

Tuck, 798 So. 2d at 407. On this record, where Representative Hughes has neither alleged nor demonstrated that Speaker Gunn is manifestly wrong in his application of § 59, it cannot be said

that he has a substantial likelihood of success on the merits of whatever complaint he might ultimately file.

11. Because Representative Hughes has neither alleged nor proven any injury, his injury cannot possibly outweigh any injury to Speaker Gunn. Speaker Gunn is charged by the Rules of the House with extensive responsibilities for assisting the House in its work during its session. The petition suggests no reason why he should be distracted from those responsibilities, or the business of the House impeded in any way, when Representative Hughes can allege no injury to himself or anybody else. *See id.*, at 410 (the Lieutenant Governor would not “reasonably be expected to respond quickly enough to present her side effectively”).

12. Under these circumstances and on this record, it cannot be said that injunctive relief can be consistent with the public interest. Should Representative Hughes file a proper complaint, any constitutional issue he may seek to present may be considered in the regular course of litigation. There is no reason why the public interest cannot be fully satisfied by the ordinary proceedings of this Court. As the affidavit of the Clerk demonstrates, the House has almost 100 bills to consider before the deadline on March 30. Any preliminary relief in any form disrupts the work of the House and is contrary to the public interest.

13. In filing this motion to vacate, Speaker Gunn reserves all defenses he may have to this petition and to any complaint that Representative Hughes may ultimately file. Representative Hughes has made no effort to serve Speaker Gunn with a summons, as required by M.R.C.P. 4. When and if a summons is served, Speaker Gunn will timely respond. In the meantime, he reserves all rights to interpose all defenses, including those provided by M.R.C.P. 12.

14. This Court should award Speaker Gunn his reasonable costs, expenses, and attorneys’ fees, as required by Rule 65(b).

15. In the alternative, pursuant to M.R.C.P. 62(b), Speaker Gunn asks this Court to stay its order while he seeks relief from the Supreme Court of Mississippi.

WHEREFORE, PREMISES CONSIDERED, Speaker Gunn respectfully moves that the Court immediately vacate the temporary restraining order issued on March 23, 2016.

Respectfully submitted,

PHILIP A. GUNN

BY: /s/ Michael B. Wallace
MICHAEL B. WALLACE (MSB #6904)

OF COUNSEL:

WISE CARTER CHILD & CARAWAY, P.A.
Post Office Box 651
Jackson, Mississippi 39205-0651
(601) 968-5500
(601) 944-7738 – fax
mbw@wisecarter.com

CERTIFICATE OF SERVICE

I, Michael B. Wallace, do hereby certify that I have this day electronically filed the foregoing pleading or other paper with the Clerk of the Court using the MEC system which sent notification of such filing to the following:

House Representative J.P. Hughes
400 High Street
Jackson, MS 39201

THIS, the 24th day of March, 2016.

/s/ Michael B. Wallace
MICHAEL B. WALLACE

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL
DISTRICT OF HINDS COUNTY, MISSISSIPPI**

**J.P. HUGHES, JR., REPRESENTATIVE
OF MISSISSIPPI DISTRICT 12**

PETITIONER

V.

CAUSE NO. 16-198

**MISSISSIPPI STATE REPRESENTATIVE
HOUSE SPEAKER, PHILIP A. GUNN**

RESPONDENT

AFFIDAVIT

STATE OF MISSISSIPPI

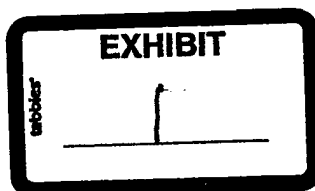
COUNTY OF HINDS

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the county aforesaid, the within named Andrew Ketchings, who, after having been first duly sworn, did depose and say as follows:

1. My name is Andrew Ketchings. I am an adult resident citizen of Adams County. I have personal knowledge of the facts set forth herein.

2. I am Clerk of the Mississippi House of Representatives. Subject to the direction of the House and its officers, I have primary responsibility for the administration of the operations of the House.

3. At the beginning of the term every Member of the House, by taxpayer expense, is offered either a laptop computer or an iPad for the purposes of access to the Internet. This technology is offered to give legislators a platform to research legislation, to read bills, and to do official work of the House. Every Member of the House accepted and received either a laptop computer or an iPad, except for the Speaker and Speaker Pro Tempore. The current text of every



bill is available online at all times. All Members therefore have immediate access to the text of every bill as it is being read in the House.

