

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-1128-OA

C.Y. AND L.L.

PETITIONERS

AN ORIGINAL ACTION
v. ARISING FROM JEFFERSON CIRCUIT COURT
ACTION NO. 25-J-504814-001

HONORABLE ANGELA JOHNSON

RESPONDENT

AND

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES; JEFFERSON COUNTY
ATTORNEY; T.R., A MINOR CHILD;
AND M.R.

REAL PARTIES IN INTEREST

ORDER
DENYING EMERGENCY RELIEF

** ** *

On September 4, 2026, Petitioners, C.Y. and L.L (the Foster Parents), filed the above-styled original action pursuant to RAP¹ 60 along with a motion for emergency relief pursuant to RAP 60(H). Specifically, the Foster Parents ask this Court “for entry of an order prohibiting the reunification of the minor child, T.R.[,] with natural mother, while this Court considers [the Foster Parents’] contemporaneously filed Petition for a Writ of Mandamus and Prohibition.” For the following reasons, the motion for emergency relief is DENIED.

There are several procedural motions which must be addressed before the Court can address the merits of the emergency motion. First, the Foster Parents have filed motions for leave to file a reply to the responses to their emergency motion and to the responses to the petition for a writ. Said motions are DENIED; the RAPs do not allow for replies. Second, the Foster Parents have also filed a motion for leave to file notice of supplemental developments in the lower court. This motion is DENIED. Third, the child’s guardian *ad litem* (GAL) filed a motion requesting that the case be sealed. Said motion is DENIED; a confidentiality order was entered herein on September 8, 2026. The Court reiterates that anyone who violates the confidentiality order may be subject to sanctions and/or contempt proceedings. Finally, the Attorney General has moved for leave to file an *amicus curiae* brief as the Commonwealth’s “chief law officer”

¹ Kentucky Rules of Appellate Procedure.

pursuant to KRS² 15.020(1). This motion is also DENIED. The Commonwealth's interests are adequately represented in this matter by both the Cabinet for Health and Family Services and the Jefferson County Attorney's office. KRS 15.020(3). These executive offices have been involved in the underlying case from its inception and have first-hand knowledge of the facts giving rise to the issues presented to the Court.

I. BACKGROUND

The underlying case is a dependency, neglect, and abuse (DNA) action. Judge Johnson's response to the Foster Parents' motion for emergency relief sets forth the facts giving rise to the DNA action:

T.R.'s mother had a difficult journey from Guatemala to the United States. She speaks no English or Spanish, only a Mayan dialect called K'iché.^[3] K'iché is rare enough that popular translation platforms like Google Translate do not provide language services. En route to the United States, she was sexually assaulted, resulting in a pregnancy. Upon arriving in this country, she carried the pregnancy to term. This Trial Court does not know if her choice was made of her own moral convictions, the fact that she came to a region in which access to some reproductive healthcare services is limited, or if her inability to speak a common language prevented her from seeking out services.

She gave birth to T.R. alone, in a bathroom, at nineteen (19) years old. After delivering T.R., she reportedly cut the umbilical cord herself. T.R. apparently

² Kentucky Revised Statutes.

³ The family court found that K'iché and Spanish are not linguistically similar.

suffered “superficial” lacerations at this point. The natural mother took the baby to a hospital. Justifiably, the hospital had concerns about child abuse. T.R.’s mother was subsequently arrested, and the child was taken into [the Cabinet’s] custody. For the next year, T.R.’s mother awaited trial in custody. For a year, T.R. remained in the care of C.Y. and L.L. Ultimately in this action the natural mother stipulated to dependency. In stipulating dependency, natural mother acknowledged that, through no fault of her own, she was unable to meet T.R.’s needs.

The information regarding the natural mother’s situation in giving birth were seemingly not reported to the media. T.R.’s mother was raped. She arrived in a land where few, if any[,] people speak her language. She gave birth alone, not in a hospital. She took her newborn baby to a hospital where staff put her in an even more vulnerable position. She was jailed for a full year under suspicion of a crime (attempted murder) which the Commonwealth did not pursue, and natural mother is now being sent back to where she started. The only choice T.R.’s mother made with which the Court can definitively find any fault is her decision to enter the United States undocumented. It is not apparent from this record or what the Court can gather from the criminal proceedings that natural mother abused or neglected the child. Moreover, she has been in custody and now federal [Immigration and Customs Enforcement (ICE)] custody, which means she was never given the opportunity to work any case plan.

