No. - 20-1024

In the

SUPREME COURT OF THE UNITED STATES

GEOFFREY M. YOUNG, *pro se, Petitioner*

vs.

KENTUCKY AUTHORITY FOR EDUCATIONAL TELEVISION, TODD PICCIRILLI, DONNA MOORE CAMPBELL, *Respondents*

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On Petition for Writ of Certiorari to the Supreme Court of Kentucky

PETITION FOR WRIT OF CERTIORARI

Geoffrey M. Young, Petitioner
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QUESTIONS PRESENTED FOR REVIEW

1) If a trial court never construes the allegations in a civil complaint favorably to the plaintiff or never construes them at all, are all of its Civil Rule (CR) 12.02(f) dismissal orders and CR 11 sanctioning orders against the plaintiff nullities?

2) May the Supreme Court of Kentucky order an appellant to file a brief, decide the appeal before the brief is filed, call the appellant's timely-filed brief a "miscellaneous correspondence styled as a brief," ignore the appellant's timely-filed response to the Court's show cause order, and sanction the appellant on the grounds that he never showed cause why he should not be sanctioned?

LIST OF PARTIES

1) GEOFFREY M. YOUNG, *pro se*, Petitioner

2) KENTUCKY AUTHORITY FOR EDUCATIONAL TELEVISION, Respondent

3) TODD PICCIRILLI, Respondent

4) DONNA MOORE CAMPBELL, Respondent

LIST OF PROCEEDINGS

1) 2019-SC-0625-I, *Geoffrey M. Young v. Adam Edelen, et al.*, Final Order, October 29, 2020. Included herein as Appendix (App.) at a1-a5.

2) 2019-SC-0625-I, Order Enforcing Sanctions, April 30, 2020, App. at a5-a7.

3) 2019-SC-0625-I, *Geoffrey M. Young v. Adam Edelen, et al.*, Memorandum Opinion and Order Denying Interlocutory Relief and Ordering Show Cause, February 20, 2020.

4) 2019-CA-1266-I, *Geoffrey M. Young v. Adam Edelen et al.*, Final Order Denying Interlocutory Relief, entered October 24, 2019.

5) Fayette Circuit Court, Case No. 19-CI-01349, *Geoffrey M. Young v. Adam Edelen et al.*, Final Order entered September 10, 2019.

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CONSTITUTIONAL PROVISIONS, STATUTES AND POLICIES AT ISSUE

U.S. Const. Amend. XIV, sec. 1, specifies, in pertinent part, that:

> No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a) because the Supreme Court of Kentucky violated my Fourteenth Amendment rights to property and to due process. The Supreme Court of Kentucky issued its order enforcing sanctions on April 30, 2020 and entered its final order deciding my motion for reconsideration on October 29, 2020. A copy of the final order is in the Appendix (App.).

STATEMENT OF THE CASE

On April 10, 2019, I filed a 123-page complaint against 23 individual defendants and ten organizational defendants, including the Kentucky Democratic Party (KDP), for illegally conspiring to rig the 2019 Democratic primary for Governor and several other Democratic primaries against me dating back to 2014; illegally conspiring to violate my freedom of speech, freedom of association and freedom of movement within Kentucky; and illegally conspiring to have me assaulted and battered by Defendant Mike Shugart, a retired police officer, on September 8, 2018 in Georgetown, Kentucky. I requested extensive declaratory, monetary and injunctive relief, presented a great many pertinent factual allegations and a coherent theory of the case, and requested a jury trial.

In its decision in *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), this Court instructed as follows:

> [I]t is well established that, in passing on a motion to dismiss, whether on the ground of lack of jurisdiction over the subject matter or for failure to state a cause of action, the allegations of the complaint should be construed favorably to the pleader.

The Fayette Circuit Court, Division 4 (former Judge John E. Reynolds, who lost his election in November 2019) never construed any of the allegations in my complaint in my favor. In fact, the trial court never construed any of the allegations in my complaint at all. See Kentucky Civil Rules (CR) 8.01 and 8.06. The judge simply ignored my allegations of fact and law and mechanically signed every dismissal order and order for CR 11 sanctions tendered by the defendants' 17 attorneys. He thereby failed and refused to do his most important

job when confronted with a motion to dismiss for failure to state a claim upon which relief can be granted. See CR 12.02(f). Despite five months of initial pleadings, the trial court never moved the case out of the initial part of the initial pleadings stage and into the discovery stage, much less the pretrial or trial stages. The initial pleadings stage is the stage at which I raised the federal question sought to be reviewed: whether any trial court in the United States may dismiss a complaint for failure to state a claim without ever construing the plaintiff's complaint in the light most favorable to the plaintiff. I contend that when the circuit court refused for five months to make any finding as to whether my complaint met the requirements of Kentucky Civil Rule 8.01, it violated my right to due process under the Fourteenth Amendment.