4. In addition to a laptop or iPad, legislators are offered hard copies of bills in committee and can obtain a hard copy of a bill, by request, on the House floor.

5. Under the Rules of the House, the deadline for passage of all bills is midnight this coming Wednesday, March 30, 2016.

6. Attached hereto as Exhibit A is a true and correct copy of the House calendar for today, March 24, 2016. It shows that there are presently 96 appropriation and general bills awaiting action on the floor of the House.

FURTHER AFFIANT SAYETH NOT:

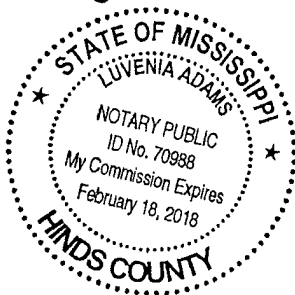

ANDREW KETCHINGS

SWORN TO AND SUBSCRIBED BEFORE ME, this the 24th day of March, 2016.


NOTARY PUBLIC

My Commission Expires:

February 18, 2018



MISSISSIPPI LEGISLATURE
53rd LEGISLATIVE DAY
80th CALENDAR DAY

REGULAR SESSION 2016
MARCH 24, 2016

HOUSE CALENDAR

MOTION TO RECONSIDER

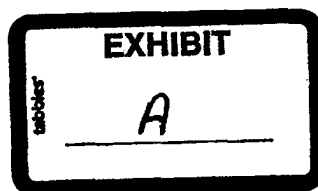
1. S. B. No. 2240: Sales of land for taxes; authorize tax collector to conduct sales by online auction.
(Baria, Smith, Lamar)
2. S. B. No. 2525: Capitol Complex Improvement District; create and fund improvement projects within.
(WHEREBY THE HOUSE PASSED AS AMENDED)
(Powell, Formby, Boyd, Smith)

APPROPRIATIONS

1. S. B. No. 2259: State Board of Health; authorize to charge fees for services based on cost of providing the services.
(3/5) (AS AMENDED) 3/22
2. S. B. No. 2361: Mississippi Department of Agriculture and DEQ; reorganize.
(AS AMENDED) (Strike-All) 3/22
3. S. B. No. 2362: MS Budget Transparency and Simplification Act of 2016; create.
(AS AMENDED) (Strike-All) 3/22
4. S. B. No. 2384: Mississippi Department of Medicaid and Human Services; establish.
(AS AMENDED) (Strike-All) 3/22
5. S. B. No. 2387: Budget requests by state agencies to LBO; include information regarding any Maintenance of Effort (MOE) agreements with federal government. 3/22
6. S. B. No. 2398: Sixteenth section lieu land; authorize exchange for timber development. 3/22
7. S. B. No. 2469: Budget process; bring forward sections relating to various aspects of.
(AS AMENDED) (Strike-All) 3/22

GENERAL

1. S. B. No. 2162: Airports; create Jackson Metropolitan Area Airport Authority.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary A) (Ports, Harbors and Airports) 3/22
2. S. B. No. 2541: Fantasy Contest Act; enact to require fantasy contest operators to implement certain procedures.
(3/5) (READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Gaming) 3/22



HOUSE CALENDAR FOR MARCH 24, 2016

Page 2

GENERAL CALENDAR Continued

3. S. B. No. 2200: Securities registration; provide for notice filings for federal covered securities created by the JOBS Act. 3/15
(3/5) (READ THE THIRD TIME) (Banking and Financial Services)
4. S. B. No. 2504: Mississippi S.A.F.E. Mortgage Act; extend repealer and revise certain provisions. 3/15
(READ THE THIRD TIME) (Banking and Financial Services)
5. S. B. No. 2532: Harvest permits; extend date of repeal to July 1, 2019. 3/16
(3/5) (READ THE THIRD TIME) (Transportation)
6. S. B. No. 2597: Commission on Marine Resources; revise authority relating to oyster aquaculture facility developments. 3/16
(READ THE THIRD TIME) (Marine Resources)
7. S. B. No. 2600: Commission on Marine Resources; remove requirement that waters of oyster reefs be tested within a certain period of time. 3/16
(READ THE THIRD TIME) (Marine Resources)
8. S. B. No. 2699: Derelict vessels on the coastal wetlands; revise procedure for the removal of. 3/16
(READ THE THIRD TIME) (AS AMENDED) (Marine Resources)
9. S. B. No. 2524: Charitable Bingo Law; revise compensation for bingo supervisors and alternate supervisors. 3/16
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Gaming)
10. S. B. No. 2126: Education Achievement Council; expand membership by adding MAICU Executive Director and MAP President. 3/16
(READ THE THIRD TIME) (Universities and Colleges)
11. S. B. No. 2366: Mississippi Telephone Solicitation Act; expand to include cellular telephones. 3/17
(READ THE THIRD TIME) (Public Utilities)
12. S. B. No. 2755: Excavation of underground utilities; provide exception for certain activity by government entities in rights-of-way. 3/17
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Public Utilities)
13. S. B. No. 2527: "Right to Try Act"; provide immunity for hospitals where investigational drug is used or purchased. 3/17
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Public Health and Human Services)
14. S. B. No. 2438: Local school superintendents; all appointed after January 1, 2019. 3/18
(READ THE THIRD TIME) (Education)
15. S. B. No. 2409: Mississippi Credit Availability Act; create. 3/21
(3/5) (READ THE THIRD TIME) (AS AMENDED) (Banking and Financial Services)

