

Commonwealth of Kentucky

Court of Appeals

NO. 2009-CA-000795-OA

LADONNA H. THOMPSON, in her Official
Capacity of Commissioner, Department of
Corrections

PETITIONER

v. AN ORIGINAL ACTION
ARISING FROM PULASKI CIRCUIT COURT
ACTION NO. 08-CI-01201

HONORABLE DAVID A. TAPP, JUDGE
PULASKI CIRCUIT COURT

RESPONDENT

AND

COMMONWEALTH OF KENTUCKY,
Ex Rel Commonwealth's Attorney Eddy F.
Montgomery

REAL PARTY IN INTEREST

ORDER

- 1) RECOMMENDING TRANSFER; AND
- 2) GRANTING LIMITED EMERGENCY STAY

** ** * ** **

Pursuant to CR 74.02(5), the Court of Appeals respectfully
RECOMMENDS TRANSFER of the above-styled original action to the Supreme Court
of Kentucky on the basis that the case is of great and immediate public interest. At issue
is the proper interpretation of 2008 House Bill 106: whether it is to be granted retroactive
application as to the release of prisoners.

On April 29, 2009, the Pulaski Circuit Court entered a statewide permanent injunction prohibiting the Department of Corrections from releasing from custody any prisoner currently incarcerated within a correctional institution of this state who might come within the purview of HB 406. The injunction also prohibited the Department from granting a final discharge to any person who has become subject to parole supervision as a result of any change caused or occasioned by the retroactive application of 2008 HB 406.

This Court is satisfied that the criteria of CR 74.02(2) have been met and that the public interest would be best served by immediate transfer of this action to the Supreme Court of Kentucky for resolution. In addition, on April 23, 2009, the Supreme Court granted transfer of *Commonwealth, ex rel Conway v. Thompson*, 2009-SC-000107, which involves virtually identical litigation concerning the retroactive application of House Bill 406 to the release and final discharge of prisoners.

Petitioner's CR 76.36(4) motion for emergency relief in the form of a stay of the order entered by the Pulaski Circuit Court on April 29, 2009, is hereby GRANTED ONLY until such time as the Supreme Court of Kentucky rules upon the recommendation for transfer or enters other orders concerning this litigation.

ENTERED: MAY - 1 2009



CHIEF JUDGE, COURT OF APPEALS