Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-1143-OA

K.P. PETITIONER

AN ORIGINAL ACTION
v. ARISING FROM CAMPBELL CIRCUIT COURT
ACTION NO. 26-J-00262-001

HONORABLE ABIGAIL E. VOELKER RESPONDENT

AND

J.C.-C. AND G.C. REAL PARTIES IN INTEREST

ORDER
DENYING

** ** ** ** **

This action is before the Court on the second motion of Petitioner, K.P., for emergency relief pursuant to RAP[1] 60(H).

In an order entered on October 14, 2026, the Court granted Petitioner's request to stay the underlying dependency, neglect, and abuse ("DNA") proceedings. The Court explicitly stated that Petitioner's "request that the Court modify custody of the child . . . is DENIED." Therefore, Petitioner's second motion for RAP 60(H) relief is essentially a motion to reconsider the

[1] Kentucky Rules of Appellate Procedure.

portion of the Court's October 14, 2026, order denying her request to modify custody.

Petitioner's custodial rights, including whether or not she has any entitlement to visitation with the child, are not appropriately before the Court. This Court is a court of review, and generally, "a trial court must be given an opportunity to rule on a claim before it can be addressed by an appellate court." *Brooks v. Byrd*, 487 S.W.3d 913, 919 (Ky. App. 2016). While Petitioner attempted to file a motions relating to custody and visitation in the family court, they were not filed as motions because the family court did not give Petitioner party status. Whether the family court erred in that decision goes to the merits of the petition and is better suited for a three-Judge panel of the Court. At present, it would be premature for the Court to address Petitioner's claims regarding visitation.

For the foregoing reasons, the Court ORDERS that Petitioner's motion be, and is hereby, DENIED. The petition for a writ of mandamus and all other pending motions shall be assigned to a three-judge panel of this Court in the ordinary course.

ENTERED: 11/2/2026

HON. JACQUELINE M. CALDWELL
JUDGE, COURT OF APPEALS