

**U.S. District Court
Western District of Kentucky (Louisville)
CIVIL DOCKET FOR CASE #: 3:20-cv-00278-DJH-RSE**

Maryville Baptist Church, Inc. et al v. Beshear
Assigned to: Judge David J. Hale
Referred to: Magistrate Judge Regina S. Edwards
Case in other court: USCA 6th Circuit, 20-05427
Cause: 42:1983 Civil Rights Act

Date Filed: 04/17/2020
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

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V.

Defendant

Andy Beshear
*in his official capacity as Governor of the
Commonwealth of Kentucky*

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Date Filed	#	Docket Text
04/17/2020	<u>1</u>	VERIFIED COMPLAINT FOR DECLARATORY RELIEF, TEMPORARY RESTRAINING ORDER, PRELIMINARY AND PERMANENT INJUNCTIVE RELEIF, AND DAMAGES against Andy Beshear, filed by Jack Roberts, Maryville Baptist Church, Inc.. (Attachments: # <u>1</u> Cover Sheet, # <u>2</u> Exhibit A – Executive Order, # <u>3</u> Exhibit B – 3-16-20 Order, # <u>4</u> Exhibit C – 3-17-20 Order, # <u>5</u> Exhibit D – 3-19-20 Order, # <u>6</u> Exhibit E – 3-22-20 Order, # <u>7</u> Exhibit F – 3-25-20 Order, # <u>8</u> Exhibit G – CISA Guidance, # <u>9</u> Exhibit H – Press Release, # <u>10</u> Exhibit I – Declaration of David Carr, # <u>11</u> Exhibit J – State Police Notice, # <u>12</u> Exhibit K – Letter from 4-14-20, # <u>13</u> Exhibit L – State of Florida Executive Order, # <u>14</u> Exhibit M – Indiana Executive Order, # <u>15</u> Exhibit N – State of Arizona Executive Order, # <u>16</u> Exhibit O – Alabama Executive Order, # <u>17</u> Exhibit P – State of Arkansas Executive Order, # <u>18</u> Exhibit Q – State of Connecticut Executive Order) (DJT) (Entered: 04/17/2020)
04/17/2020	<u>2</u>	Case Assignment (Random Selection): Case Assigned to Judge David J. Hale. (DJT) (Entered: 04/17/2020)
04/17/2020	<u>3</u>	EMERGENCY MOTION for Temporary Restraining Order, MOTION for Preliminary Injunction by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (DJT) (Entered: 04/17/2020)
04/17/2020	<u>4</u>	Summons Issued as to Andy Beshear. Counsel for Plaintiff is responsible for printing and serving the attached issued summons(es). Summons emailed to counsel this date for service. (DJT) (Entered: 04/17/2020)
04/17/2020	<u>5</u>	MOTION to Appear Pro Hac Vice as to Mathew D. Staver Filing fee \$ 125. by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Proposed Order) (DJT) (Entered: 04/17/2020)
04/17/2020	<u>6</u>	MOTION for Daniel Schmid to Appear Pro Hac Vice Filing fee \$ 125. by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Proposed Order) (DJT) (Entered: 04/17/2020)
04/17/2020	<u>7</u>	MOTION for Horatio G. Mihet to Appear Pro Hac Vice Filing fee \$ 125. by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Proposed Order) (DJT) (Entered: 04/17/2020)