HOUSE CALENDAR FOR MARCH 24, 2016

Page 3

GENERAL CALENDAR Continued

16. S. B. No. 2664: Bail agents; create electronic bondsmen registry, bail bond database and revise qualification bond. 3/21
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Accountability, Efficiency, Transparency)
17. S. B. No. 2157: Literacy-Based Promotion Act; provide standards for individual reading plans and clarify assessments. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Education)
18. S. B. No. 2388: Reading intervention program at "C" level or low-performing school districts; direct State Department of Education to conduct. 3/22
(READ THE THIRD TIME) (Education)
19. S. B. No. 2313: Silencers on firearms; revise prohibition. 3/22
(READ THE THIRD TIME) (Wildlife, Fisheries and Parks)
20. S. B. No. 2515: Public records law; exempt certain hunting license record of the Department of Wildlife, Fisheries and Parks. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Wildlife, Fisheries and Parks)
21. S. B. No. 2468: Simple and aggravated assault; assault on member of military is aggravating circumstances for. 3/22
(READ THE THIRD TIME) (Military Affairs)
22. S. B. No. 2669: Mississippi Code of Military Justice; correct the reference to the United States Court of Appeals for the Armed Forces. 3/22
(READ THE THIRD TIME) (Military Affairs)
23. S. B. No. 2778: DUI Transparency Act; create. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Drug Policy)
24. S. B. No. 2169: Controlled substances; revise penalties. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Drug Policy)
25. S. B. No. 2661: Health care certificate of need review procedures; revise. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Public Health and Human Services) (Revenue and Expenditure General Bills)
26. S. B. No. 2179: Division of Child Protection Services; establish in DHS. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Public Health and Human Services) (Revenue and Expenditure General Bills)
27. S. B. No. 2238: Abortion services; prohibit Division of Medicaid from reimbursing Planned Parenthood Federation of America (PPFA). 3/22
(READ THE THIRD TIME) (AS AMENDED) (Medicaid) (Appropriations)
28. S. B. No. 2392: Starkville-Oktibbeha Consolidated School District and Mississippi State University; may operate model rural school. 3/22
(READ THE THIRD TIME) (Education) (Appropriations)

HOUSE CALENDAR FOR MARCH 24, 2016

Page 4

GENERAL CALENDAR Continued

29. S. B. No. 2495: School district administrative consolidation; require in Montgomery County and Winona Municipal Separate School District. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Education)
(Appropriations)
30. S. B. No. 2663: Bail agents; license may be denied upon conviction of certain crimes. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Accountability,
Efficiency, Transparency)
31. S. B. No. 2500: Lumberton Public School District; require abolition of through mutual agreement with immediately adjacent school districts. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Education)
(Appropriations)
32. S. B. No. 2501: Coahoma Agriculture High School; provide for closure and transfer of facilities, equipment and students. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Education)
33. S. B. No. 2111: State forfeited tax lands; authorize certification to Secretary of State electronically, allow sale by online auction. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Public Property) (Judiciary A)
34. S. B. No. 2463: Military justice; allow Adjutant General to designate facility upon sentence of confinement. 3/22
(READ THE THIRD TIME) (Military Affairs) (Judiciary A)
35. S. B. No. 2465: Military justice; revise maximum fine imposed by courts-martial. 3/22
(READ THE THIRD TIME) (Military Affairs) (Judiciary A)
36. S. B. No. 2032: Funeral escort vehicles; may be marked with purple lights when leading a military funeral procession. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Military Affairs) (Transportation)
37. S. B. No. 2237: Execution team, suppliers; identity confidential, confer immunity. 3/22
(READ THE THIRD TIME) (Judiciary B)
38. S. B. No. 2156: Human trafficking; clarify offenses against children. 3/22
(READ THE THIRD TIME) (Judiciary B)
39. S. B. No. 2660: Senior status judges; revise service qualification. 3/22
(READ THE THIRD TIME) (Judiciary A)
40. S. B. No. 2725: Real estate brokers/salespersons; require background investigations for licensure. 3/22
(3/5) (READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary A)