To this Court’s knowledge, Mother is currently in ICE custody in Louisiana and could be placed on a plane to Guatemala any day now. Based on this Court’s review of the August 18 and August 25, 2026, hearings, it appears that the only reason Mother’s deportation has been delayed is that she can be reunified with her

child. ICE has cooperated with this effort at reunification, but time is of the essence.

Procedurally, the family court made a statutory disposition on June 23, 2026, and it appears the child was committed to the Cabinet, and a review was scheduled for August 18, 2026. The Foster Parents maintain that they were informed that the August 18 review hearing had been rescheduled for a date in September. However, at the review hearing on August 18, 2026, Mother orally moved for the return of the child to her custody. The guardian *ad litem* (GAL) supported Mother's motion and the Cabinet objected. The family court issued an order that same day vacating the prior order committing the child to the Cabinet and giving temporary custody of the child to the Cabinet until the transfer to Mother could occur. In response to the emergency motion, the GAL stated that C.Y. sent an email to the GAL on August 19, 2026, acknowledging that the Foster Parents had received notice that day that the child would be returned to Mother.

This case was again before the family court on August 25, 2026, to discuss the logistics of the exchange. An ICE agent attended the hearing and stated on the record that ICE could not keep Mother in custody in perpetuity. The ICE agent could not provide a firm date for an exchange because he was awaiting the necessary documents so he could request that the child leave the United States with Mother. It was clear that once the ICE agent received the requisite paperwork, the

exchange would take place within a matter of days. Notably, one of the Foster Parents, C.Y., was present with counsel at this hearing, and he was given the opportunity to address the family court. Again, an order was entered that same day, specifying how to effectuate the exchange of the child and transferring custody to Mother effective the date of the exchange. On August 31, 2026, the Cabinet moved for written findings supporting the family court's prior August orders. The motion was granted on September 1, 2026, and the family court entered findings of fact.

The Foster Parents state that they were verbally informed on September 2, 2026, that they would be required to exchange the child on September 7, 2026. Soon thereafter, they filed a motion to intervene and a motion to stay enforcement of the August 18 and 25 orders. The case was before the family court on September 4, 2026, regarding the Foster Parents' motions. The family court did not rule on the motions that day; however, a hearing was scheduled for September 8, 2026.

This original action and the attendant emergency motion were filed at 4:10 p.m. on Friday, September 4, 2026, three days before Mother and the child were supposed to be reunified. This Court issued a status quo and scheduling order the same day.⁴ Also, on September 4, 2026, the Foster Parents filed a second DNA

⁴ The Foster Parents' motion for leave to file notice of supplemental developments states that the

petition; there were no new allegations of abuse.⁵ Rather, the alleged harm in the petition is the Foster Parents' lack of knowledge concerning the child once she is reunified with Mother.

The family court proceeded with the scheduled hearing on September 8, 2026, regarding the Foster Parents' motion to intervene, and the family court entered an order, consisting of three pages, denying their motion. It now appears the Foster Parents have filed a motion for additional findings in the family court pursuant to CR⁶ 52.02.

The Foster Parents' motion for emergency relief has now been fully briefed and is before the Court for a determination on the merits.

II. ANALYSIS

The only issue presently before this Court is whether the Foster Parents are entitled to emergency relief pursuant to RAP 60(H). RAP 60(H)(1) states:

If any party requires relief prior to a ruling on the petition [for a writ], the party may, upon a showing that

purpose of this Court's status quo order "was to allow time for the [Foster Parents] to receive a final order from the Jefferson County Family Court" as to the motion to intervene. However, this is not stated anywhere in the order. The order, issued by the undersigned, was designed to preserve the status quo while the other parties were afforded the opportunity to respond to the emergency motion.

⁵ The Court may take judicial notice of these filings. *Polley v. Allen*, 132 S.W.3d 223, 226 (Ky. App. 2004).

⁶ Kentucky Rules of Civil Procedure.

immediate and irreparable harm will occur, move in conformity with RAP 7 for a temporary order in the court in which the original action is filed.

In the context of an original action, “irreparable injury” is defined as “incalculable damage to the applicant . . . either to the liberty of his person, or to his property rights, or other far-reaching and conjectural consequences.” *Hoskins v. Maricle*, 150 S.W.3d 1, 19 (Ky. 2004) (internal quotation marks and citation omitted). The injury must be “something of a ruinous nature.” *Robertson v. Burdette*, 397 S.W.3d 886, 891 (Ky. 2013). In the present matter, this onerous burden has not been met.

The Foster Parents argue that they will be irreparably harmed if the child is transferred to Mother because “[o]nce that occurs, the existing status quo cannot later be restored for purposes of permitting Petitioners to litigate intervention before the transfer.” However, the Foster Parents have not cited any precedent stating that they are entitled to maintain the status quo while they litigate intervention, especially considering this case is post-disposition. *See* KRS 620.140.