04/17/2020	<u>8</u>	MOTION for Roger K. Gannam to Appear Pro Hac Vice Filing fee \$ 125. by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (Attachments: # <u>1</u> Exhibit Certificate of Good Standing, # <u>2</u> Proposed Order) (DJT) (Entered: 04/17/2020)
04/18/2020	<u>9</u>	ORDER Signed by Judge David J. Hale on 4/18/2020. Plaintiffs' Motion for Temporary Restraining Order (D.N. <u>3</u>) is DENIED. This matter will be set for a telephonic status conference by subsequent order. During the conference, the Court will set an expedited briefing and hearing schedule on the motion for preliminary injunction. (KD) (Entered: 04/18/2020)
04/20/2020	<u>11</u>	MOTION to Reassign Case by Plaintiffs Maryville Baptist Church, Inc. and Jack Roberts. (KD) (Additional attachment(s) added on 4/23/2020: # <u>1</u> Proposed Order) (KD). (Entered: 04/21/2020)
04/21/2020	<u>10</u>	TEXT ORDER Signed by Judge David J. Hale on 4/21/2020 granting <u>5</u> Motion for Mathew D. Staver to Appear Pro Hac Vice ; granting <u>6</u> Motion for Daniel Schmid to Appear Pro Hac Vice ; granting <u>7</u> Motion for Horatio G. Mihet to Appear Pro Hac Vice ; granting <u>8</u> Motion for Roger K. Gannam to Appear Pro Hac Vice. This Notice of Electronic Filing is the Official ORDER for this entry. No document is attached. cc: Counsel(NWT) (Entered: 04/21/2020)
04/21/2020		Filing fee: \$ 900.00, receipt number L33063592 CIVIL COMPLAINT FILING FEE AND 4 PHV MOTIONS by Maryville Baptist Church, Inc., Jack Roberts. (JLP) (Entered: 04/21/2020)
04/22/2020	<u>12</u>	SUMMONS Returned Executed by Jack Roberts, Maryville Baptist Church, Inc.. Andy Beshear served on 4/21/2020, answer due 5/12/2020. (Schmid, Daniel) (Entered: 04/22/2020)
04/22/2020	<u>13</u>	Proposed Order <i>GRANTING</i> re <u>11</u> MOTION to Reassign Case by Maryville Baptist Church, Inc., Jack Roberts. (Schmid, Daniel) (Entered: 04/22/2020)
04/23/2020	<u>14</u>	TEXT ORDER by Judge David J. Hale on 4/23/2020; Pursuant to 28 U.S.C. 636(b)(1)(A), this matter is hereby referred to U.S. Magistrate Judge Regina S. Edwards, for resolution of all litigation planning issues, entry of scheduling orders, consideration of amendments thereto, and resolution of all non-dispositive matters, including discovery issues. Judge Edwards is further authorized to conduct a settlement conference in this matter at any time. This Notice of Electronic Filing is the Official ORDER for this entry. No document is attached. cc:counsel (NWT) (Entered: 04/23/2020)
04/24/2020	<u>15</u>	NOTICE of Appearance by Steven T. Mayo on behalf of Andy Beshear (Mayo, Steven) (Entered: 04/24/2020)
04/24/2020	<u>16</u>	NOTICE OF APPEAL (Interlocutory) as to <u>9</u> Order on Motion for TRO, by Maryville Baptist Church, Inc., Jack Roberts. Filing fee \$ 505, receipt number 0644-3090236. (Gannam, Roger) (Entered: 04/24/2020)
04/24/2020	<u>17</u>	Emergency MOTION for Preliminary Injunction <i>Pending Appeal</i> by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (Attachments: # <u>1</u> Proposed Order) (Gannam, Roger) (Entered: 04/24/2020)
04/27/2020	<u>18</u>	USCA 6th Circuit Case Number 20-5427 for <u>16</u> Notice of Interlocutory Appeal filed by Jack Roberts, Maryville Baptist Church, Inc. (SMJ) (Entered: 04/27/2020)
04/28/2020	<u>19</u>	TEXT ORDER by Magistrate Judge Regina S. Edwards on 4/28/2020. On the Court's motion, a Telephonic Conference is scheduled for 4/30/2020 at 1:30 PM before Magistrate Judge Regina S. Edwards. To participate in the conference, counsel shall dial in to 1-888-808-6929, Access Code 2887606. This Notice of Electronic Filing is the Official ORDER for this entry. No document is attached.