HOUSE CALENDAR FOR MARCH 24, 2016

Page 5

GENERAL CALENDAR Continued

41. S. B. No. 2306: Sanctuary cities; prohibit.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary A) 3/22
42. S. B. No. 2161: Mississippi Charter Schools Act of 2013; make technical
amendments relating to funding, enrollment and operation. 3/18
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Education)
43. S. B. No. 2815: Mobile ride hailing services; regulate and require licensing of.
(3/5) (READ THE THIRD TIME) (Transportation) 3/16
44. S. B. No. 2618: Out-of-state tuition waiver for veterans; shall not be given to
certain nonresident students at professional schools or colleges. 3/16
(READ THE THIRD TIME) (Universities and Colleges)
45. S. B. No. 2684: Election Commissioners; authorize to receive mileage
reimbursement. 3/17
(READ THE THIRD TIME) (Apportionment and Elections)
46. S. B. No. 2167: Qualifying fees; require independent candidates to pay and
(3/5) increase for party candidates. 3/17
(READ THE THIRD TIME) (Apportionment and Elections)
47. S. B. No. 2508: Physician's license to practice; filing with circuit clerk not
required. 3/17
(READ THE THIRD TIME) (Public Health and Human Services)
48. S. B. No. 2528: State Board of Barber Examiners; extend automatic repealer.
(READ THE THIRD TIME) (Public Health and Human Services) 3/17
49. S. B. No. 2625: Fingerprinting students in health care settings; clarify
authority of State Dept. of Health to require. 3/17
(READ THE THIRD TIME) (Public Health and Human Services)
50. S. B. No. 2484: State Board of Chiropractic Examiners; extend repealer.
(READ THE THIRD TIME) (Public Health and Human Services) 3/17
51. S. B. No. 2372: State agency leases; DFA to approve request for proposals before
advertisement. 3/17
(READ THE THIRD TIME) (Public Property) (Accountability,
Efficiency, Transparency)
52. S. B. No. 2081: Open Meetings Act; technical correction.
(READ THE THIRD TIME) (AS AMENDED) (Accountability,
Efficiency, Transparency) 3/17
53. S. B. No. 2123: MDOC; clarify type of contracts that must be approved by the
Public Procurement Review Board. 3/17
(READ THE THIRD TIME) (Accountability, Efficiency, Transparency)

HOUSE CALENDAR FOR MARCH 24, 2016

Page 6

GENERAL CALENDAR Continued

54. S. B. No. 2585: Architectural & engineering services contracts; clarify oversight authority by Department of Finance and Administration. 3/17
(Accountability, Efficiency, Transparency)
55. S. B. No. 2533: MS Open Records Act; revise time period for release of records containing trade secrets or confidential information. 3/17
(READ THE THIRD TIME) (Accountability, Efficiency, Transparency)
56. S. B. No. 2591: State agency purchasing agents; clarify who must attend purchasing certification program. 3/17
(READ THE THIRD TIME) (Accountability, Efficiency, Transparency)
57. S. B. No. 2791: Parole; revise offenders who may be eligible for. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Corrections)
58. S. B. No. 2064: Distance Learning Collaborative Act; establish grant program administered by Mississippi Department of Education. 3/22
(READ THE THIRD TIME) (Education)
59. S. B. No. 2160: Students who withdrew from school before graduation; authorize high school diploma for achieving reasonably comparable requirements. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Education)
60. S. B. No. 2678: School safety plan documents; exempt from Public Records Act. 3/22
(READ THE THIRD TIME) (Education)
61. S. B. No. 2777: Task Force; create for DUI modernization. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Drug Policy)
62. S. B. No. 2364: Juvenile Detention Facilities Licensing Act; create. 3/22
(READ THE THIRD TIME) (Judiciary A) (Appropriations)
63. S. B. No. 2158: Determination of cost of adequate education program; define student "average daily membership" (ADM) for purpose of formula. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Education) (Appropriations)
64. S. B. No. 2587: Municipal appointments; establish maximum period of time by which appointees may serve in interim capacity after expiration of term. 3/22
(READ THE THIRD TIME) (Municipalities)
65. S. B. No. 2603: Municipalities; may have three aldermen if population is 500 or less. 3/22
(READ THE THIRD TIME) (Municipalities)
66. S. B. No. 2799: Municipal naming rights; may be leased to private commercial entity. 3/22
(READ THE THIRD TIME) (Municipalities)