On May 1, 2019, the Kentucky Authority for Educational Television ("KET"), Todd Piccirilli, and Donna Moore Campbell filed a motion to dismiss and motion for CR 11 sanctions and noticed it to be heard on May 17, 2019. It included the following paragraph:

> These pleaded facts do not give rise to any viable claim against the KET Defendants. Importantly, Young does not allege (nor could he allege) that KET's responses to his questions about the criteria were false or inaccurate. Nor does he allege (nor could he allege) that KET adopted its criteria for any reason other than what it stated when answering Young's questions – to provide the best possible services to its viewers. The fact that KET is employing criteria that Young dislikes does not mean that it has done anything wrong, nor does it mean that KET "joined" a nefarious conspiracy. For all his demeaning rhetoric, Young simply states no cognizable claim against KET... Here, Young does not plead any ***facts*** supporting a viable claim against the KET Defendants. [Motion to

Dismiss at 4; emphasis in original]

In my response of May 13, 2019, however, I stated that my complaint clearly alleged facts that plausibly suggest that the KET Defendants joined the alleged conspiracy to violate my civil rights and rig a series of Democratic primaries. I cited several examples from my complaint, provided the page numbers, and accused the KET Defendants of falsely claiming, by counsel, that I never alleged what I had alleged.

On May 17, 2019, the Court held Motion Hour #2, at which the following dialogue took place:

> Attorney Chris Brooker (at 11:03:10 am): Your Honor, Chris Brooker, for what I refer to as the KET Defendants. Mr. Young has sued KET, the television station, Todd Piccirilli, its Director of Communications, and Donna Moore Campbell, who is one of the board members at KET...

Judge Reynolds (11:06:13): What were the, um, did you (asking Chris Brooker) look at the Jefferson County file?

Brooker: Yes, Your Honor.

Judge Reynolds: What was he sanctioned for that?

Brooker: He was sanctioned for bringing baseless and meritless claims –

Judge Reynolds: What I mean, what was the cost?

Brooker: The attorney's fees.

Young: Which were zero dollars. The attorneys never submitted a bill –

Judge Reynolds (interrupting): Oh they didn't? Okay.

Young: ...to the court, and the reason is, I caught them lying to the Supreme Court of Kentucky and they didn't want to risk –

Judge Reynolds (interrupting): All right. I don't want to get into all that.

Young: Okay.

Judge Reynolds (11:06:41): Mr. Young, tell me what statute, what law are you relying on as a cause of action in your complaint against KET?

Young: Conspiracy to violate my freedom of speech, –

Judge Reynolds (interrupting): Okay.

Young: Conspiracy to violate my freedom of movement within the United States, conspiracy to violate my, um, ok there was another one having to do with my being barred continuously from Party offices. [sic: freedom of association] Every constitutional violation in the 123-page complaint, I'm alleging against the KET Defendants and every other Defendant, because that is what a conspiracy is.

Judge Reynolds (11:07:43): Okay. (to Chris Brooker): Your motion will be granted. Submit an affidavit of cost.

Brooker: Yes, Your Honor.

Young: So it's okay to conspire to assault and batter me? I hadn't finished answering that question. I was assaulted and battered on September 28, 2018 (sic: the actual date was

September 8, 2018). It's, it's, granting a motion to dismiss is the ultimate sanction, Your Honor, it's the ultimate sanction, and –

Judge Reynolds (to someone else): Was that resolved?

Young: And it has to, a motion to dismiss has to, um, pass the hurdle of the, uh, standard of review.

Judge Reynolds (11:08:25): Sir, you're asking for relief that doesn't exist under the law for this Court. Okay? I can't grant you the relief under those causes of action. It doesn't exist.

Chris Brooker (at 11:10:32): Your Honor, I do have an order to tender on that, and it contemplated that I will be submitting an affidavit along with that.

Judge Reynolds: Okay.

Young: What will your affidavit be about?

Judge Reynolds: His costs, for having to appear and respond to these matters.

The former judge appears to have been

completely unfamiliar with the concept of a standard of review that all judges in the United States must apply when deciding motions to dismiss for failure to state a claim upon which relief can be granted. It took me several weeks to figure out that what the judge was actually saying, in effect, was this: "I don't care what you wrote in your complaint or in any other pleading you might file, or about anything you might say in my courtroom. I, Circuit Judge John E. Reynolds, am never going to allow your case to come before a jury." See Kentucky Constitution Section 7.