		cc: Counsel (AEH) (Entered: 04/28/2020)
04/29/2020	<u>20</u>	MOTION for Leave to <i>File Amicus Curiae Brief</i> by Amicus Commonwealth of Kentucky (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Exhibit Tendered Amicus Curiae Brief) (Dunn, Barry) (Entered: 04/29/2020)
04/30/2020	<u>21</u>	NOTICE of <i>Supplemental Fact Development</i> by Andy Beshear (Mayo, Steven) (Entered: 04/30/2020)
05/02/2020	<u>23</u>	ORDER of USCA 6th Circuit: PER CURIAM ORDER. The plaintiffs' motion for an injunction pending appeal, and their motion to expedite briefing, oral argument and submission on the briefs, is GRANTED IN PART. The Governor and all other Commonwealth officials are hereby enjoined, during the pendency of this appeal, from enforcing orders prohibiting drive-in services at the Maryville Baptist Church if the Church, its ministers, and its congregants adhere to the public health requirements mandated for "life-sustaining" entities. Jeffrey S. Sutton, David W. McKeague, and John B. Nalbandian, Circuit Judges. (Attachments: # <u>1</u> cover letter) (SMJ) (Entered: 05/04/2020)
05/03/2020	<u>22</u>	Order for proceedings held before Magistrate Judge Regina S. Edwards: Telephone Conference held on 4/30/2020. Re <u>17</u> Emergency MOTION for Preliminary Injunction <i>Pending Appeal</i> . Responses due by 5/6/2020. Replies due by 5/8/2020. cc:counsel (KJA) (Entered: 05/03/2020)
05/04/2020	<u>24</u>	ORDER by Judge David J. Hale on 5/4/2020 – Telephonic Status Conference set for 5/4/2020 at 3:00 p.m. before Judge David J. Hale. The Court's deputy clerk will contact counsel with call-in information. The parties shall be prepared to revisit the briefing schedule previously set in this matter and to discuss the necessity of creating a record to aid in the appellate process. (KD) (Entered: 05/04/2020)
05/04/2020	<u>25</u>	Emergency MOTION for Preliminary Injunction <i>Pending Appeal (Renewed ECF 17)</i> by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (Attachments: # <u>1</u> Exhibit A – 6th Circuit IPA Motion, # <u>2</u> Exhibit B – 6th Circuit IPA Motion Response, # <u>3</u> Exhibit C – Declaration of Dr. Jack Roberts) (Gannam, Roger) (Entered: 05/04/2020)
05/04/2020	<u>26</u>	NOTICE from USCA 6th Circuit re <u>23</u> USCA Order. PUBLISHED ORDER filed. GRANTED IN PART. Decision for publication. Jeffrey S. Sutton, David W. McKeague, and John B. Nalbandian, Circuit Judges. *This decision was originally filed as an unpublished order on May 2, 2020. The court has now designated the order for publication. The date the decision is deemed to have been filed remains May 2, 2020. (Attachments: # <u>1</u> cover letter) (SMJ) (Entered: 05/04/2020)
05/04/2020	<u>27</u>	MEMORANDUM OF CONFERENCE AND ORDER for proceedings held before Judge David J. Hale: Telephonic Status Conference held on 5/4/2020. Telephonic Status Conference set for 5/5/2020 at 3:00 p.m. before Judge David J. Hale. The Court's deputy clerk will contact counsel with call-in information. (Court Reporter: Dena Legg) (KD) (Entered: 05/04/2020)
05/05/2020	<u>28</u>	MEMORANDUM OF CONFERENCE AND ORDER for proceedings held before Judge David J. Hale: Telephonic Status Conference held on 5/5/2020. The parties' stipulation of facts shall be filed no later than 12:00 p.m. Wednesday, 5/6/2020. Defendant's response brief shall be filed no later than 1:00 p.m. Wednesday, 5/6/2020. Plaintiffs' reply brief shall be filed no later than 1:00 p.m. Thursday, 5/7/2020. (Court Reporter: Dena Legg.) cc: counsel (JM) (Entered: 05/05/2020)
05/05/2020		Proceedings held before Magistrate Judge Regina S. Edwards: Settlement Conference held on 5/5/2020. No order per RSE. (AEH) (Entered: 05/13/2020)
05/06/2020	<u>29</u>	STIPULATION re <u>28</u> Telephone Conference,, Schedules – Motion and R&R Deadlines, (<i>Stipulation of Facts Not in Dispute</i>) by Maryville Baptist Church, Inc., Jack Roberts. (Gannam, Roger) (Entered: 05/06/2020)
05/06/2020	<u>30</u>	MOTION for Leave to <i>Exceed Page Limit</i> by Defendant Andy Beshear (Attachments: # <u>1</u> Proposed Order Proposed Order) (Payne, Taylor) (Entered: 05/06/2020)
05/06/2020	<u>31</u>	RESPONSE to Motion re <u>25</u> Emergency MOTION for Preliminary Injunction <i>Pending Appeal (Renewed ECF 17)</i> filed by Andy Beshear. (Attachments: # <u>1</u> Exhibit Exhibit A – Court Order, # <u>2</u> Exhibit Exhibit B – Stack Affidavit, # <u>3</u> Exhibit Exhibit C –

