

COMMONWEALTH OF KENTUCKY
HOPKINS COURT
CIVIL ACTION NO. 21-CI-_____

STATE OF KENTUCKY ex rel:

[REDACTED]
[REDACTED]
[REDACTED]

PETITIONER

V.

GOVERNOR OF KENTUCKY:
ANDY BESHEAR

Serve: Andy Beshear

700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601

RESPONDENT

VERIFIED PETITION FOR A WRIT OF MANDAMUS

[REDACTED]

Pro Se Petitioner

[REDACTED]

[REDACTED]

COMMONWEALTH OF KENTUCKY
HOPKINS COURT
CIVIL ACTION NO. __-CI-_____

STATE OF KENTUCKY ex rel:

████████████████████
████████████████████
████████████████████

PETITIONER

V.

GOVERNOR OF KENTUCKY:

ANDY BESHEAR

Serve: Andy Beshear

700 Capitol Avenue, Suite 100

Frankfort, Kentucky 40601

RESPONDENT

VERIFIED PETITION FOR A WRIT OF MANDAMUS

COMES NOW Pro se Petitioner Aaron Garrett, pursuant to K.Y. C.R. 81, hereby files this Verified Petition for Writ of Mandamus and in support thereof, Petitioner would show unto the Court the following:

PARTIES

1. The Petitioner, ██████████ is a citizen and taxpayer of the State of Kentucky.
2. The Respondent, Governor Andy Beshear, is the duly elected, qualified, and acting governor of the Commonwealth of Kentucky. Governor Beshear has sworn an oath to uphold and defend the Constitution of the United States of America and the Constitution of the Commonwealth of Kentucky. See Article 228 of Kentucky State Constitution and KRS 62.010.

JURISDICTION AND VENUE

3. This matter is a Verified Petition for a Writ of Mandamus pursuant to K.Y. C.R. 81, " Relief heretofore available by the remedies of mandamus, prohibition, scire facias, quo warranto, or of an information in the nature of a quo warranto, may be obtained by original action in the appropriate court."

4. Subject matter jurisdiction and venue are proper and are conveyed to this Honorable Court pursuant to K.Y. Statute 23A.010 (1), "the Circuit Court is a court of general jurisdiction; it has original jurisdiction of all justiciable causes not exclusively vested in some other court."

STATEMENT OF FACTS

5. Governor Beshear takes an oath that requires him to "support the Constitution of the United States and the Constitution of this Commonwealth and be faithful and true to the Commonwealth of Kentucky" pursuant to KRS 62.010.

6. The oath of office of a person elected or appointed to office pursuant to Section 228 and KSR 62.010 shall take and subscribe to the following oath:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability...according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God." See Exhibit 1

7. In his official capacity, Governor Beshear is enjoined to uphold and defend both the United States and Kentucky State Constitutions.

8. The Petitioner asks the Court to compel the Governor to uphold Section 1 and 26 of the Kentucky State Constitution and Amendment 14 of the U.S. constitution:

"Section 1 Rights of life, liberty, worship, pursuit of safety and happiness, free speech, acquiring and protecting property, peaceable assembly, redress of grievances, bearing arms. All men are, by nature, free and equal, and have certain inherent and inalienable rights, among which may be reckoned:

First: The right of enjoying and defending their lives and liberties. Second: The right of worshipping Almighty God according to the dictates of their consciences. Third: The right of seeking and pursuing their safety and happiness. Fourth: The right of freely communicating their thoughts and opinions. Fifth: The right of acquiring and protecting property. Sixth: The right of assembling together in a peaceable manner for their common good, and of applying to those invested with the power of government for redress of grievances or other proper purposes, by petition, address or remonstrance. Seventh: The right to bear arms in defense of themselves and of the State, subject to the power of the General Assembly to enact laws to prevent persons from carrying concealed weapons."

"Section 26 General Powers subordinate to Bill of Rights -- Laws contrary thereto are void. To guard against transgression of the high powers which we have delegated, We Declare that everything in this Bill of Rights is excepted out of the general powers of government, and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void."

Amendment 14 of U.S. Constitution states: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

9. Several federal and state entities, private and public, have been VIOLATING the civil liberties of citizens of Kentucky for a period that is too great to determine, yet extraordinary in the past 20 months, pursuant to Sections 1, 2, 4, 5, 26, 27 and 28 of the Kentucky State Constitution.

10. On or about the month of March 2020 extraordinary violations of civil liberties were observed under federal, state and local mandates, by various entities both federal and state such as the Kentucky Board of Education, forcing the citizens of Kentucky to participate in a health care treatment.

11. Citizens were required to wear alleged medical devices, provide DNA samples, test their temperature, receive vaccinations, contact tracing and other activities that would be considered health care services, as well as private and public databases being created and collecting health care data and / or health care information by way of compulsion.