HOUSE CALENDAR FOR MARCH 24, 2016

Page 7

GENERAL CALENDAR Continued

67. S. B. No. 2629: Jackson State University property; may enter into long-term lease of for construction and renovation of student/faculty housing. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Public Property)
68. S. B. No. 2801: Former State Crime Lab; authorize DPS to lease to Hinds, Madison and/or Rankin Counties. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Public Property)
69. S. B. No. 2297: Freestanding emergency room facility; define and require license by State Department of Health. 3/22
(READ THE THIRD TIME) (Public Health and Human Services)
70. S. B. No. 2183: Unclaimed dead bodies; board of supervisors or the coroners shall direct burial or cremation of. 3/22
(READ THE THIRD TIME) (Public Health and Human Services)
71. S. B. No. 2070: Breast-Feeding in Mississippi; Guidelines; require accommodations by employers and facilities. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Public Health and Human Services)
72. S. B. No. 2198: Municipal annexation; must include certain number of persons residing in the area to be annexed. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (County Affairs)
73. S. B. No. 2571: State agencies; review contracts for procurement of supplemental insurance. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Accountability, Efficiency, Transparency) (Insurance)
74. S. B. No. 2593: MS Public Records Act; clarify when competitive sealed proposals must be produced. 3/22
(READ THE THIRD TIME) (Accountability, Efficiency, Transparency)
75. S. B. No. 2344: Writs of garnishment; limit liability of garnishee if garnishee is a financial institution. 3/22
(READ THE THIRD TIME) (AS AMENDED) (Banking and Financial Services)
76. S. B. No. 2346: Small loan licensee; revise the prohibition on giving a premium to prospective borrower as inducement to make a loan. 3/22
(READ THE THIRD TIME) (Banking and Financial Services)
77. S. B. No. 2349: Small loan licensees; may solicit and collect insurance premiums on noncredit insurance if certain conditions are met. 3/22
(READ THE THIRD TIME) (Banking and Financial Services)
78. S. B. No. 2520: Commissioner of Banking; may join an examination with the Federal Reserve Bank of certain bank holding companies. 3/22
(READ THE THIRD TIME) (Banking and Financial Services)

HOUSE CALENDAR FOR MARCH 24, 2016

Page 8

GENERAL CALENDAR Continued

79. S. B. No. 2374: Campaign Finance; revise provisions and create study committee.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Apportionment and Elections) 3/22
80. S. B. No. 2114: Uniform traffic ticket; clarify forms for various.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary B) 3/22
81. S. B. No. 2732: Fondling of a child under 16; technical correction to penalty.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary B) 3/22
82. S. B. No. 2762: HIV testing; clarify for those arrest for sex crimes against minors.
(READ THE THIRD TIME) (Judiciary B) 3/22
83. S. B. No. 2314: Office of State Public Defender; require AOC to furnish data.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary B) 3/22
84. S. B. No. 2211: Trust law; make technical corrections.
(READ THE THIRD TIME) (Judiciary A) 3/22
85. S. B. No. 2447: Charitable organizations; revise due date for registration
(3/5) renewal.
(READ THE THIRD TIME) (Judiciary A) 3/22
86. S. B. No. 2649: Secretary of State; process for appeal of any penalties imposed by.
(READ THE THIRD TIME) (Judiciary A) 3/22
87. S. B. No. 2493: Supporting and Strengthening Families Act; create.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary A) 3/22
88. S. B. No. 2418: Divorce; domestic violence as additional ground for.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary A) 3/22
89. S. B. No. 2119: Public Accountants; regulate and add reverse repealer.
(READ THE THIRD TIME) (AS AMENDED) (Strike-All) (Judiciary A) 3/22

LOCAL AND PRIVATE

1. H. B. No. 1582: Harrison County; revise definition of blighted property.
(COMMITTEE SUBSTITUTE) 3/16
2. H. B. No. 1592: Oktibbeha County; authorize contribution to a certain
(2/3) scholarship fund.
(COMMITTEE SUBSTITUTE) 3/16
3. H. B. No. 1605: Adams County; authorize to settle claims for obligations of
(3/5) former Natchez Regional Medical Center for unfunded employer
retirement plan contributions. 3/16