On May 21, 2019, the circuit court entered an order, tendered by attorneys Christopher W. Brooker and Deborah H. Patterson, that granted the dismissal of all of my claims against Defendants Kentucky Authority for Educational Television, Todd Piccirilli, and Donna Moore Campbell and granting

sanctions to "reimburse the KET Defendants their reasonable attorneys' fees and costs for defending against this action." The last sentence of the order read, "This order is final and appealable with no just reason for delay." Dismissal and Sanctioning Order at 2.

On May 28, 2019, I filed a CR 59 motion to vacate that order. On June 12, 2019, the circuit court entered a one-page order denying my motion. It included no legal argument whatsoever as to why my motion was being denied, and its final sentence read, "This is a final and appealable order with no just cause for delay."

On August 9, 2019, the circuit court entered an order which had been tendered by attorneys Patterson and Brooker awarding CR 11 sanctions to the KET Defendants in the amount of $23,425.36. It

included no legal argument whatsoever, and its final sentence read, "This is a final and appealable order with no just cause for delay." I never received a copy of the signed order in the mail and never learned what it said until a week after I had filed a notice of appeal that appealed substantially all of the former judge's orders (24 orders) on September 23, 2019.

On August 15, 2019, I filed a motion asking former judge John E. Reynolds to recuse himself and transfer the entire case to a different judge on the grounds that he had no idea how to decide CR 12.02(f) motions to dismiss according to the laws of the Commonwealth of Kentucky and had already entered numerous manifestly erroneous orders. That motion was not granted.

On August 20, 2019, Christopher W. Brooker and Deborah H. Patterson garnished $23,425.36

from my checking account on the grounds that the trial court had granted the KET Defendants a summary judgment of that amount. However, no summary judgment (CR 56) had ever been entered. The KET Defendants, by counsel, garnished a significant fraction of my life savings under false pretenses, and the circuit court denied due process.

On August 26, 2019, I filed a motion for interlocutory relief prior to final judgment in the Court of Appeals, which initiated Civil Action No. 2019-CA-01266-I. Eight days later, on September 3, 2019, I filed a cross-motion in the circuit court for CR 11 sanctions against Chris Brooker and Deborah Patterson in the amount of $46,850.72, which was double the amount they had garnished from my checking account under false pretenses. On September 10, 2019, the circuit court entered an

Order denying my cross-motion for sanctions. It included no legal argument whatsoever.

On September 19, 2019, I filed a CR 59 motion to vacate that circuit court order and two others entered on September 10 and 11. On September 23, 2019, I filed a notice of appeal in the Fayette Circuit Court, and on October 2, 2019, I filed a prehearing statement of appeal against 24 circuit court orders in the Court of Appeals. That appeal is still before the Kentucky Court of Appeals today, which fact represents justice delayed, justice denied, and a violation of Section 14 of the Kentucky Constitution.

On October 24, 2019, without ever reaching the question of whether the circuit court's orders of May 21, June 12 and September 10, 2019 were reversible errors and therefore nullities, a three-judge panel of the Court of Appeals – Chief Judge

Denise G. Clayton and Judges Donna L. Dixon and Jonathan Ray Spalding – entered an order denying my request for interlocutory relief. The sole ground for denial was that "[as] a prerequisite for obtaining interlocutory relief from an order of the circuit court under CR 65.07 or CR 65.09, the order at issue must be an injunction." *Chesley v. Abbott*, 503 S.W.3d 148, 152 (Ky. 2016). Order at 3.

On October 29, 2019, I filed a motion in the Supreme Court of Kentucky to vacate the Court of Appeals' denial order. The Supreme Court assigned it Case No. 2019-SC-0625-I. On November 12, 2019, attorneys Deborah H. Patterson and Christopher W. Brooker filed "KET Respondents' Motion for CR 73.02 Sanctions and Its (sic) Response to Geoffrey M. Young's Frivolous Motion to Vacate Order Denying Interlocutory Relief." On November 18, 2019, I filed

a response to the KET Defendants' motion for CR 73.02 sanctions and a cross-motion for CR 73.02 sanctions against attorneys Patterson and Brooker.

On January 9, 2020, the Supreme Court of Kentucky entered an "Order Dispensing with Oral Argument" that consisted of the following sentence: "Pursuant to CR 76.16, it is directed that this appeal be submitted on the briefs without oral argument."