12. Kentucky's State Constitution provides the people with dominion over any government authority, rule, law or mandate that violates the peoples' rights, including health and the freedom of choice and also clearly states any that violate said rights are VOID. Pursuant to Sections 4 and 26 of the Kentucky Constitution which state:

"Section 4: All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, happiness and the protection of property. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may deem proper."

"Section 26: To guard against transgression of the high powers which we have delegated, We Declare that everything in this Bill of Rights is excepted out of the general powers of

government, and shall forever remain inviolate; and all laws contrary thereto, or contrary to this Constitution, shall be void."

13. Any mandates (masks, vaccines, testing, etc.) and any lock downs imposed due to COVID-19 were unconstitutional and are, by definition, an example of arbitrary and absolute power. Absolute, according to the free dictionary online, is defined as "unconstrained by constitutional or other provisions: an absolute ruler" and arbitrary is defined as "not limited by law; despotic: the arbitrary rule of a dictator". Pursuant to Section 2 of the Kentucky Constitution that clearly states:

"Absolute and arbitrary power denied. Absolute and arbitrary power over the lives, liberty and property of freemen exists nowhere in a republic, not even in the largest majority."

14. Governor Beshear is operating outside of his executive branch in an attempt to "make law" by enforcing mandates through coercion against state funded private businesses and government departments, like the KBE and Health Department. The Executive Branch is not responsible for making laws, laws originate in the legislative branch. According the ky.gov "the purpose of the Legislature is to make the state's laws, to determine the duties and services of government, to provide for their execution, and to levy taxes and appropriate funds for the support of government operations." Any infringement on the rights of the people by means of mask or vaccine mandates, lockdowns, or restrictions are an expansion of the Governor's powers. No branch of government should exceed that of another and should only perform their respective duties. Pursuant to Sections 28 and 27 of the Kentucky State Constitution state:

"Section 28: No person or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted."

"The powers of the government of the Commonwealth of Kentucky shall be divided into three distinct departments, and each of them be confined to a separate body of magistracy, to wit: Those which are legislative, to one; those which are executive, to another; and those which are judicial, to another."

15. Governor Beshear declared a state of emergency after one positive COVID-19 test and has been hiding behind these emergency powers of the executive branch under the guise of a health and safety pandemic. Pursuant to sections 4 and 5 of Ky. Rev. Stat. § 39A.100 which states:

“(4) Nothing in this section shall be construed to allow any governmental entity to impose

additional restrictions on:

- (a) The lawful possession, transfer, sale, transport, carrying, storage, display, or use of firearms and ammunition or components of firearms and ammunition;
- (b) The right of the people to exercise free speech, freedom of the press, to petition their government for redress of injuries, or to peaceably assemble; or
- (c) The right of the people to worship, worship in-person, or to act or refuse to act in a manner motivated by a sincerely held religious belief

(5) Nothing in this section shall be construed to allow any governmental entity to impose restrictions on the right of the people to:

- (a) Peaceably assemble; or
- (b) Worship, worship in person, or to act or refuse to act in a manner motivated by a sincerely held religious belief”

Our rights afforded by our state Constitution supersedes any emergency declared by our Governor, especially for a virus that cannot be isolated. A request was made for documents showing isolation of the Covid19 virus and according to Kentucky’s Cabinet for Health and Family Services “the cabinet does not possess documents responsive to your request.” The cabinet kindly directed us to the CDC for more answers. According to the CDC, no such documents exist either. No virus, no reason to enact emergency powers that have been violating the rights of Kentuckians in the name of health and safety. See Exhibit 2

16. Actions taken by the Governor also imitate that of a medical physician and based on the Governors' credentials he is not educated, trained or licensed to practice medicine, which is in direct violation of K.Y. Gen. Stat. 311.560, Ky. Rev. Stat. § 304.40-320, and the Nuremberg Code (1,4,6):

K.Y. Gen. Stat. 311.560 states: "Prohibition against practice of medicine or osteopathy without license. (1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided."

Ky. Rev. Stat. § 304.40-320 states: "In any action brought for treating, examining, or operating on a claimant wherein the claimant's informed consent is an element, the claimant's informed consent shall be deemed to have been given where:

(1) The action of the health care provider in obtaining the consent of the patient or another person authorized to give consent for the patient was in accordance with the accepted standard of medical or dental practice among members of the profession with similar training and experience; and

(2) A reasonable individual, from the information provided by the health care provider under the circumstances, would have a general understanding of the procedure and medically or dentally acceptable alternative procedures or treatments and substantial risks and hazards inherent in the proposed treatment or procedures which are recognized among other health care providers who perform similar treatments or procedures;

(3) In an emergency situation where consent of the patient cannot reasonably be obtained before providing health care services, there is no requirement that a health care provider obtain a previous consent."

