Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-1071-I

STUDENT DOE 1, INDIVIDUALLY, PROCEEDING UNDER PSEUDONYM, AND ON BEHALF OF SIMILARLY SITUATED CURRENT STUDENTS OF KENTUCKY STATE UNIVERSITY; STUDENT DOE 2, INDIVIDUALLY, PROCEEDING UNDER PSEUDONYM, AND ON BEHALF OF SIMILARLY SITUATED CURRENT STUDENTS OF KENTUCKY STATE UNIVERSITY; STUDENT DOE 3, INDIVIDUALLY, PROCEEDING UNDER PSEUDONYM, AND ON BEHALF OF SIMILARLY SITUATED CURRENT STUDENTS OF KENTUCKY STATE UNIVERSITY; STUDENT DOE 4, INDIVIDUALLY, PROCEEDING UNDER PSEUDONYM, AND ON BEHALF OF SIMILARLY SITUATED CURRENT STUDENTS OF KENTUCKY STATE UNIVERSITY; STUDENT DOE 5, INDIVIDUALLY, PROCEEDING UNDER PSEUDONYM, AND ON BEHALF OF SIMILARLY SITUATED CURRENT STUDENTS OF KENTUCKY STATE UNIVERSITY; STUDENT DOE 6, INDIVIDUALLY, PROCEEDING UNDER PSEUDONYM, AND ON BEHALF OF SIMILARLY SITUATED

MOVANTS

CURRENT STUDENTS OF
KENTUCKY STATE UNIVERSITY;
AND STUDENT DOE 7,
INDIVIDUALLY, PROCEEDING
UNDER PSEUDONYM, AND ON
BEHALF OF SIMILARLY SITUATED
CURRENT STUDENTS OF
KENTUCKY STATE UNIVERSITY

ON MOTION FOR INTERLOCUTORY RELIEF
v. ARISING FROM FRANKLIN CIRCUIT COURT
ACTION NO. 26-CI-00587

COMMONWEALTH OF KENTUCKY;
ANDY BESHEAR, IN HIS OFFICIAL
CAPACITY AS GOVERNOR OF THE
COMMONWEALTH OF KENTUCKY;
DR. AARON THOMPSON, IN HIS
OFFICIAL CAPACITY AS
PRESIDENT OF THE KENTUCKY
COUNCIL ON POSTSECONDARY
EDUCATION; DR. KOFFI C.
AKAKPO, IN HIS OFFICIAL
CAPACITY AS PRESIDENT OF
KENTUCKY STATE UNIVERSITY;
HOLLY M. JOHNSON, IN HER
OFFICIAL CAPACITY AS
SECRETARY OF THE KENTUCKY
FINANCE AND ADMINISTRATION
CABINET; KENTUCKY COUNCIL
ON POSTSECONDARY
EDUCATION; KENTUCKY
DEPARTMENT OF REVENUE;
KENTUCKY FINANCE AND
ADMINISTRATION CABINET;
KENTUCKY STATE UNIVERSITY,
BY AND THROUGH THE BOARD OF

REGENTS OF KENTUCKY STATE UNIVERSITY; MADISON SILVERT, IN HIS OFFICIAL CAPACITY AS CHAIR OF THE KENTUCKY COUNCIL ON POSTSECONDARY EDUCATION; TAMMI DUKES, IN HER OFFICIAL CAPACITY AS CHAIR OF THE KENTUCKY STATE UNIVERSITY BOARD OF REGENTS; AND THOMAS B. MILLER, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE KENTUCKY DEPARTMENT OF REVENUE RESPONDENTS

ORDER
DENYING EMERGENCY RELIEF

* * * * * *

On August 25, 2026, Movants filed an emergency motion pursuant to RAP[1] 20(D). Movants request an emergency order precluding Respondents from utilizing Senate Bill 185 ("SB 185") to cancel, deny, or remove any of the Movants from enrollment at Kentucky State University ("KSU") while this Court considers Movants' contemporaneous RAP 20(B) motion for relief from the Franklin Circuit Court's order denying their CR[2] 65.04 temporary injunction motion, and while the Franklin Circuit Court considers Movants' RAP 20(C)(1) motion.

