Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-1423-MR

TRACY CASSADAY — APPELLANT

v. APPEAL FROM HANCOCK CIRCUIT COURT
HONORABLE TIMOTHY R. COLEMAN, JUDGE
ACTION NO. 24-CR-00022

COMMONWEALTH OF KENTUCKY — APPELLEE

AND

NO. 2026-CA-1425-MR

DONALD CASSADAY — APPELLANT

v. APPEAL FROM HANCOCK CIRCUIT COURT
HONORABLE TIMOTHY R. COLEMAN, JUDGE
ACTION NO. 24-CR-00023

COMMONWEALTH OF KENTUCKY — APPELLEE

ORDER DENYING
EMERGENCY MOTION FOR INTERMEDIATE RELIEF

* * * * * *

Appellants were charged with endangering the welfare of a minor, first-degree criminal abuse, and second-degree criminal abuse. By agreed orders entered on October 28 and October 29, 2025 ("October 2025 orders"),[1] the two counts of criminal abuse were amended to third-degree criminal abuse, and all counts of the indictments were dismissed without prejudice, on the condition that Appellants have no contact with the minor child W.M., the alleged victim, and shall not contest any adoption proceeding concerning the child.

Appellants appeared before the Hancock Circuit Court in December 2025, having reached an agreement to dismiss the indictments with prejudice. Orders were entered on December 19, 2025, dismissing the actions with prejudice. The orders further stated that Appellants stipulated to probable cause for the charges in the indictments.

Thereafter, Appellants, *pro se*, filed motions pursuant to RCr[2] 10.10, or alternatively, CR[3] 60.02, seeking to have the language that Appellants stipulated

[1] The agreed order was entered in Hancock Circuit Court Action No. 24-CR-00022 on October 29, 2025. The agreed order was entered in Hancock Circuit Court Action No. 24-CR-00023 on October 28, 2025.

[2] Kentucky Rules of Criminal Procedure.

[3] Kentucky Rules of Civil Procedure.

to probable cause stricken from the December 19, 2025 orders. Appellants initially appeared before the court on the motion on January 28, 2026. The matter was heard again by the Court on March 27, 2026. At the March 27, 2026 hearing, the Hancock Circuit Court stated that it was vacating the December 2025 orders and reinstating the October orders. Orders were entered on April 6, 2026, vacating the December 19, 2025 orders. The above-styled appeals of the April 6, 2026 orders followed.

This cause comes before the Court on Appellants' emergency motion for intermediate relief pursuant to RAP[4] 21.[5] Appellants request temporary non-enforcement of the condition in the October 2025 orders that they not contest any adoption proceeding so that any attempt to challenge the adoption cannot be used as a basis for contempt, withdrawal of their conditional dismissal of their criminal charges, or reinstatement of their criminal charges. The Commonwealth filed a response in opposition to the motion in Appeal No. 2026-CA-1423.[6]

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

[4] Kentucky Rules of Appellate Procedure.

[5] The RAP 21 motion was filed in Appeal No. 2026-CA-1423 on Octobber 29, 2026. The RAP 21 motion was filed in Appeal No. 2026-CA-1425 on November 9, 2026.

[6] The Court has elected to address the motion filed in Appeal No. 2026-CA-1425 without awaiting a response.

> 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.

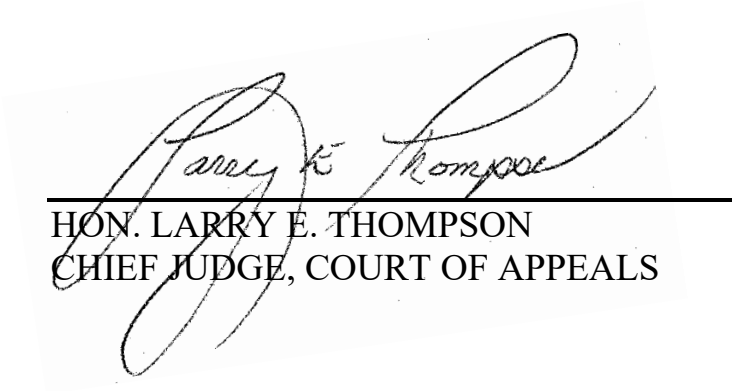
As stated above, this appeal is of the order entered on April 6, 2026. However, Appellant is seeking relief from a provision contained in the orders entered in October 2025, which are not presently before this Court on appeal. Further, it is not clear whether the Hancock Circuit Court's April 6, 2026 orders, which vacated the December 2025 orders, reinstated the provisions of the October 2025 orders. As the October 2025 orders are not currently on appeal herein, this Court does not have authority to stay the provisions therein.

Further, on November 2, 2026, Ms. Cassady filed a judicial challenge of the adoption judgment in Daviess Circuit Court Action No. 26-CI-01387. Mr. Cassady states he intends to participate in the Daviess Circuit Court Action No. 26-CI-01387 as a supporting witness. Appellants request relief from this Court which prohibits the circuit court from using the adoption challenge and participation in the litigation as a basis for contempt, withdrawal of their conditional dismissal of their criminal charges, or reinstatement of their criminal charges. However, nothing has been provided to indicate that such repercussions have occurred. Relief "will not be granted on the ground merely of an anticipated danger or an apprehension of it, but there must be a reasonable probability that injury will be done if" relief is not granted. *Hamlin v. Durham*, 235 Ky. 842, 23 S.W.2d 413,

414 (1930). Appellants have failed to establish that they will suffer immediate and irreparable injury before final disposition of this appeal.

Appellants' emergency motions for intermediate relief pursuant to RAP 21 are DENIED.

Appellant Donald Cassaday's motion for leave to lodge September 25, 2026 recording, filed in Appeal No. 2026-CA-1425, in support of his motion for RAP 1 relief is DENIED.



HON. LARRY E. THOMPSON
CHIEF JUDGE, COURT OF APPEALS

ENTERED: 11/12/2026