On January 23, 2020, I duly mailed a Designation of the Proceedings to the Supreme Court of Kentucky, as required by CR 75.01(1), and it was marked "Received" on January 29, 2020. The due date for filing my appellant's brief was supposed to be within 60 days after the Clerk of the Fayette Circuit Court completed and certified the record on appeal. CR 75.07(6). Before that could occur, however, on February 20, 2020, the Supreme Court

of Kentucky short-circuited the appellate process by entering a Memorandum Opinion and Order Denying Interlocutory Relief and Ordering Show Cause. It was marked, "NOT TO BE PUBLISHED." The Supreme Court of Kentucky upheld the Court of Appeals' order of October 24, 2019 denying my request for interlocutory relief on the sole ground that "[as] a prerequisite for obtaining interlocutory relief from an order of the circuit court under CR 65.07 or CR 65.09, the order at issue must be an injunction." *Chesley v. Abbott*, 503 S.W.3d 148, 152 (Ky. 2016). Memorandum Opinion and Order at 5-7. The Supreme Court of Kentucky also granted the KET Defendants' motion to impose CR 73.02(4) sanctions against me. *Id.* at 7-10. The Memorandum Opinion and Order concluded as follows:

"III. CONCLUSION

> For the foregoing reasons we affirm the Court of Appeals' denial of Young's motion for interlocutory relief. We further order that the KET defendants submit an affidavit as to attorney's fees incurred in defending this action on appeal. Young shall thereafter show cause as to why his appeal to the Court of Appeals and to this Court were not frivolous and why he should not be charged with paying all or part of the KET defendants' attorney's fees, and further why he should not be enjoined from filing any further cases against KET, or any of its employees or representatives, in any Kentucky court without prior court approval." *Id.* at 10-11.

In other words, after ordering me to file an appellant's brief, the Supreme Court of Kentucky decided the central elements of the appeal before any briefs had been filed. On March 3, 2020, I timely filed my brief, and on March 10, 2020, I timely filed my response to the Court's show cause order, as well as a cross-motion for sanctions against the KET

Appellees and their attorneys. No other party filed a brief.

In my March 3, 2020 brief, I argued as follows:

> The Court of Appeals should have decided the question of whether the former judge's Order of May 21 was reversible error before addressing any other question of law.
>
> In *City of Covington v. Peare*, 769 S.W.2d 761, 764 (1989), the Court of Appeals ruled that not all orders that include the recitation that "the judgment is a final one and there is no just reason for delay" are necessarily final orders within the meaning of CR 54.01 or CR 54.02. The Court's reasoning in *City of Covington v. Peare* was:
>
> > It follows, therefore, that the trial court's judgment ordering the appellant City to recompute Peare's and Vastine's retirement annuity and further ordering certain attendant incidental conditions, and not ordering the Board to do so, are all nullities because the City is not empowered to do so. Consequently, in this, a case

involving multiple parties, because the trial court has not in fact made a conclusive determination of the entire claim of any of the parties, the judgment is not a final order within the meaning of CR 54.01 or CR 54.02. This is true even though the trial court has recited that the judgment is a final one and there is no just reason for delay as provided for in CR 54.02. *See Hale v. Deaton*, Ky., 528 S.W.2d 719 (1972); *Northwestern National Ins. Co. v. Osborne*, 573 F.Supp. 1045 (E.D.Ky. 1983).

This appeal is, therefore, dismissed and the case is remanded to the Kenton Circuit Court. Upon proper motion of the parties so to do, it shall enter summary judgment in favor of Peare and Vastine identical to that already entered but against the defendant, the Board of Trustees of the Policemen's and Fire Fighters Retirement Fund of the City of Covington, and including the provisions of the trial court's order entered

> November 6, 1987, but specifying that the post-judgment interest begin upon entry of the new judgment.
>
> All concur. *Id.* at 764

> In this case, the trial court's order of May 21, 2019, was a nullity because the former judge violated CR 8 by refusing ever to review my Complaint to determine whether it was well-pleaded, *i.e.*, whether it adequately put the KET Defendants on notice of what I would attempt to prove to the jury.
> Appellant's/Petitioner's Brief at 10-11.

In my March 10, 2020 response to the show cause order and cross-motion for CR 73.02 sanctions, I made the following arguments:

> This Court should not impose any sanctions on me and should sanction the KET Appellees for defrauding three courts in this case (so far).
>
> Former circuit court judge John E. Reynolds unlawfully usurped the role of the (future) jury, refused to apply Civil Rule 8 according to law, entered a manifestly erroneous dismissal and

sanctions order on May 21, 2019, violated CR 11 and CR 12, never moved the lawsuit out of the initial part of the initial pleadings stage, almost never gave any reasons for his conclusory ordering paragraphs, never discussed any of the pleadings during any motion hour, denied four of my motions in a matter of seconds during Motion Hour #5 on June 7, 2019, demonstrated extreme bias against me during virtually every one of the 13 motion hours, and entered 24 erroneous orders between May 10 and October 4, 2019. If none of the former judge's dismissal or sanctions orders were lawful, then none of them were legitimate final orders. They were all nullities, in the words of the decision in *City of Covington v. Peare*, 769 S.W.2d 761, 764 (Ky. Ct. App. 1989) The Court of Appeals should never have reached the question of whether these null and void orders were injunctions. Young's Response at 4.