		Tourism Order, # <u>4</u> Exhibit Exhibit D – Burnett Declaration, # <u>5</u> Exhibit Exhibit E – Perry Declaration, # <u>6</u> Exhibit Exhibit F – Court Order, # <u>7</u> Exhibit Exhibit G – Court Order) (Mayo, Steven) (Entered: 05/06/2020)
05/07/2020	<u>32</u>	REPLY to Response to Motion re <u>25</u> Emergency MOTION for Preliminary Injunction <i>Pending Appeal (Renewed ECF 17)</i> filed by Maryville Baptist Church, Inc., Jack Roberts. (Gannam, Roger) (Entered: 05/07/2020)
05/08/2020	<u>33</u>	MOTION to Dismiss for Lack of Jurisdiction , MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Defendant Andy Beshear (Attachments: # <u>1</u> Memorandum in Support Memorandum, # <u>2</u> Exhibit Exhibit A to Memorandum, # <u>3</u> Exhibit Exhibit B to Memorandum, # <u>4</u> Proposed Order Proposed Order) (Payne, Taylor) (Entered: 05/08/2020)
05/08/2020	<u>34</u>	NOTICE of Filing of Supplemental Fact Development by Andy Beshear (Attachments: # <u>1</u> Exhibit Exhibit A – Places of Worship) (Mayo, Steven) (Entered: 05/08/2020)
05/08/2020	<u>35</u>	ORDER Signed by Judge David J. Hale on 5/8/2020 – Plaintiffs' renewed motion for injunction pending appeal (D.N. <u>25</u>) is GRANTED as to in-person services. Given that the same issues are raised in Plaintiffs' initial motion for preliminary injunction, that motion (D.N. <u>3</u>) is likewise GRANTED. Plaintiffs' initial motion for injunction pending appeal (D.N. <u>17</u>) and motion for reassignment (D.N. <u>11</u>) are DENIED as moot. The Governor's motion to exceed the page limit (D.N. <u>30</u>) and the motion of the Commonwealth of Kentucky for leave to file an amicus brief (D.N. <u>20</u>) are GRANTED. If necessary, the Court will set by subsequent order a briefing schedule on the Governor's motion to dismiss and a hearing on Plaintiffs' request for permanent injunction. (KD) (Entered: 05/08/2020)
05/08/2020	<u>37</u>	NOTICE from USCA 6th Circuit re pending motions: The court requests the plaintiffs in both cases to indicate by 3:00 PM today, May 8, 2020, whether they wish any pending motions, or motions that may be filed in the future, to be resolved before May 10, 2020. Jeffrey S. Sutton, David W. McKeague, and John B. Nalbandian, Circuit Judges. [20–5427, 20–5465]. (Attachments: # <u>1</u> cover letter) (SMJ) (Entered: 05/11/2020)
05/10/2020	<u>36</u>	NOTICE of Filing of Supplemental Authority by Andy Beshear (Attachments: # <u>1</u> Exhibit Exhibit A – 5–9–2020 CHFS Order) (Mayo, Steven) (Entered: 05/10/2020)
05/12/2020	<u>38</u>	Amended MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , Amended MOTION to Dismiss for Lack of Jurisdiction by Defendant Andy Beshear (Attachments: # <u>1</u> Memorandum in Support Memorandum in Support of First Amended Motion to Dismiss, # <u>2</u> Proposed Order Proposed Order – First Amended Motion to Dismiss) (Mayo, Steven) (Entered: 05/12/2020)
05/12/2020	<u>39</u>	Emergency MOTION for Clarification of Injunction (ECF 35), Alternative MOTION for Hearing (Status Conference) by Plaintiffs Maryville Baptist Church, Inc., Jack Roberts (Attachments: # <u>1</u> Roberts v. Neace Injunction Pending Appeal) (Gannam, Roger) (Entered: 05/12/2020)
05/13/2020	<u>40</u>	Proposed Order re <u>39</u> Emergency MOTION for Clarification of Injunction (ECF 35) Alternative MOTION for Hearing (Status Conference) by Maryville Baptist Church, Inc., Jack Roberts. (Gannam, Roger) (Entered: 05/13/2020)
05/13/2020	<u>41</u>	ORDER Signed by Judge David J. Hale on 5/13/2020 – Plaintiffs' emergency motion for clarification or status conference (D.N. <u>39</u>) is DENIED. (KD) (Entered: 05/13/2020)
05/28/2020	<u>42</u>	Proposed Agreed Order Extending Deadline for Consolidated Response to Defendant's Motion to Dismiss and First Amended Motion to Dismiss by Commonwealth of Kentucky, Maryville Baptist Church, Inc., Jack Roberts. (Mihet, Horatio) (Entered: 05/28/2020)
06/10/2020	<u>43</u>	Proposed Agreed Order Extending Deadline for Consolidated Response to Defendant's Motion to Dismiss and First Amended Motion to Dismiss, to and Including June 17, 2020 by Maryville Baptist Church, Inc., Jack Roberts. (Mihet, Horatio) (Entered: 06/10/2020)

