

Commonwealth of Kentucky

Court of Appeals

NO. 2026-CA-1143-OA

K.P.

PETITIONERS

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

HONORABLE ABIGAILE E. VOELKER

RESPONDENT

AND

J.C.-C. AND G.C.

REAL PARTIES IN INTEREST

ORDER GRANTING IN PART AND DENYING IN PART EMERGENCY RELIEF

** ** *

This action is before the Court on the motion of Petitioner, K.P., for emergency relief pursuant to RAP¹ 60. Specifically, K.P. requests an order

¹ Kentucky Rules of Appellate Procedure.

“granting an emergency stay in custody proceedings and the return of the minor child [] to the custody of Petitioner during the pendency of the case sub judice.”

On July 13, 2026, the Cabinet for Health and Family Services filed a dependency, neglect, and abuse (DNA) petition initiating the underlying action regarding a child, C.C (Child). Based on the record, it appears the petition initially named Child’s biological mother but was later amended to include Child’s biological father. It was stated within the petition that Child has resided with K.P. since October of 2025 and K.P. has provided daily care and supervision for Child since that time.

K.P. avers that on July 15, 2026, agents of the Cabinet appeared at her home and took Child without any documentation. That same day, there was a brief temporary removal hearing. K.P. appeared and was asked her name and what her relationship Child was, but otherwise, she did not participate in the hearing. There was no discussion regarding how Child came to be in K.P.’s home, how long Child had been there, or whether Child was at risk of dependency, neglect, or abuse if she remained in K.P.’s home.

Ultimately, the Cabinet was awarded temporary custody of Child. Subsequently, K.P., *pro se*, filed a series of motions, including a motion to intervene. K.P.’s motion to intervene was denied, without a hearing, in a docket order entered on August 28, 2026. In total the order states “[m]otion to intervene

denied. No order of de facto parent is provided to confer standing in the JDNA case[.]”

An adjudication hearing was held on September 16, 2026. K.P. appeared at this hearing and attempted to address the family court. She informed the family court that she was Child’s cousin and that she had power of attorney for Child. The family court stated that it had received multiple filings from K.P., which had all been denied because she did not have party standing. K.P. then attempted to argue she had a right to be heard under Kentucky law and requested to read a prepared statement. The Respondent Judge informed K.P. that she had already found K.P. lacked standing, that she did not have a right to be heard, and she asked K.P. to leave the court room. K.P. requested that the case be transferred to Pendleton County and then left the court room without incident.

Following K.P.’s exit, the case was adjudicated based on appointed warning order attorney/counsel for Mother and Father stipulating as to the allegations in the petition. There was otherwise no testimony or evidence presented. Also of concern, at the adjudication hearing the court found Child to be neglected or abused in that “Parent left child with non-relative and failed to provide parental care or meet basic needs of child” based on the stipulations to the petition, even though the petition clearly indicated Child was left in the care of a relative. A dispositional hearing was scheduled for October 21, 2026. The

Cabinet informed the family court that the child had been placed in foster care and that she was doing well in the home.

After the adjudication hearing, K.P. states that she requested copies of the family court's orders denying her motions. However, according to K.P., the Campbell Circuit Court Clerk's office declined to give her copies of the orders because she was not a party to the case. Moreover, K.P. alleges that the Campbell Circuit Court Clerk's office is refusing to file certain motions for the same reason. K.P.'s petition for a writ of mandamus and her motion for emergency relief were filed in this Court on October 2, 2026.²

The only issue presently before this Court is whether K.P. is 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 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).

² The Court is aware that K.P. tendered a second petition for a writ of mandamus, Case No. 2026-CA-1294.

Essentially, K.P. argues she is irreparably harmed because she cannot meaningfully challenge the family court’s decision to remove Child from her care when she was removed as a party to the underlying case and has been barred from the proceedings.

K.P. has consistently claimed that she is Child’s *de facto* custodian or a person exercising custodial control or supervision over Child. Either status would have given rise to certain rights under the juvenile code. For example KRS³ 620.070(2) requires service of process on persons exercising custodial control or supervision. KRS 620.080(2) requires the family court to determine “[a]t a temporary removal hearing . . . whether there are reasonable grounds to believe that the child would be dependent, neglected or abused if returned to or left in the custody of his parent or other person exercising custodial control or supervision[.]” And pursuant to KRS 620.100(1)(b) and (c) the family court is required to appoint counsel for a person exercising custodial control or supervision or one “**claiming** to be a *de facto* custodian, as defined by KRS 403.270[.]” (Emphasis added.) *Sub judice* the family court did not hold a separate hearing to determine K.P.’s status, and it declined to allow K.P. to address the court. This is particularly disturbing as K.P. was present and available and had been actually named in the petition as a person exercising custodial control.

³ Kentucky Revised Statutes.

To be clear, the petition simply denoted K.P. as “Family Relative” and gave K.P.’s address as the address for Child; it did not actually check the box provided on the petition form (AOC-DNA-1) for denoting someone acting as a person exercising custodial control of the child. However, based on the allegations of the petition that Child had resided in K.P.’s home since October of 2025 and K.P. had been providing daily care and supervision since that time, K.P. clearly fell under the definition provided in KRS 600.020(47): “‘Person exercising custodial control or supervision’ means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child[.]’”

Instead, K.P. was denied party standing based solely on the fact she had not produced an order granting her *de facto* custodian status. The merits of this decision are not properly before the Court. Regardless, K.P. has, at minimum, made a colorable showing that she is a relative providing care for a child. The child was in her care when the DNA petition was filed, and she produced a power of attorney allowing her to make decisions regarding the child’s school and medical care. This status in and of itself means that K.P., as a relative providing care for the child, is entitled to notice and the opportunity to be heard in “any proceeding held with respect to the child.” KRS 620.100(5).

For the foregoing reasons, the Court ORDERS that K.P.'s motion for emergency relief be GRANTED IN PART AND DENIED IN PART. The motion is GRANTED to the extent that the underlying action is HEREBY STAYED until further order of this Court. As to K.P.'s request that the Court modify custody of the child, said request is DENIED.

The petition for a writ of mandamus shall be assigned to a three-judge panel of this Court in the ordinary course.

ENTERED: October 14, 2026



HON. JACQUELINE M. CALDWELL
JUDGE, COURT OF APPEALS