

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
NORTHERN DIVISION

CIVIL ACTION NO. 2:21CV96 (WOB-CJS)

JASON OSWALD, ET AL

PLAINTIFFS

VS.

TEMPORARY RESTRAINING ORDER

GOVERNOR ANDY BESHEAR

DEFENDANT

The Court has reviewed the record herein, including Plaintiffs' Verified First and Amended Petition for Declaration of Rights and Motion for Injunctive Relief (Doc. 6-1 at 2-39, Doc. 6-2 at 2-36, Doc. 6-3 at 2-14, Doc. 9); Plaintiffs' Motion for an Ex-Parte Emergency Motion for Injunctive Relief (Doc. 1-4 at 2-5); and the verification of Dr. Jessica Twehues, a licensed psychologist and parent of three of the plaintiff children, (Docs. 1-5, 8).

Having done so, the Court makes the following findings pursuant to Fed. R. Civ. P. 65(b):

(1) Plaintiffs are likely to succeed on the merits of their claims that Executive Order 2021-585, issued by defendant Governor Andy Beshear on August 10, 2021, is violative of KRS 39A(3) and therefore void and unenforceable;

(2) By virtue of the Governor's likely unlawful issuance of Executive Order 2021-585, which requires plaintiffs, who are elementary school children, to wear masks at all times indoors while at school, plaintiffs face immediate harm to their emotional well-being and academic growth. Such intangible and unquantifiable harm is irreparable because it cannot be measured or undone. A temporary restraining order is required to enjoin defendant's actions and preserve the status quo until the Court holds a hearing on the merits. For the same reasons, this temporary restraining order is being issued without notice to defendant and before he is heard in opposition;

(3) Plaintiffs lack an adequate remedy at law to redress the harm caused by defendant's actions;

(4) The balance of the hardships between the parties weighs in favor of issuing a temporary restraining order inasmuch as defendant's actions pose a threat to plaintiffs' emotional well-being; and

(5) Because defendant has acted contrary to law, the public interest weighs in favor of issuance of the temporary restraining order;

Therefore, the Court being advised,

**IT IS ORDERED** that:

(1) Defendant Governor Andy Beshear, his officers, agents, servants, employees, attorneys, or other persons who are in active

concert or participation with him, be, and are hereby, **ENJOINED**  
from enforcing Executive Order 2021-585; and

(2) Plaintiffs shall post a security bond in the amount of  
\$10,000.00.

This 19th day of August, 2021 at 2:05 p.m.



**Signed By:**

**William O. Bertelsman** *WOB*

**United States District Judge**