Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-1235-MR

ERIC M. JOHNSON — APPELLANT

v.

APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE JULIE KAELIN, JUDGE
ACTION NO. 26-CI-001016

JPMORGAN CHASE BANK, N.A. — APPELLEE

ORDER

* * * * * *

This action is before the Court on Appellant's motion for intermediate relief pursuant to Kentucky Rule of Appellate Procedure (RAP) 21.[1]

The underlying case is a credit card debt action. On August 24, 2026, the circuit court entered an order granting summary judgment in favor of Appellee. On August 31, 2026, Appellant filed a motion to alter, amend, or vacate pursuant to Kentucky Rule of Civil Procedure (CR) 59.05. The CR 59.05 motion alleged that Appellee presented the circuit court with an agreement that was not controlling. On September 16, 2026, the circuit court ordered Appellee to file a

[1] Appellant's motion states that it was made pursuant to RAP 63 and Kentucky Rule of Civil Procedure 62.01; however, it is titled as a motion for a stay pending appeal, which is controlled by RAP 21.

response to the CR 59.05 motion within ten days. Based on the limited record available to this Court, no response was filed. However, prior to the expiration of the ten days to respond, Appellant filed a notice of appeal on September 22, 2026. On October 5, 2026, the circuit court entered an order denying the CR 59.05 motion, ruling that the arguments presented by Appellant were previously decided by the circuit court. On October 6, 2026, Appellee filed a notice of judgment lien on property that Appellant co-owns.

On October 9, 2026, Appellant filed a motion for RAP 21 relief with this Court, seeking a stay of further proceedings while the appeal is pending. Appellant also asks this Court to set a nominal bond of $5 to effectuate the stay. No response was filed.

A person 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). Appellant argues that he will be irreparably harmed due to his sole source of income being Social Security Disability benefits. He argues that allowing further proceedings to enforce the judgment exposes him to risks of his benefits being frozen. However, "mere injuries, however substantial, in terms of money, time and energy necessarily expended in the absence of a stay, are not enough." *Norsworthy v. Kentucky Bd. of Med. Licensure,* 330 S.W.3d 58, 62 (Ky. 2009). Appellant's claimed financial

harm is not enough to show irreparable harm that is required for RAP 21 relief. Further, there is no immediate harm because a separate proceeding would have to take place to enforce the debt judgment before any collections could be made against Appellant's property.

Appellant also argues in his motion that the circuit court lost jurisdiction to rule on the CR 59.05 motion when he filed the notice of appeal. A circuit court retains jurisdiction to amend, alter, or vacate its own judgment when a timely CR 59.05 motion is filed. *Gullion v. Gullion*, 163 S.W.3d 888, 891 (Ky. 2005). Procedurally, a circuit court must rule on a pending CR 59.05 motion in order for a judgment to attain finality. *Id*. Therefore, Appellant's notice of appeal was premature until the CR 59.05 motion was ruled on, and the circuit court has jurisdiction to rule on the motion.

As for Appellant's argument for this Court to set a nominal bond, this Court is without authority to do so. RAP 63(B)(1) states that "[w]henever an appellant entitled to a stay desires a stay on appeal of a judgment other than a judgment granting a permanent injunction, the appellant may present **to the trial court clerk or the trial court** for approval an executed supersedeas bond with good and sufficient surety." (emphasis added). A trial court, in this case the circuit court, has the authority to determine the sufficiency of the bond "upon motion and hearing." RAP 63(C)(1). This Court is limited in the relief it can give

regarding a supersedeas bond. "As an appellate court, we lack authority to approve them, and are limited to granting leave to file a bond in the circumstances described [RAP 63] or to review the sufficiency of supersedeas bonds already filed in a pending appeal." *Strunk v. Lawson*, 447 S.W.3d 641, 652 (Ky. App. 2013) (internal quotation marks and citation omitted). A bond to stay further proceedings must be set by the circuit court.

Appellant has failed to meet the legal definition of irreparable harm and is not entitled to the relief sought from this Court. Appellant's remedy to stay further proceedings based on the monetary judgment is posting a supersedeas bond with the circuit court. Additionally, Appellant has a remedy to challenge the underlying order by way of his September 22, 2026, notice of appeal. Since Appellant has remedies, there is no irreparable harm.

Having reviewed the limited record and being otherwise sufficiently advised, the Court ORDERS that Appellant's motion for RAP 21 relief be, and is hereby, DENIED. Appellant is reminded there is no reconsideration of "orders granting or denying relief under" RAP 21. RAP 43(D)(5).

ENTERED: October 21, 2026

Will Moynahan

HON. WILL MOYNAHAN
JUDGE, COURT OF APPEALS