The rights and responsibilities of foster parents are set forth in KRS 620.360. Relevantly, they have a right

[t]o receive notice of, have a right to attend, and have a right to be heard in, **either verbally or in writing**, any cabinet or court proceeding held with respect to the child currently placed in their care, provided the cabinet has no

concerns related to maltreatment of the child while in the foster parent's care. The notice required by this paragraph shall be provided to the foster parent by an attorney for the Cabinet for Health and Family Services. **This paragraph shall not be construed to require that a foster parent caring for the child be made a party to a proceeding solely on the basis of the notice and rights to attend and be heard.**

KRS 620.360(1)(r) (emphasis added). And, KRS 620.365(1) requires the Cabinet to give foster parents notice ten days prior to a new placement of the child. Neither of these statutes confers standing upon the Foster Parents as a party.

The Foster Parents have no custodial interest in this child -- unlike the custodians discussed in *H.H. v. T.D.*, No. 2023-CA-0252-ME, 2023 WL 7393053 (Ky. App. Nov. 9, 2023), the unpublished case relied upon by the Foster Parents. The family court has **never** given the Foster Parents **custody** of this child, and the statutes do not give any foster parent a custodial interest in the children under their care. *See generally T.C. v. Cabinet for Health & Fam. Servs.*, 652 S.W.3d 670, 676 (Ky. App. 2022) (holding that foster parents qualified as neither de facto custodians nor “persons acting as parents” pursuant to statute and noting that an award of temporary custody to the foster parents was not a permissible dispositional alternative under KRS 620.140; “[a]s such, . . . the family court’s order awarding temporary custody to the foster parents [in DNA action] must be reversed.”). Now, the Foster Parents are apparently trying to manufacture standing by filing a new DNA petition where the only alleged harm is that they have not

been provided information regarding the ongoing care of this child post-disposition. *Cf. G.M.A. v. Commonwealth*, 689 S.W.3d 142, 146-47 (Ky. App. 2024) (holding that grandparent custodians of child were entitled to party-plaintiff status following their filing of dependency, neglect, or abuse petition). Although the Court acknowledges the Foster Parents' concern for the child's well-being, they are not legally entitled to this information. KRS 620.360.

Moreover, the Foster Parents' argument that the status quo needs to be preserved so they have an opportunity to be heard is unavailing. In denying the motions for intervention, the family court found that the Foster Parents were informed as early as June 23, 2026, that the child would be reunified with Mother. The limited record available to the Court shows that the Foster Parents were aware of the family court's decision to reunify this family at the very least by August 19, 2026, and that at least one of them appeared on August 25, 2026, and gave a statement to the family court. Thus, the Foster Parents have been heard in accordance with KRS 620.360(1)(r) and have had weeks, if not months, to file a motion to intervene. They failed to act until a reunification date was set.

III. CONCLUSION

The facts giving rise to the underlying DNA action are not only tragic, but they have been misrepresented and distorted by unwarranted publication in social media or otherwise. As carefully set forth in the well reasoned Order of

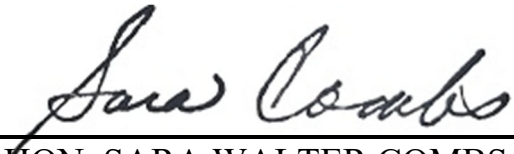
Judge Johnson, Mother has suffered hardship, prosecution, incarceration, and the deprivation of the custody of her newborn infant for more than a year. She was charged with the most heinous abuse when in fact she was merely attempting to seek medical help following delivery of this child. Due to her total inability to communicate at that time, she was criminally prosecuted, jailed, and separated from her child. The family court meticulously sorted out the truth of her trauma and correctly determined that reunification with her child was at last to occur when once again it was unjustifiably frustrated and delayed.

Now, the intolerable reality is that if Mother leaves the United States without her child, as a practical matter, there is little to no chance that this family will have an opportunity for reunification. The Court will not allow the Foster Parents to frustrate the family's reunification when they lack standing; have never had legal custody of the child; and were given notice and opportunity to be heard before the family court.

WHEREFORE, having reviewed the motion for emergency relief and the responses thereto, and being otherwise sufficiently advised, the Court DENIES the Foster Parents' motion for emergency relief. The petition for a writ of

prohibition and mandamus shall be assigned to a three-Judge panel of this Court following expiration of the response time provided in RAP 60.

ENTERED: 09/09/2026


HON. SARA WALTER COMBS
JUDGE, COURT OF APPEALS