In my brief, I argued that the KET Defendants, by counsel, made many false statements in their May 1, 2019 motion to dismiss and for sanctions, that those false statements were reflexively repeated by the former judge in his Order of May 21, and that the KET Defendants are the ones who

> should have been ordered to pay CR 11 sanctions to me. The nine most important false statements, which counsel for the KET Defendants knew or should have known were false, were:
>
> > (1) "These pleaded facts do not give rise to ***any*** viable claim against the KET Defendants." Motion to Dismiss and for Sanctions at 4; (2) "Young simply states no cognizable claim against KET..." *Id.* at 4-5

On March 18, 2020, the Clerk of the Supreme Court of Kentucky mailed one copy of my appellant's brief back to me with a cover letter that read, "APPELLANT'S MISCELLANEOUS CORRESPONDENCE STYLED AS A BRIEF." On the web site of the Kentucky Supreme Court's "Docket Entries" page, the following notation appeared: "FILED APPELLANT'S MISCELLANEOUS CORRESPONDENCE STYLED AS A BRIEF. RECEIVED ON 3/3/2020." So after ordering me to file a brief and

then deciding the appeal before receiving my brief, the Supreme Court of Kentucky gave itself an excuse to ignore every legal argument I made in my brief by mislabeling it "miscellaneous correspondence."

On April 30, 2020, the Supreme Court of Kentucky entered an Order Enforcing Sanctions that consisted of the following two short paragraphs:

> Appellant Geoffrey Young was ordered by this Court to show cause why his appeal to this Court from the Court of Appeals was not frivolous under Kentucky Rule of Civil Procedure 73.04(4). In his response, Young failed to make any argument as to why said appeal was not frivolous.
>
> Accordingly, Young is now ordered to reimburse Kentucky Authority for Educational Television (KET) for its attorney's fees totaling $13,108.95 which KET incurred while defending this frivolous appeal. Said sum shall be paid within ninety (90) days from the entry of this order. See Appendix 2.

On May 12, 2020, I timely filed a motion for

reconsideration in the Supreme Court of Kentucky that made the following arguments:

> 1) In its dismissal Order of October 24, 2019, the Court of Appeals ignored all of these arguments I had made. Specifically, it ignored and refused to discuss the central controversy, which is the question of whether the Fayette Circuit Court's dismissal and sanctions Order of May 21, 2019 was a legitimate final order or was reversible error in its entirety. The outcome of my entire motion for interlocutory relief hinges on the resolution of that question, and the Court of Appeals never adjudicated it. Motion at 10.
>
> 2) One full month before the Court of Appeals entered its erroneous Order, on September 23, 2019, I filed a notice of appeal of 24 orders entered by the circuit court. On October 2, 2019, I filed a civil appeal prehearing statement that included 25 attachments: my original Complaint of April 10, 2019 and the 24 orders I was appealing. The Court of Appeals has not taken any action whatsoever to decide that appeal. Some of the Defendants filed motions to dismiss the entire appeal, which stopped the clock on further steps. I

submitted responses to each such motion to dismiss and asked the Court of Appeals to deny all of the defendants' motions to dismiss the appeal on the grounds that if the Court of Appeals were to grant their motions, it would be depriving me of my only appeal as of right with regard to those 24 orders, for no lawful or constitutional reason. One of those orders, Attachment #4, was the former judge's dismissal and sanctions order dated May 21, 2019. The Court of Appeals' failure and refusal to deny all of the defendants' frivolous motions to dismiss my appeal was reversible error. *Id.* at 10-11.

3) After denying the defendants' frivolous motions to dismiss my appeal of 24 orders, the Court of Appeals should have stopped working on my motion for interlocutory relief and turned its full attention to deciding the regular appeal, Case No. 2019-CA-001443. Why? Because if all 24 Orders entered by former judge John E. Reynolds contained reversible errors, then all of those orders, including Attachment #4, were nullities. If the circuit court's May 21, 2019 dismissal and sanctions order was a legal nullity, then the question of whether it was an injunction would have been moot. *City*

of Covington v. Peare, 769 S.W.2d 761, 764 (Ky. Ct. App. 1989). That decision instructed as follows:

> Consequently, in this, a case involving multiple parties, because the trial court has not in fact made a conclusive determination of the entire claim of any of the parties, the judgment is not a final order within the meaning of CR 54.01 or CR 54.02. This is true even though the trial court has recited that the judgment is a final one and there is no just reason for delay as provided for in CR 54.02.