Nuremberg Code (1, 4, 6) states: "(1) The voluntary consent of the human subject is absolutely essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision. This latter element requires that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

(4) The experiment should be so conducted as to avoid all unnecessary physical and mental suffering and injury.

(6) The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be solved by the experiment." See Exhibit 3

17. The FDA defines a medical device as "an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including a component part or accessory which is: recognized in the official National Formulary, or the United States Pharmacopoeia, or any supplement to them, intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease, in man or other animals, or intended to affect the structure or any function of the body of man or other animals, and which does not achieve its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its primary intended purposes." Masks fall under the category of a medical device and should be treated as such, informed consent should be obtained and said information should come from those medical personnel trained specifically on the use of masks. Governor Beshear is not trained in the use of any medical device, like masks, and by mandating the use of said medical device, he and those agencies operating under his mandates failed to get informed consent and therefore, Governor Beshear is in direct violation of Ky. Rev. Stat. § 304.40-320 and K.Y. Gen. Stat. 311.560.

18. Restricting another's right to breathe, which a mask does, infringes on our most basic right which is the right to life and liberty. Moreover, no entity or governing body has the authority to restrict a person's right to breathe pursuant to Section 1, Bill of Rights, as well as Section 4 of Kentucky State Constitution which states:

"All power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, happiness and the protection of property. For the advancement of these ends, they have at all times an inalienable and indefeasible right to alter, reform or abolish their government in such manner as they may deem proper."

19. Masks have been proven ineffective in stopping the spread of viruses and the overall evidence is clear: according to Emily E. Sickbert-Bennett, PhD, MS, Infection Prevention Department, UNC Health Care "standard cloth and surgical masks offer next to no protection against virus-sized particles or small aerosols. According to Berenson's *Unreported Truths about Covid-19 and Lockdowns: Part 3: Masks* "the size of a virus particle is much too small to be stopped by a surgical mask, cloth or bandana. A single virion of SARS-CoV-2 is about 60-140 nanometers or 0.1 microns. The pore size in a surgical mask is 200-1000x that size." Consider that the CDC website states, "Surgical masks do not catch all harmful particles in smoke." And

that the size of smoke particles in a wildfire are ~0.5 microns which is 5x the size of the SARS-CoV-2 virus! Wearing a mask to prevent catching SARS-CoV-2, or similarly sized influenza, is highly ineffective and doesn't work. There is a large, randomized controlled trial that specifically examined whether masks protect their wearers from the coronavirus. This study, <https://www.acpjournals.org/doi/10.7326/M20-6817>, found mask wearing "did not reduce, at conventional levels of statistical significance, the incidence of Sars-Cov-2-infection." There have been hundreds of mask studies related to influenza transmission done over several decades. It is a well-established fact that masks do not stop viruses and another trial done on healthcare workers, www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/, explains that "part of that evidence shows that cloth facemasks actually increase influenza-linked illness." And according to Merriam-Webster, bacteria are 50x larger than virus particles. As such, virus particles can enter through the mask pores, yet bacteria remain trapped inside of the mask, resulting in the mask-wearer continually exposed to the bacteria. See Exhibit 4

20. Both directly and indirectly citizens of Kentucky were forced by federal and state as well as private and public entities to submit to these unconstitutional laws and mandates to enjoy liberties such as entering or enjoying access to public or private institutions such as venues, access to public transport, courthouses, schools, hospitals, and churches to name a few.

21. All such actions stated above are a clear, apparent violation of the aforementioned laws and statutes of the United States Constitution as well as the Kentucky State Constitution and should cease immediately.

WHEREFORE, as a result of the foregoing, Petitioner respectfully requests that proper process be issued and served on Respondent, requiring the Respondent to answer or otherwise respond in the time period allotted by law, and that this Honorable Court would award judgment in favor of Petitioner and against Respondent as follows:

A. Governor Beshear be compelled to uphold the Constitution of Kentucky that all elected officials have sworn to uphold and defend against all enemies, foreign and domestic.

B. Governor Beshear be compelled to charge the Attorney General with the duties vested in him to enforce and uphold the Constitution of the state of Kentucky by immediately ceasing any mandate or executive order that is in direct violation of the Constitution by any federal, state, or private entity within the jurisdiction and/or operating in the state of Kentucky by mandamus from this court.

C. For an award of attorney's fees and costs incurred as a result of this action.

D. That this Honorable Court "order a speedy hearing" of this declaratory judgment action as permitted by Fed. R. Civ. P. 57.

E. For any and all other relief to which the Petitioner is entitled.

RESPECTFULLY submitted this ____ day of _____, 2021.

