

**COMMONWEALTH OF KENTUCKY
COURT OF APPEALS
CASE NO. 2022-OA-_____**

DANIEL CAMERON,

Petitioner

v.

HON. MITCH PERRY,

Judge, 30th Judicial Circuit, Jefferson Circuit Court,

Respondent

and

EMW WOMEN'S SURGICAL CENTER, P.S.C.,

on behalf of itself, its staff, and its patients;

ERNEST MARSHALL, M.D., on behalf of

himself and his patients; and

PLANNED PARENTHOOD GREAT NORTHWEST,

HAWAII, ALASKA, INDIANA, AND KENTUCKY, INC.,

on behalf of itself, its staff and its patients; **ERIC FRIEDLANDER,** in his official capacity as Secretary of Kentucky's Cabinet for Health and Family Services;

MICHAEL S. RODMAN, in his official capacity as Executive Director of the Kentucky Board of Medical Licensure; and **THOMAS B. WINE,** in his official capacity as Commonwealth's Attorney for the 30th Judicial Circuit of Kentucky.

Real Parties in Interest

**ATTORNEY GENERAL DANIEL CAMERON'S
EMERGENCY MOTION FOR INTERMEDIATE RELIEF**

Pursuant to CR 76.36(4), CR 81, and SCR 1.030(3), Attorney General Daniel Cameron moves this Court to enter a temporary order setting aside the restraining order

entered by Jefferson Circuit Court Division 30 and prohibiting it from entering any other injunctions in Case No. 22-CI-3225 until this original action resolves. As described in Attorney General Cameron’s writ petition, which the Attorney General incorporates here in full, the circuit court’s error is such that the Attorney General is entitled to a writ.

To be entitled to intermediate relief, a petitioner need only show that “he/she will suffer immediate and irreparable injury” prior to 20 days after filing the petition. CR 76.36(4). Here, there is no question that the Attorney General and the Commonwealth will suffer immediate and irreparable injury unless this Court sets aside the restraining order issued below—in fact, that injury is already occurring. It is black letter law in Kentucky that “non-enforcement of a duly-enacted statute constitutes irreparable harm to the public and the government.” *Cameron v. Beshear*, 628 S.W.3d 61, 73 (Ky. 2021) (citing *Boone Creek Props., LLC v. Lexington-Fayette Urb. Cnty. Bd. of Adjustment*, 442 S.W.3d 36, 40 (Ky. 2014))). That’s because whenever the General Assembly passes a law, it makes an “‘implied finding’ that the public will be harmed if the statute is not enforced.” *Id.* at 78 (quoting *Boone Creek Props.*, 442 S.W.3d at 40). And so every day that the Attorney General is barred from enforcing the will of the people constitutes per se irreparable harm to the Commonwealth and its citizens. *Id.* at 73.

The nature of the immediate and irreparable harm here is especially pernicious. The General Assembly has spoken here, declaring it the policy of the Commonwealth to protect the lives of unborn children. Once an abortion has been performed, the life

of that unborn child is over. No court order can bring that child back to life. To be sure, there are instances in which timing matters for an expectant mother who requires an abortion because her life is in danger. And the General Assembly has protected that expectant mother in such circumstances. *See* KRS 311.772(4)(a), .7705(2), .7706(2). So all the restraining order here does is ensure that the Commonwealth, the Attorney General, and the public must bear the irreparable harm and a substantial miscarriage of justice to the orderly administration of the General Assembly's duly enacted laws. And even more importantly, the restraining order guarantees the ending of lives. If that is not the kind of irreparable harm contemplated by CR 76.34(4), what is?

The Attorney General thus seeks a temporary order setting aside the circuit court's order and staying further proceedings until this original action is fully resolved, including through mandatory appeal. *See* CR 76.36(7)(a).

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CERTIFICATE OF SERVICE

I certify that on June 30, 2022, a copy of the above was filed with the Court and served on counsel of record by email as indicated below:

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A handwritten signature in blue ink that reads "Matthew F. KH". The signature is written in a cursive style with a large, stylized "K" and "H".

Counsel for Attorney General Cameron