

SUPREME COURT OF KENTUCKY

Andy Beshear, in His Official Capacity as Governor of the Commonwealth of Kentucky v. Ridgeway Properties, LLC d/b/a Beans Café & Bakery

Beshear v. Ridgeway Properties · No. 2021-SC-0228-I · Decided February 23, 2022

SUMMARY

The Supreme Court of Kentucky held that Ridgeway Properties, LLC d/b/a Beans Café & Bakery lacked constitutional standing because it had no actual or imminent injury arising from the 2021 COVID-19 legislation or executive-branch enforcement. The court also held that the Attorney General's participation could not supply a justiciable controversy in the Boone Circuit Court because the constitutionality of the same legislation was already being litigated in the first-filed Franklin Circuit Court action. The court reversed and remanded for dismissal of the action in its entirety.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Hughes; Minton, C.J.; Keller, J.; VanMeter, J.; Hughes, J.
JURISDICTION	Kentucky
DECIDED	February 23, 2022
DOCKET	2021-SC-0228-I
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Governor and executive-branch officials appealed the Boone Circuit Court's June 15, 2021 Amended Judgment declaring the 2021 COVID-19 legislation constitutional and enjoining enforcement of conflicting emergency orders, decrees, or regulations. The Kentucky Supreme Court accepted transfer from the Court of Appeals and reviewed the circuit court's exercise of jurisdiction.
STANDARD OF REVIEW	De novo review of standing and subject-matter jurisdiction; jurisdictional prerequisites are reviewed independently of the circuit court's conclusions.
PRECEDENTIAL VALUE	published; to be published
PARTIES	Andy Beshear, in his official capacity as Governor of the Commonwealth of Kentucky, Eric Friedlander, in his official capacity

as Secretary of the Cabinet for Health and Family Services, Steven Stack, in his official capacity as Commissioner of the Kentucky Department for Public Health v. Ridgeway Properties, LLC d/b/a Beans Café & Bakery, Commonwealth of Kentucky ex rel. Daniel Cameron, in his official capacity as Attorney General

TOPICS

standing subject matter jurisdiction appellate jurisdiction constitutional law injunctions

PRACTICE AREAS

constitutional law civil procedure appellate procedure health law administrative law

QUESTIONS PRESENTED

1. Whether Beans had constitutional standing to challenge the 2021 COVID-19 legislation and obtain declaratory and injunctive relief when it had suffered no actual or imminent post-legislation injury.
2. Whether the Boone Circuit Court had subject-matter jurisdiction to adjudicate the action and issue declaratory or injunctive relief without a plaintiff presenting a justiciable cause.
3. Whether the Attorney General's status as an intervening plaintiff could cure Beans's lack of standing when the Attorney General and Governor were already litigating the constitutionality of the same legislation in Franklin Circuit Court.
4. Whether the Boone Circuit Court could issue a statewide injunction through Beans's Third Amended Complaint.

HOLDINGS

1. Beans lacked standing because it suffered no concrete, particularized, actual, or imminent injury caused by the Governor or executive branch after the 2021 legislation became effective. A speculative fear of future enforcement was insufficient.
2. Because Beans lacked standing, the Boone Circuit Court lacked jurisdiction to adjudicate the Third Amended Complaint, declare the 2021 legislation constitutional, or issue injunctive relief.
3. The Attorney General could not supply the Boone Circuit Court with a justiciable cause because the Attorney General and Governor were already litigating the constitutionality of the 2021 legislation in the first-filed Franklin Circuit Court action.
4. The Boone Circuit Court lacked authority to issue a statewide injunction through Beans's Third Amended Complaint because the court lacked jurisdiction over the action and Beans had no standing.

KEY QUOTATIONS

“A plaintiff with standing is essential to a court’s exercise of jurisdiction.” (2)

“A litigant must demonstrate that it has suffered a concrete and particularized injury that is either actual or imminent The injury must be . . . distinct and palpable, and not abstract or conjectural or hypothetical.”

(7)

“A threatened injury must be ‘certainly impending’ to constitute injury in fact.” (9)

“With both Beans and the Attorney General lacking a justiciable cause, the Boone Circuit Court had no jurisdiction and should have dismissed the case.” (15)

FACTUAL BACKGROUND

After the 2021 Kentucky COVID-19 legislation became effective on February 2, 2021, Beans chose to operate under a compliance plan based on Centers for Disease Control and Prevention guidance rather than the Governor's mandates. Neither the Governor nor any executive-branch official interfered with that plan or threatened enforcement after the legislation took effect. The evidence relied upon by the circuit court concerned 2020 seating-capacity restrictions, mask mandates, and an earlier citation, while Beans's post-legislation injury consisted only of a fear that enforcement might occur.

PROCEDURAL HISTORY

The action began in 2020 as a challenge to COVID-19 executive orders and regulations, but the Third Amended Complaint filed March 11, 2021 focused on the 2021 COVID-19 legislation. After an evidentiary hearing, the Boone Circuit Court granted declaratory and injunctive relief to Beans and issued a statewide injunction. The Supreme Court held that Beans lacked standing and that the Attorney General's participation could not supply a justiciable controversy because the same constitutional dispute was already pending in Franklin Circuit Court.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Boone Circuit Court for dismissal of the action in its entirety.

CASES CITED

- *Beshear v. Acree*, 615 S.W.3d 780 (Ky. 2020)
- *Commonwealth Cabinet for Health & Family Services Department for Medicaid Services v. Sexton ex rel. Appalachian Regional Healthcare, Inc.*, 566 S.W.3d 185 (Ky. 2018)
- *Cameron v. Beshear*, 628 S.W.3d 61 (Ky. 2021)
- *Beshear v. Goodwood Brewing Co., LLC*, 635 S.W.3d 788 (Ky. 2021)
- *Commonwealth v. Bredhold*, 599 S.W.3d 409 (Ky. 2020)
- *Akers v. Stephenson*, 469 S.W.2d 704 (Ky. 1970)
- *Delaney v. Alcorn*, 193 S.W.2d 404 (Ky. 1946)
- *Hawes v. Orr*, 73 Ky. (10 Bush) 431 (1874)
- *Beshear v. Bevin*, 498 S.W.3d 355 (Ky. 2016)
- *State ex rel. Judson v. Spahr*, 515 N.E.2d 911 (Ohio 1987)

- People ex rel. Garamendi v. American Autoplan, Inc., 25 Cal. Rptr. 2d 192 (Cal. Ct. App. 1993)
- Texas Liquor Control Board v. Canyon Creek Land Corp., 456 S.W.2d 891 (Tex. 1970)
- Baatz v. Columbia Gas Transmission, LLC, 814 F.3d 785 (6th Cir. 2016)
- Smith v. Securities and Exchange Commission, 129 F.3d 356 (6th Cir. 1997)
- Mesi v. Mesi, 478 P.3d 366 (Nev. 2020)

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