Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-1332-MR

B.G. APPELLANT

v. APPEAL FROM HENDERSON CIRCUIT COURT
HONORABLE KAREN LYNN WILSON, JUDGE
ACTION NO. 26-H-00040-001

COMMONWEALTH OF KENTUCKY
AND CABINET FOR HEALTH AND
FAMILY SERVICES APPELLEES

ORDER
GRANTING MOTION FOR EMERGENCY
AND INTERMEDIATE RELIEF

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Appellant, B.G., has been involuntarily committed under KRS[1] 202C after being found incompetent to stand trial for felony sex offenses. On September 9, 2026, the Henderson Circuit Court declared B.G. a sexual offender under KRS 17.500, and directed his registration as a sexually violent predator.

[1] Kentucky Revised Statute.

B.G. has appealed that registration order to this Court.

B.G. is a quadriplegic and, due to his health conditions, is unable to care for himself. The Kentucky Correctional Psychiatric Center is unable to provide the level of care B.G. needs.[2] Therefore, he was placed in the Glasgow State Nursing Facility by the Cabinet for Heath and Family Services ("Cabinet"), which is a Cabinet operated facility. However, because B.G. has now been placed on the registry as a sex offender, his placement in Glasgow State Nursing Facility violates KRS 17.545(1).[3]

In the Henderson Circuit Court, the Cabinet filed a motion for clarification, modification, or stay of the September 9, 2026 order requiring registration. B.G. also filed a motion to stay the order pending his appeal pursuant to RCr[4] 12.80 and RAP[5] 62. The Henderson Circuit Court denied both motions. With respect to B.G.'s motion, it stated that no appeal bond had been set or

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[2] Kentucky Correctional Psychiatric Center is Kentucky's primary psychiatric facility and one of its functions is to provide inpatient treatment to individuals that are deemed incompetent to stand trial and are involuntarily committed. *R.L.P. v. Commonwealth*, 733 S.W.3d 265, 272 (Ky. 2026).

[3] That statute provides that no registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned or leased playground, or licensed day care facility.

[4] Kentucky Rule of Criminal Procedure.

[5] Kentucky Rule of Appellate Procedure.

tendered. It further determined it did not have jurisdiction to rule on the motions because of the previously filed notice of appeal.

On October 20, 2026, B.G. filed a motion for emergency and intermediate relief in this Court pursuant to RAP 21, requesting this Court to stay the September 9, 2026 order of the Henderson Circuit Court pending final resolution of this appeal. B.G. argues that he is being irreparably harmed by the requirement to register as a sex offender because it threatens his placement in the only available facility that meets his medical needs. He further argues that he is entitled to confidentiality under KRS 202C.100, and that the confidentiality is lost because his identifying information and circumstances are on a public website. The Cabinet also filed a response in support of the motion for emergency and intermediate relief. The Commonwealth filed a response in opposition to the motion.

RAP 21(A) states:

> At any time after a notice of appeal under RAP 2 or a motion for discretionary review under RAP 44 has been filed, a party to the appeal or motion may move the appellate court for intermediate relief upon a satisfactory showing that otherwise the movant will suffer immediate and irreparable injury before final disposition of the appeal.

A defendant who is subject to an involuntary commitment proceeding under KRS 202C shall be committed to a forensic psychiatric facility unless the Cabinet determines the defendant shall be treated in another Cabinet facility during the pendency of the proceeding. KRS 504.110(3), 504.060(11). The Cabinet, in its response in support of the motion for emergency relief, suggests that finding an appropriate state facility placement that can meet B.G.'s unique care needs will place the Cabinet in a precarious and potentially untenable situation.

We may grant emergency relief where the movant shows irreparable harm will result in the absence of such an order. RAP 21; *Robinson v. Burdette*, 397 S.W.3d 886 (Ky. 2013). Irreparable harm has been 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) (citing *Litteral v. Woods*, 4 S.W.2d 395, 396-97) (Ky. 1928). The state's inability to secure B.G.'s placement in a facility able to provide the level of medical care B.G. requires would cause irreparable injury to B.G.[6] The Commonwealth's response primarily takes issue with any potential stay of the KRS 202C commitment, which this Court does not believe was the intent of B.G.'s

[6] This Court also takes note of B.G.'s representation that he is in a secure environment and unable to interact with the public and is physically incapable of causing harm due to his medical condition. The purpose of sex offender registration is to promote public safety. *Hyatt v. Commonwealth*, 72 S.W.3d 566, 579-80 (Ky. 2002).

motion. Thus, having considered the medical needs of B.G., the authority vested in the Cabinet under KRS 202C to determine appropriate placement, and because a substantial claim for relief on the merits of the appeal exists, a stay of the September 9, 2026 order is warranted.

Having considered the motion for emergency and intermediate relief filed herein by B.G., the Commonwealth's response, and the Cabinet's response, this Court ORDERS that this motion is GRANTED. The September 9, 2026 order of the Henderson Circuit Court is STAYED pending final resolution of this appeal or further order of this Court.

The relief granted by this order is limited to staying the Henderson Circuit Court's order entered on September 9, 2026, designating B.G. a sexual predator and the immediate requirement that he register as a sex offender. It does not stay the order committing B.G. pursuant to KRS 202C.

Susanne M. Cetrulo

HON. SUSANNE M. CETRULO
JUDGE, COURT OF APPEALS

ENTERED: 10/29/2026