The Supreme Court of Kentucky took no action on my appeal for 66 days. On July 6, 2020, I mailed a check for $13,108.95 to the Kentucky Authority for Educational Television (KET) so the Supreme Court of Kentucky would not sanction me even more.

On July 15, 2020, I mailed out a Request to Amend my Cross-Motion for CR 73.02 Sanctions and

Amended Cross-Motion for CR 73.02 Sanctions

Against Only the KET Appellees and Their Lawyers.

The Supreme Court of Kentucky filed my pleading on

July 23, 2020.

My request contained some new arguments:

> This Court's Memorandum Opinion and Order of February 20, 2020 includes a sentence that is contrary [to] Section 14 of Kentucky's Constitution, which reads as follows:
>
> > Right of judicial remedy for injury - Speedy trial.
> >
> > All courts shall be open, and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.
> >
> > Text as Ratified on: August 3, 1891, and revised September 28, 1891."
>
> The legally unjustified sentence

reads: "It would therefore be well within this Court's discretion to enjoin Young from filing any cases against KET, or any of its employees or representatives, in any Kentucky court without prior court approval." Memorandum Opinion and Order at 10. The reason this threat by the Court is unjustified is that no court – the circuit court, the Court of Appeals, or this Court – has yet applied the long-established standard of review that must be used when a defendant files a motion to dismiss for failure to state a claim. The decision in *Leimer v. State Mut. Life Assur. Co.*, 108 F.2d 302, 305 (8th Cir. 1940) instructed as follows:

> Long before the Rules of Civil Procedure for the District Courts of the United States became effective, this Court had frequently disapproved the practice of attempting to put an end to litigation, believed to be without merit, by dismissing a complaint for insufficiency of statement. In *Winget v. Rockwood*, 8 Cir., 69 F.2d 326, 329, we said:
>
> "A suit should not ordinarily be disposed of on such a

> motion [a motion to dismiss the bill for want of equity] unless it clearly appears from the allegations of the bill that it must ultimately, upon final hearing, be dismissed. To warrant such dismissal, it **should appear from the allegations that a cause of action does not exist**, rather than that a cause of action has been defectively stated.
> [Emphasis added]

In this case, several causes of action clearly exist... If the KET Defendants had conspired with each other, with the KDP Defendants, and/or with the other Defendants to design a debate criterion that they knew I would be unable to meet, they would have been engaging in a conspiracy to rig the entire primary, which is unlawful in Kentucky. See KRS 118.105(1). If Donna Moore Campbell, then a board member of the Kentucky Authority for Educational Television, had used her powerful position in The Women's Network to make sure I would be heard by a much smaller audience than the large audience that heard Establishment favorites Jim Gray, Amy McGrath and Reggie Thomas in the 2018 primary

for the U.S. House of Representatives, and if she had also used her influence at KET to make the 2019 debate criteria harder for me to meet, she would have been conspiring to rig two primaries. If Amy McGrath had conspired with Adam Edelen and Mike Shugart to have me assualted and battered in Georgetown on September 8, 2018, and the KET Defendants had then conspired to unlawfully keep me out of the 2019 gubernatorial debate in which Adam Edelen was a candidate, the KET Defendants would again have become plausibly implicated in violating my freedom of speech and freedom of assembly in 2018 and 2019. None of these allegations are frivolous. In order to defeat any motion to dismiss, my allegations and legal theories must be plausible (as opposed to merely possible), and all of them were and are plausible. *Pari-Mutuel Clerks' Union v. Ky. Jockey Club*, 551 S.W.2d 801, 803 (Ky. 1977). All of the KET Defendants' motions to dismiss and for sanctions are so lacking in merit that they appear to have been made in bad faith. That has been true since May 1, 2019. Young's Request at 6-7.

In the context of the foregoing information, it

is now possible to address the October 29, 2020 final denial order entered by the Supreme Court of Kentucky. It was written by Chief Justice John D. Minton Jr. The Chief Justice wrote:

> Although the response was due within thirty days of the rendition of our Opinion and Order, Young failed to mention the proposed sanctions until the July 23, 2020, filing of his motion to amend his cross-motion for sanctions. App. at a3-a4.

However, in my March 3, 2020 "Miscellaneous Correspondence Styled As A Brief," I wrote:

> I never alleged or "admitted" that KET's $50,000 candidate invitation criterion was the foundation of all of my claims against the KET Defendants. That "finding" by the former judge was based on nothing but a lie the KET Defendants, by counsel, had included in their motion to dismiss and for sanctions. Moreover, counsel knew or should have known that it was false; but they repeatedly made that statement in reckless disregard for the truth, which constitutes sanctionable

behavior. Appellant's Brief at 15.

