

No. 20-5542

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
May 29, 2020
DEBORAH S. HUNT, Clerk

TONY RAMSEK, FRANK HARRIS; THEODORE)
JOSEPH ROBERTS; TONY WHEATLY,)

Plaintiffs-Appellants,)

v.)

ANDREW G. BESHEAR, Governor of KY; ERIC)
FRIEDLANDER; DR. STEVEN STACK, M.D.,)

All defendants sued in their official capacities only,)

Defendants-Appellees.)

ORDER

Before: SUHRHEINRICH, GILMAN, and LARSEN, Circuit Judges.

In this appeal, plaintiffs challenge the district court’s opinion and order denying their motion for a preliminary injunction based on its ruling that plaintiffs lacked standing. On May 23, 2020, we entered an order concluding that plaintiffs have standing and granting, in part, their motion for an injunction pending appeal. Our order enjoined defendants from prohibiting protestors from gathering for drive-in and drive-through protests but did not determine whether plaintiffs may conduct in-person, socially distanced protests. We are unable to further review the decision of the district court under these circumstances because, based on the record, we have no way to determine what the facts are concerning a prohibition on in-person protests and whether there are features of large in-person protests that distinguish them from other mass gatherings, such as at retail venues, which the Order permits, and churches, which our prior decisions permit.

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Accordingly, we **VACATE** the district court's order determining that plaintiffs lack standing and **REMAND** for additional findings of fact and conclusions of law.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", written in a cursive style.

Deborah S. Hunt, Clerk