



TN LSO Seeks Legal Research on Bond Requirement for Eviction Appeal

Available

Project Title

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Scope of Work

Timing

As Soon As Possible

Jurisdiction

TN, with comparison to other states

Contact Information

Please contact Guerby Noel (guerby@lawfirmantiracismalliance.org) if you are interested in taking on this matter.

Description

In Tennessee, when a tenant loses an eviction case in General Sessions court and wants to appeal to Circuit court (standard state trial court), they must post a bond in the amount of one year's rent to remain in their home during the litigation. T.C.A. § 29-18-130(b)(2). The landlord then has the option to post a bond of double that amount and force the tenant out as the case proceeds. TCA § 29-18-130(b)(1).

This requirement has a disparate impact on people of color, who are more likely to be renters, more likely to face eviction, and less likely to be able to afford the appeal bond.

TN LSO wants to argue that the appeal bond violates the Open Courts Clause of the TN

Constitution ("That all courts shall be open; and every man, for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay."). There are several related research questions they'd like answers to, including:

- (1) Have Tennessee courts fleshed out any particular test for whether a financial barrier violates the Open Courts Clause?
- (2) What support is there in Tennessee case law for the proposition that financial barriers akin to the appeal bond violate the Open Courts Clause? What authority is contrary to the proposition?
- (3) [This is the most important question] Tennessee courts have often looked to other state court interpretations of Open Courts Clauses in their constitutions for guidance on how to interpret our clause. Have other state courts fleshed out tests for financial barriers under their clauses? What support do they provide for the proposition? (Bonus points for cases from Kentucky or Pennsylvania, since those are apparently the most closely related to the Tennessee clause, historically).

Subtasks (0)