I wrote:

> As a matter of logic, if the May 21, 2019 dismissal and sanctions Order was based on at least four materially false statements about my Complaint, and if the order was therefore reversible error, it doesn't matter whether it was a final order or an interlocutory order. The Court of Appeals should have analyzed my Complaint, found and declared that it was well-pleaded with respect to the alleged conspiracy as a whole and to all of the Defendants, found and declared that the former judge's May 21, 2019 Order was a nullity, remanded the entire case to the Fayette Circuit Court, Division 4, and granted my request for full repayment of the amount the KET Defendants had garnished from my checking account, plus the $100.00 service fee, plus interest since August 20, 2019. *Id.* at 17-18.

I wrote:

> The Court of Appeals should have found and declared in writing that the KET Defendants, by counsel, garnished $23,425.36 (plus a $100.00 service fee

> paid to the Commonwealth Credit Union) of my money under false pretenses. Instead, it merely made an incomplete recital of a set of events in the first full paragraph on page 3 of its Order of October 24, 2019 without deciding the question of whether the notice of judgment lien contained a material falsehood about the procedural facts of the case. *Id.* at 19.

I specifically addressed the passage in the Kentucky Supreme Court's show cause order that stated, "Young did not challenge the amount contained in the affidavit: $23,425.36." Show Cause Order at 4. I replied as follows:

> Even though I never received a copy of the former judge's Order of August 9, 2019 and never read that Order until late September, I effectively did challenge the amount by filing a motion on August 15, 2019 for the former judge to recuse himself on the grounds that he was chronically usurping the role of the jury and committing one reversible error after another. Young's Brief at 23.

I wrote:

> WHEREFORE, I respectfully request that this Court vacate and withdraw its prematurely-entered Order of February 20, 2020, set the total amount of CR 11 sanctions to be paid by me to any and all of the Defendants at $0.00, and perform the absolutely essential task that neither the circuit court nor the Court of Appeals ever did: review my Complaint and find and declare in writing that it meets the requirements of CR 8 and the notice pleading system that was established throughout all fifty states more than eight decades ago. Young's Brief at 25.

In my March 10, 2020 response to the Kentucky Supreme Court's show cause order, I wrote:

> Argument A – This Court should not impose any sanctions on me and should sanction the KET Appellees for defrauding three courts in this case (so far).
>
> ...If none of the former judge's dismissal or sanctions orders were lawful, then

none of them were legitimate final orders. They were all nullities, in the words of the decision in *City of Covington v. Peare*, 769 S.W.2d 761, 764 (Ky. Ct. App. 1989) The Court of Appeals should never have reached the question of whether these null and void orders were injunctions.

In my brief, I argued that the KET Defendants, by counsel, made many false statements in their May 1, 2019 motion to dismiss and for sanctions, that those false statements were reflexively repeated by the former judge in his Order of May 21, and that the KET Defendants are the ones who should have been ordered to pay CR 11 sanctions to me. The nine most important false statements, which counsel for the KET Defendants knew or should have known were false, were:

(1) "These pleaded facts do not give rise to ***any*** viable claim against the KET Defendants." Motion to Dismiss and for Sanctions at 4; (2) "Young simply states no cognizable claim against KET." *Id.*; (3) "Section 6 of the Kentucky Constitution does not apply to primary elections – it only applies to general elections" *Id.* at 7; (4) "Young's Complaint... does not, however, allege

any facts from which one could conclude that KET acted in concert with any other Defendant..." *Id.* at 8; (5) "As explained above, Young's Complaint does not assert a viable constitutional claim." *Id.* at 9; (6) "(The First and 14th Amendments and the common law that makes assault and battery actionable in a civil lawsuit were) not 'clearly established' when the challenged conduct occurred." *Id.*; (7) "Even the most cursory inquiry confirms that Young's claims against the KET Defendants are unsupportable in fact and law." *Id.* at 11; (8) "Young's 123-page complaint is pure harassment – not only of the Defendants, but of this Court and its valuable time." *Id.*; and (9) "And there is absolutely no fact pleaded in the 123-page Complaint that in any way, shape or form alleges or would serve as a foundation for a civil conspiracy claim against any of the KET Defendants. It doesn't allege who they conspired with, what the illegal action was, when it happened, where it happened, *anything*, there is no fact supporting a conspiracy claim against any of my clients." [Chris Brooker's statement in open court on May 17, 2019; Motion Hour #2 at 11:05 am]...

