

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

DWIGHT J. MITCHELL, and SUN VALLEY HOME for the AGED,

Plaintiffs,

V.

WILSON TAYLOR, TOMMY P. THOMPSON, JR., MARY HOLDER, And GUARDIAN HOME CARE HOLDINGS, INC.,

Defendants.

NO. 3:13-cv-00569 Traugher/Griffin

Handwritten notes: OULDER, For the reasons stated and conditions noted in the original Order, this motion is DENIED without prejudice to renew.

MOTION TO DISMISS BY DEFENDANT TOMMY P. THOMPSON, JR.

The Court should dismiss this case because the one-year statute of limitations has run. While General Thompson denies any liability, all allegations against him occurred in 2007 and now are time-barred. Further this case should be dismissed under Fed. R. Civ. P. 12(6) based on the doctrine of qualified immunity. General Thompson's duty as District Attorney General was to provide for the safety of the public and to investigate all infractions of the law in his district, including neglect of vulnerable adults in a retirement home for the aged subject to the regulatory control of the Tennessee Department of Health. It was not clearly established in 2007 that a District Attorney General's reliance on the Department of Health's emergency suspension of the facility's license to house residents unconstitutionally deprived the plaintiff of his property. Allegations that General Thompson planted evidence of neglect in the facility for his own personal gain are purely conclusory, as well as offensive. To the extent that the Complaint

Handwritten signature and date: 2-25-14