Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-0906-OA

A.A. AND F.F. PETITIONERS

v. AN ORIGINAL ACTION
ARISING FROM JEFFERSON FAMILY COURT
ACTION NO. 24-AD-500127

JUDGE LAUREN ADAMS OGDEN RESPONDENT

AND

UNNAMED BIRTH FATHER, NOW
KNOWN AS D.Y.; R.W.; AND
BABY BOY W., AN INFANT CHILD
UNDER 14 YEARS OF AGE REAL PARTIES IN INTEREST

AND

NO. 2026-CA-0940-ME

A.Z.A. AND F.S.F. APPELLANTS

v. APPEAL FROM JEFFERSON FAMILY COURT
HONORABLE LAUREN ADAMS OGDEN, JUDGE
ACTION NO. 24-AD-500127

R.W.; D.Y.; AND
A.A.A., A MINOR CHILD APPELLEES

ORDER
DENYING PETITION FOR A WRIT OF
MANDAMUS AND/OR PROHIBITION AND
GRANTING MOTION FOR INTERMEDIATE RELIEF

** ** ** ** **

BEFORE: ACREE, CALDWELL, AND L. JONES, JUDGES.

Petitioners, A.A. and F.F., filed an original action, Case No. 2026-CA-0906-OA, pursuant to RAP[1] 60, seeking a writ of mandamus and/or prohibition. Thereafter, Petitioners directly appealed from the same civil action, initiating Case No. 2026-CA-0940-ME. Therein, they filed a "Motion to Consolidate Matters and Extend Order of Emergency Relief." The Court interprets this as a motion for intermediate relief pursuant to RAP 21.

I. BACKGROUND

The underlying case is an adoption case. A.A.A. is a minor child who has lived with Petitioners since his birth in April 2024. It is undisputed that Petitioners have cared for, and had custody of the child for his entire life. Four days after A.A.A.'s birth, Real Party in Interest, D.Y., affixed his name to the birth

[1] Kentucky Rules of Appellate Procedure.

certificate as the father. He has claimed that, at the time, the child's mother, Real Party in Interest, R.W., informed him the child had died. In May 2024, Petitioners filed a petition to adopt A.A.A. The record is unclear how D.Y. learned the child was living, but in June 2024, he filed a custody action, which was dismissed with prejudice on the grounds that D.Y had not established paternity, and Petitioners had temporary custody through the adoption action. They included the adoption case number in the filing.

On November 26, 2024, the family court entered findings of fact and conclusions of law, and a judgment of adoption, which made Petitioners the legal parents of A.A.A.

In April 2025, D.Y. apparently intervened, and filed a CR[2] 60.02 motion in the adoption case, requesting to set aside the judgment of adoption, or to order paternity testing. It appears the family court scheduled a hearing on August 4, 2025, to determine whether to order paternity testing. Paternity test results confirmed D.Y. to be A.A.A.'s biological father in September 2025, and he filed a second CR 60.02 motion on October 27, 2025. It does not appear from the limited record available that any event occurred in the case until a case management conference on December 9, 2025.

[2] Kentucky Rules of Civil Procedure.

D.Y. then filed a motion for default judgment or directed verdict to be heard January 5, 2026, on the grounds that Petitioners were unnecessarily stalling, and D.Y. lacked access to A.A.A. It appears that the next event was a case management conference on April 15, 2026. Without having an evidentiary hearing, the family court then entered an order on May 5, 2026, which stated that "[i]t seems impossible for [Petitioners] to produce evidence at trial that would warrant a judgment in their favor," and ordered:

> 1. The Motion for Directed Verdict filed by Respondent Father, [D.Y.], is hereby granted as a Summary Judgment pursuant to CR 56.
>
> 2. The "Order and Judgment of Adoption" of November 22, 2024, is hereby set aside and held for naught.
>
> 3. The child shall be transferred into the care and custody of his biological father, [D.Y.], within ten (10) days of this Order.
>
> 4. This is a final and appealable Order, and there is no just cause for delay in its entry.

Petitioners timely filed a motion to alter, amend, or vacate the May 5, 2026, order, pursuant to CR 59.05. The family court denied the motion on July 1, 2026. Petitioners filed the original action on July 22, 2026, and moved the Court for emergency relief pursuant to RAP 60(H). The Court granted the request for emergency relief ("Emergency Order"). Then Petitioners filed a direct appeal on July 29, 2026.

II. ANALYSIS

As a preliminary matter, Petitioners have moved to consolidate the direct appeal and the original action. As further explained below, the request is moot because they do not meet the standard for extraordinary relief, and the Court denies the petition for a writ.

In the direct appeal Petitioners have moved for intermediate relief pursuant to RAP 21. The Court grants the request. A party moving for relief pursuant to RAP 21 must show that, absent intermediate relief, "the movant will suffer immediate and irreparable injury before final disposition of the appeal." RAP 21(A)(1). This standard is identical to that considered by the Court in its July 30, 2026, Emergency Order granting relief in the original action. The operative facts of the direct appeal are no different than those of the original action. Therefore, the Emergency Order is incorporated by reference as if its terms are fully stated herein.

Finally, the Petitioners have petitioned for a writ of mandamus and/or prohibition. The Court denies the petition. It is well established in Kentucky that a writ of prohibition or mandamus is an extraordinary remedy and may only be granted

> upon a showing that (1) the lower court is proceeding or is about to proceed outside of its jurisdiction and there is no remedy through an application to an intermediate court; or (2) that the lower court is acting or is about to

> act erroneously, although within its jurisdiction, and there exists no adequate remedy by appeal or otherwise and great injustice and irreparable injury will result if the petition is not granted.

Hoskins v. Maricle, 150 S.W.3d 1, 10 (Ky. 2004). "Lack of an adequate remedy by appeal is an absolute prerequisite to the issuance of a writ under this second category." *Independent Order of Foresters v. Chauvin*, 175 S.W.3d 610, 615 (Ky. 2005) (citations omitted). "No adequate remedy by appeal or otherwise means that the injury to be suffered [] could not therefore be rectified in subsequent proceedings in the case." *Ridgeway Nursing & Rehab. Facility, LLC v. Lane*, 415 S.W.3d 635, 640 (Ky. 2013) (internal quotation marks and citations omitted). Further, "the extraordinary writs are no substitute for the ordinary appellate process, and the interference with the lower courts required by such a remedy is to be avoided whenever possible." *Lee v. George*, 369 S.W.3d 29, 34 (Ky. 2012).

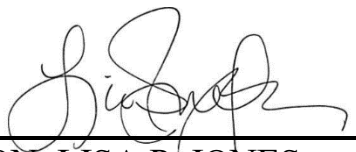
In the case *sub judice*, Petitioners have an adequate remedy by appeal, which they have exercised. *See* Case No. 2026-CA-0940-ME. Accordingly, they do not meet the standard for extraordinary relief, and are not entitled to a writ of mandamus and/or prohibition.

III. CONCLUSION

Having reviewed the record and being otherwise sufficiently advised, IT IS ORDERED that the petition for a writ of mandamus or prohibition shall be, and hereby is, DENIED. Petitioners' motion to consolidate shall be, and hereby is,

DENIED. Finally, Petitioners' motion for intermediate relief shall be, and hereby is, GRANTED, for the same reasons set for in the Emergency Order. A.A.A. SHALL REMAIN in the custody of Petitioners pending a resolution of the direct appeal.

ENTERED: November 16, 2026



HON. LISA P. JONES
JUDGE, COURT OF APPEALS