False statements number 1, 2, 4,

5, 7 and 9 – or any one of them – should have been fatal to the KET Defendants' motion to dismiss and for sanctions. In my response dated May 13, 2019, I pointed out most of these lies to the circuit court and asked it to reread my Complaint carefully in the context of 85 years of decisions by the U.S. Supreme Court, every federal appeals court in the country, and this Court, e.g., the decision in *Pari-Mutuel Clerks' Union v. Ky. Jockey Club*, 551 S.W.2d 801, 803 (Ky. 1977), in which this Court instructed as follows: "The court should not grant the motion (to dismiss the complaint for failure to state a claim) unless it appears the pleading party would not be entitled to relief under any set of facts which could be proved in support of his claim. Clay, Ky. Prac., 3rd Ed., Civil Rule 12.02, Comment 9, n. 17." But because former judge John E. Reynolds never seriously considered my Complaint or any of my responses to various Defendants' motions to dismiss, he never found and declared that any of the nine statements cited above were false and therefore sanctionable.

Similarly, because the Court of Appeals never seriously considered my Complaint or any of my responses to various Defendants' motions to dismiss

> in the context of CR 8, it too never found and declared that any of those nine statements were false and therefore sanctionable.
>
> And similarly, because this high Court has not yet seriously considered my Complaint or any of my responses to various Defendants' motions to dismiss in the context of CR 8, it never found and declared that any of those nine statements were false and therefore sanctionable. Young's Response to Show Cause Order at 4-6.

The foregoing makes it clear that the Kentucky Supreme Court's statement to the effect that I " failed to mention the proposed sanctions until the July 23, 2020, filing of his motion to amend his cross-motion for sanctions" is false on its face. I thoroughly addressed the sanctions proposed by the Supreme Court of Kentucky in my two pleadings on March 3 and March 10, 2020.

The next sentence in the Order is also false on

its face: "Young's tardy response misapprehends the authority of this Court to impose such sanctions and wholly fails to address the merits of the question." (1) None of my pleadings were tardy; (2) I addressed the merits of the question in all of my pleadings; and (3) CR 73.02(4) reads as follows:

> If an appellate court determines that an appeal or motion is frivolous, it may award just damages and single or double costs to the appellee or respondent. An appeal or motion is frivolous if the court finds that it is so totally lacking in merit that it appears to have been taken in bad faith.

If the Supreme Court of Kentucky had found that any of the KET Defendants' pleadings had been totally lacking in merit, it would have had the authority to impose sanctions against them, payable to me, in any amount up to $26,217.90, *i.e.*, double the amount shown on their affidavit; or even larger

"damages." I didn't "misapprehend" anything.

Because the two cited sentences represent the core of the Kentucky Supreme Court's final order dismissing Case No. 2019-SC-0625-I (where "I" stands for "Interlocutory"), and because none of the other findings or ordering sentences in the order were supported by any legal reasoning at all, the final order should be overturned in its entirety.

Kentucky Civil Rule 76.28(1)(b), Opinions, reads as follows:

> (1) Written Opinions.
>
> (b) Opinions and orders finally deciding a case on the merits shall include an explanation of the legal reasoning underlying the decision.

Other than the falsehoods about my failing to mention the proposed sanctions and my responding too late, the Supreme Court of Kentucky failed and

refused to explain the legal reasoning underlying any of its ordering sentences.

REASONS WHY CERTIORARI SHOULD BE GRANTED

Ever since March, 2015, I have been filing KRS 118.176 ballot challenges and normal lawsuits against the KDP for illegally rigging its own primaries and violating KRS 118.105(1). In 2020, I filed my first ballot challenge against a Republican candidate and the Republican Party of Kentucky (RPK). My civil actions have invariably been hit by meritless and frivolous CR 12.02(f) motions to dismiss, and the circuit courts invariably grant said motions without ever construing the allegations in my initiating document favorably to the plaintiff. The Kentucky Court of Appeals invariably refuses to overturn the erroneous decision of the circuit court,

and the Supreme Court of Kentucky almost never reviews the case. In 2019, the Supreme Court got involved in this case solely in order to add to the unlawful sanctions imposed by the courts below. If that final decision is not overturned, I will soon be barred from every courtroom in Kentucky for refusing to drop my demand that the KDP and RPK stop rigging their own primaries. Sooner or later, Kentucky's Judicial Department might also strip me of everything I own in order to reward the defendants and their lawyers for lying to one court after another about the law and the facts. App. a4-a5. The end result will be that corruption in Kentucky will become even more solidly entrenched than it is now, especially in the realm of politics.

CONCLUSION

The final order that is the subject of this

petition for certiorari is not an order that would be entered by any court that is confident in the justice of its position. This Court may wish to consider summary reversal of the Kentucky Supreme Court's final order, in its entirety, on the grounds that it is wholly unsupported by law and by the facts.

Respectfully signed on December 1, 2020, and again (revised to add App. 2) on January 11, 2021.

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