

COMMONWEALTH OF KENTUCKY
CAMPBELL CIRCUIT COURT
DIVISION II
CASE NO. 26-CI-00527

ENTERED
CAMPBELL CIRCUIT/FAMILY/DISTRICT
MAY 27 2026
TAUNYA NOLAN JACK, CLERK
BY *me* D.C.

DANIEL KENT BRAUN

PETITIONER

v.

JAMES DALEY
IN HIS OFFICIAL CAPACITY AS
CAMPBELL COUNTY JAILER

RESPONDENTS

AND

COMMONWEALTH OF KENTUCKY
REAL PARTY IN INTEREST

ORDER

A

Before the court is a Petition for Writ of Habeas Corpus. Petitioner claims that he is being unlawfully detained in the Campbell County Detention Center on excessive bail in violation of Section 17 of the Kentucky Constitution. The U. S. Constitution has a similar provision at the Eighth Amendment. The Petitioner further relies upon Section 16 of the Kentucky Constitution and KRS 419.020 dealing with habeas corpus and the constitutional right to be free from excessive bail. The court held a hearing on the Petition on May 21, 2026.

Petitioner has been charged with the offense of using electronic means for the purpose of procuring or promoting the use of a minor, including a peace officer posing as a minor, by electronic means in violation of KRS 510.155. The offense as charged is punishable as a Class C felony. Bail was set by District Court at \$1,000,000 cash with conditions of release. The Petitioner has not been indicted as of the date of this Order.

B

This court finds that it has the authority to consider the Petition and to reduce bail if constitutionally excessive under the law. In *Abraham v. Commonwealth*, 565 S.W.2d 152, 156 (Ky. 1977), the court held:

The writ of habeas corpus still remains the proper method for seeking circuit court review of the action of a lower court respecting bail. In many cases, there may be no order of the lower court even though there might be a violation of the Bail Reform Act. The writ of habeas corpus would be the only feasible [means of raising the question of the defendant's illegal detention.]

C

Bail set higher than reasonably calculated to assure the defendant's attendance at trial, using traditional standards, is a violation of the defendant's constitutional rights. And this court has no discretion to refuse to reduce excessive bail. *Stack v. Boyle, United States Marshall*, 342 U.S. 1,5-6, 72 S.Ct. 1,6 (1951).

Specifically, under Kentucky law, these traditional standards are set forth at KRS 431.066, KRS 431.520, KRS 431.525, RCr 4.10, and RCr. 4.16(1). In addition, the amount of bail must not be fixed with a view toward punishing the defendant. *Long v. Hamilton*, 467 S.W.2d 139 (Ky. 1971). However, this court can consider the nature and circumstances of the offense charged in setting bail and bail shall be commensurate with the gravity of the offense. *Id.*; RCr. 4.16(1). In addition, the mere fact that the defendant cannot post bail does not, of itself, indicate excessiveness of the amount of bail. *Long*, 467 S.W.2d at 142.

Under KRS 431.066, significant factors for the court to consider for pretrial release are "whether the defendant constitutes a flight risk, is unlikely to appear for trial, or is likely to be a danger to the public if released." In making this determination, the court shall consider the pretrial risk assessment for a verified and eligible defendant along with other factors set forth in

KRS 431.525. In addition, under KRS 431.520, a defendant shall be released on his personal recognizance or upon the execution of an unsecured bail bond unless the court determines that the defendant is “a danger to others” or is “a flight risk.” Moreover, the factors to consider for pretrial release under KRS 431.525 do not apply if the court finds the defendant to be a flight risk or a danger to others. KRS 431.525(6).

D

According to the Pretrial Services Report, the Petitioner is 52 years old with no criminal history. On the Failure to Appear Risk Assessment portion of the report, the Petitioner’s appearance probability is 90%. His “[a]rrest-free pending trial Probability: 96%.”

The Petitioner has lived in Campbell County since birth. His wife and children live in Campbell County. His son attends Campbell County High School. Video Record at 12:36:38-12:37:50. He is currently employed as the Campbell County Property Valuation Administrator.

Financially, the Defendant has cash assets of approximately \$95,000; stocks valued at approximately \$23,000; a retirement account with the Commonwealth; and residential equity of about \$150,000. Video Record at 12:37:53-12:39:35.

The Petitioner’s health testimony is set forth on Attachment 1.

In addition to the standards and factors set forth in this Order, in assessing whether the Petitioner’s bail is excessive, the court considered whether the Petitioner is a danger to others or a flight risk. This court finds here, under the totality of the circumstances, that the Petitioner poses a danger to others.

E

Form the foregoing, the court finds that the current bail of \$1,000,000 cash is constitutionally excessive for a Class C felony and that the Petitioner is entitled to a writ under

the Petition. Such writ will be in the form of a modification to Petitioner's current cash bail. That amount is hereby set at \$125,000 cash. The court further finds that such amount is needed to ensure the Defendant's compliance with the conditions of his release imposed by District Court.

SO ORDERED this 27 day of May, 2026.


Daniel J. Zalla, Judge

CERTIFICATION

The Circuit Court Clerk shall give notice of the entry of this Order in accordance with Civil Rule 77.04, to the following:

Hon. Erin M. Sizemore
Campbell County District Court Judge

Brandon N. Voelker
Attorney for Petitioner

Denise Durbin
R. Ramsey Dallam
Assistant Attorney Generals
Commonwealth of Kentucky

Steven Franzen
Campbell County Attorney

Steven Dasenbrock
Chief Deputy, Campbell County Attorney

James A. Daley
Campbell County Jailer

Campbell County Detention Center
Defendant
Pretrial Services
Also email to: MargaretBrinkman@kycourts.net

Direct Examination of Petitioner Daniel Braun by Counsel Brandon Voelker

Q: "Now I also want to ask you about, and this was discussed in front of Judge Sizemore, your health conditions. Could you just briefly tell the court what your health conditions currently are?"

A: "Yes, there are several. I have what is known as [Meniere's] Disease, which is an inner ear problem, causing vertigo, nausea, and hearing loss. I have to wear a hearing aid which I do not have currently. I have [two degenerate] discs in my back and [double fusion] surgery in my spine, my C4, 5, and 6 vertebrae were fused together. I have had Hodgkin's Lymphoma which is in remission. The most important thing is my kidney transplant. I had a transplanted kidney in 1988. With that, I need the attention of my medical doctors. All my medical records are held by Christ Hospital and Saint Elizabeth Hospital... With my kidney transplant I need constant care, I've already had to take one trip to the hospital here from the jail with my kidney. With the kidney I have to take anti-rejection and immune suppression drugs. The main drug, known as [ebralimus] is very rare, they do not use it often and you cannot get it at any normal pharmacy, Kroger, CVS, Walgreens, any of that. I have to mail order it from a specialty pharmacy and in fact, the hospitals do not carry it. I had to have my wife bring it here to the jail and when they sent me to the hospital [...] I had to take the drug with me. And if I go to Christ Hospital, I have to take the drug with me. Without that drug my kidney, my system will reject the kidney, causing kidney failure."

Q: "So you are 100% dependent on this drug?"

A: "Yes."

Q: "And since you've been in jail you've been in isolation due to your health conditions?"

A: "Yes. I've been in jail, this is day 36, I've spent the last 32 days in medical isolation."

Q: "And that's due to your health conditions?"

A: "That is due to, I have a GI infection and they're still waiting on the doctor to decide if I am or am not infectious to the rest of the population."

Video Record at 12:40:26-12:42:55

Attachment 1