[1] Kentucky Rules of Appellate Procedure.

[2] Kentucky Rules of Civil Procedure.

This action arises from Movants' challenge of the constitutionality of SB 185. On April 13, 2026, SB 185 was signed by the Governor, and was created for the purpose of transitioning KSU into a polytechnic school. Movants are current students at KSU that allege to be adversely impacted by SB 185. Movants previously filed motions for relief pursuant to RAP 20(B) and 20(D) on July 6, 2026. This Court denied those motions, finding, in part, that Movants could not show irreparable harm. Movants then sought review of this Court's August 21, 2026, order denying the RAP 20(B) motion before the Kentucky Supreme Court. The Supreme Court declined to grant review by order on August 25, 2026.

On August 24, 2026, the Franklin Circuit Court issued an order dismissing Movants' action by summary judgment. As the underlying action was dismissed, the circuit court also denied a renewed "new-facts emergency" CR 65.04 motion for a temporary injunction as moot. Movants base this new RAP 20(B) motion on the denial of the renewed motion for temporary injunction.

RAP 20(B) allows a party adversely affected by a temporary injunction order to move for relief with this Court. A temporary injunction may be granted during the pendency of an action. CR 65.04. "A temporary injunction generally functions to hold the status quo until the merits of an action can be decided. Although the circuit court may grant a temporary injunction, it is only empowered to do so during the pendency of the action." *Chesley v. Abbott,* 503

S.W.3d 148, 153 (Ky. 2016). The dismissal of the entire action means that the circuit court action is no longer pending. Thus, relief cannot be granted in the form of a temporary injunction.

Movants' own motion acknowledges that RAP 20(B) is wholly inapplicable *sub judice* and, thus, also relies on RAP 20(C), which contains the procedure to seek relief from a final order granting or denying a permanent injunction. Movants specifically state:

> Appellants/Movants have also sought relief in the Franklin Circuit Court under RAP 20(C)(1), requesting injunctive protection during the final-judgment appeal. As of the filing of this combined submission, the circuit court has not yet ruled on that request. Appellants/ Movants disclose that posture because RAP 20(C) ordinarily contemplates a ruling below before relief is sought under RAP 20(C)(2). The absence of a ruling, however, does not suspend the academic calendar, restore a canceled housing assignment, reopen a closed registration period, return a student to a course platform, or preserve an in-person degree sequence. It also does not usurp this Court's Rules that require a RAP 20(D) to be filed after the denial of a request for injunctive relief. It therefore intensifies the need for immediate, limited relief under RAP 20(D) while the Court considers the protective RAP 20(B) motion and while the RAP 20(C)(1) request remains undecided.

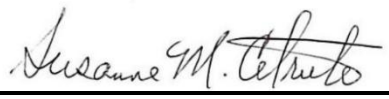
Even if this Court assumes that a permanent injunction was denied by the circuit court, a RAP 20(C)(1) motion for a stay must be ruled on by the circuit court before relief can be sought before this Court. *See* RAP 20(C)(2). Movants have filed a RAP 20(C)(1) motion to stay with the circuit court that has not yet been

ruled upon.

A RAP 20(D) emergency motion requires that there be a properly pending RAP 20(B) or 20(C) motion before this Court. Therefore, Movants' motion for emergency relief must be denied because there is no temporary injunction, nor has the circuit court ruled on the RAP 20(C)(1) motion.

WHEREFORE, the Court having reviewed the record, and being otherwise sufficiently advised, it is ORDERED that the motion for emergency relief shall be, and is hereby, DENIED. The motion for interlocutory relief shall come before a three-Judge panel of this Court following the response time provided in the RAPs. This Order shall not be reconsidered. The Clerk of Court SHALL EMAIL a copy of this Order to counsel of record forthwith in addition to conventional service.

ENTERED: August 26, 2026



HON. SUSANNE M. CETRULO
JUDGE, COURT OF APPEALS