06/11/2020	<u>44</u>	SECOND AGREED ORDER EXTENDING BRIEFING SCHEDULE ON DEFENDANT'S MOTION TO DISMISS AND AMENDED MOTION TO DISMISS signed by Magistrate Judge Regina S. Edwards on 6/11/2020; re <u>43</u> Proposed Agreed Order. cc: Counsel (ALS) (Entered: 06/11/2020)
06/17/2020	<u>45</u>	RESPONSE to Motion re <u>38</u> Amended MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM Amended MOTION to Dismiss for Lack of Jurisdiction , <u>33</u> MOTION to Dismiss for Lack of Jurisdiction MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Maryville Baptist Church, Inc., Jack Roberts. (Mihet, Horatio) (Entered: 06/17/2020)
06/29/2020	<u>46</u>	MOTION Dissolve Preliminary Injunction and Injunction Pending Appeal by Defendant Andy Beshear (Attachments: # <u>1</u> Memorandum in Support Memorandum in Support, # <u>2</u> Proposed Order Proposed Order) (Payne, Taylor) (Entered: 06/29/2020)
07/06/2020	<u>47</u>	Proposed Agreed Order <i>For Extension of Time To File Reply Brief</i> by Andy Beshear. (Payne, Taylor) (Entered: 07/06/2020)
07/08/2020	<u>48</u>	AGREED ORDER OF EXTENSION AS TO DEFENDANT'S TIME TO FILE A REPLY IN SUPPORT OF THE AMENDED MOTION TO DISMISS Signed by Magistrate Judge Regina S. Edwards on 7/8/2020, granting <u>47</u> – Defendant may file the Reply in support of the Amended Motion to Dismiss on or before July 13, 2020. (KD) (Entered: 07/08/2020)
07/13/2020	<u>49</u>	REPLY to Response to Motion re <u>38</u> Amended MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM Amended MOTION to Dismiss for Lack of Jurisdiction filed by Andy Beshear. (Payne, Taylor) (Entered: 07/13/2020)
07/20/2020	<u>50</u>	RESPONSE to Motion re <u>46</u> MOTION Dissolve Preliminary Injunction and Injunction Pending Appeal filed by Maryville Baptist Church, Inc., Jack Roberts. (Schmid, Daniel) (Entered: 07/20/2020)
08/03/2020	<u>51</u>	REPLY to Response to Motion re <u>46</u> MOTION Dissolve Preliminary Injunction and Injunction Pending Appeal filed by Andy Beshear. (Payne, Taylor) (Entered: 08/03/2020)