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LOCAL AND PRIVATE CALENDAR Continued

4. H. B. No. 1690: Sunflower County; authorize contribution to Fannie Lou Hamer
(2/3) Cancer Foundation. 3/16
(COMMITTEE SUBSTITUTE)
5. H. B. No. 1688: Town of Walnut Grove; authorize expansion of gas distribution
system into certain areas of Leake and Scott Counties. 3/16
6. H. B. No. 1608: Harrison County; authorize creation of Civil Service Commission
for sheriff's department. 3/16
7. H. B. No. 463: Town of Walnut; authorize expansion of natural gas system.
(Local and Private Legislation) (Public Utilities) 3/17
8. H. B. No. 1507: City of Brandon; authorize a tax on hotels and motels to fund
(3/5) amphitheater and other ancillary improvements. 3/23
(COMMITTEE SUBSTITUTE)
9. H. B. No. 1591: City of Vicksburg; authorize to contribute funds and in-kind
(2/3) services to Tate Cemetery. 3/23
10. H. B. No. 1600: Greene County; extend repeal date on assessments in justice
(3/5) court. 3/23
11. H. B. No. 1606: Jackson County; authorize to clean blighted property and assess
(3/5) cost of such as lien against property owner. 3/23
(COMMITTEE SUBSTITUTE)
12. H. B. No. 1703: Greene County; authorize to construct county jail anywhere in
county. 3/23
13. H. B. No. 1704: Lowndes County; authorize certain payment for removal of storm
debris. 3/23
14. H. B. No. 1723: City of Carthage; authorize a tax on hotels, motels and
(3/5) restaurants for recreation and tourism venues, parks and 3/23
recreational facilities.
(COMMITTEE SUBSTITUTE)
15. H. B. No. 1726: City of Brandon; extend repealer on tax on sales of prepared
(3/5) food and drink at restaurants and bars. 3/23
(COMMITTEE SUBSTITUTE)
16. H. B. No. 1734: Humphreys County; authorize to make contributions to Humphreys
(2/3) County Industrial Foundation. 3/23
17. H. B. No. 1735: Humphreys County; authorize to contribute funds to little league
(2/3) baseball teams within the county. 3/23
(COMMITTEE SUBSTITUTE)
18. H. B. No. 1744: Coahoma County; authorize to construct or acquire a county jail
anywhere in the county. 3/23

HOUSE CALENDAR FOR MARCH 24, 2016

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LOCAL AND PRIVATE CALENDAR Continued

19. H. B. No. 1750: City of West Point; remove repealer on authority to levy tax on
(3/5) hotels, motels and restaurants. 3/23
(COMMITTEE SUBSTITUTE)

WISE CARTER

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March 24, 2016

VIA HAND DELIVERY

Honorable Winston L. Kidd
407 East Pascagoula St.
Jackson, MS 39205

Re: *J.P. Hughes, Jr., Representative of MS District 12 v. MS State Representative
House Speaker Philip A. Gunn; In the Circuit Court of the First Judicial District
of Hinds County, Mississippi, Cause No. 16-198*

Dear Judge Kidd:

I have the honor to represent the Honorable Philip Gunn, Speaker of the Mississippi House of Representatives, in the above-referenced action.

I enclose herewith for the Court's convenience Speaker Gunn's motion to dissolve the temporary restraining order issued yesterday. The motion has been filed electronically. As explained by the Affidavit of the Clerk of the House attached to the motion as Exhibit 1, the work of the House has been substantially impeded by the entry of the temporary restraining order. Given the volume of business remaining to be done before the deadline for passing bills on March 30, 2016, this matter should be resolved before the hearing date presently set for March 28, 2016.

Rule 65(a) authorizes this Court to hear a motion to dissolve on shorter notice than two days, as the circumstances require here. We ask this Court to set the motion to dissolve for hearing today.

Because Representative Hughes does not receive electronic service from this Court, the motion is being served on him by hand with a copy of this letter.

We respectfully await the Court's instructions.

We thank the Court for its attention to this matter.

Sincerely,

WISE CARTER CHILD & CARAWAY

Michael B. Wallace
Michael B. Wallace

MBW/kp
Enclosure

cc: Hon. Philip Gunn (by hand delivery w/encl.)
Hon. J.P. Hughes, Jr. (by hand delivery w/encl.)

