

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION AT LONDON**

STEPHON DONÉ HARBIN, ROBERT)
CALVIN LANGDON, RICHARD LEROY)
PETRO, JR., BONIFACIO R. ALEMAN,)
BRYAN LAMAR COMER, ROGER)
WAYNE FOX II, DERIC JAMES)
LOSTUTTER,)

Plaintiffs,

v.

ANDY BESHEAR, in his official)
Capacity as Governor of Kentucky,)

Defendant.

Civil No. 6:18-cv-277-KKC

**PLAINTIFFS' MOTION TO DISMISS PLAINTIFFS HARBIN, COMER, AND
FOX'S CLAIMS AS MOOT**

On December 12, 2019, Governor Andy Beshear signed an Executive Order restoring voting rights to a subset of Kentuckians with felony convictions in their past. *See* Executive Order Number 2019-003 at **Exhibit 1**. Governor Beshear's Executive Order only applies to people who 1) were convicted of certain felonies in a Kentucky state court and 2) have completed the terms of their sentences. That is, the Governor did not restore the voting rights of people who were convicted of 1) any felony offense in federal court, 2) any felony offense in a state other than Kentucky, or 3) a felony offense in Kentucky that the Governor chose to exclude from his Executive Order.

Plaintiffs Stephon Harbin, Bryan Comer, and Roger Fox are eligible to vote under Governor Beshear's Executive Order and, accordingly, Plaintiffs move to dismiss Plaintiffs Harbin, Comer, and Fox's claims from this suit, as their claims are now moot.

However, the Governor's Executive Order does not apply to Plaintiffs Robert Langdon, Richard Petro, Bonifacio Aleman, and Deric Lostutter, and they remain

disenfranchised. Mr. Langdon and Mr. Petro applied for restoration of their voting rights during the previous Governor's administration; those applications are still pending.

A proposed order is attached as **Exhibit 2**.

DATED: January 30, 2020

Respectfully submitted,

/s/ Michelle E. Kanter Cohen

Ben Carter
Kentucky Bar No. 91352
KENTUCKY EQUAL JUSTICE CENTER
222 South First Street, Ste. 305
Louisville, KY 40202
ben@kyequaljustice.org
Phone: (502) 303-4062

Jon Sherman*
D.C. Bar No. 998271
Michelle Kanter Cohen*
D.C. Bar No. 989164
Massachusetts Bar No. 672792 (inactive)
Cecilia Aguilera*
D.C. Bar No. 1617884
FAIR ELECTIONS CENTER
1825 K St. NW, Suite 450
Washington, DC 20006
jsherman@fairelectionscenter.org
mkantercohen@fairelectionscenter.org
caguilera@fairelectionscenter.org
Phone: (202) 331-0114

Counsel for Plaintiffs

**Admitted Pro Hac Vice*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Plaintiffs' Motion to Dismiss Plaintiffs Harbin, Comer, and Fox's Claims As Moot was served upon the following parties via the CM/ECF system on January 30, 2020:

S. Travis Mayo
Taylor Payne
Office of the Governor
700 Capitol Avenue, Suite 106
Frankfort, Kentucky 40601
Travis.Mayo@ky.gov
Taylor.Payne@ky.gov

Barry L. Dunn
Dunn Law PLLC
2527 Nelson Miller Parkway, Suite 105
Louisville, KY 40223
(502) 234-2640
barry@dunnlawky.com

Kristin L. Wehking
Office of Legal Services
Justice and Public Safety Cabinet
125 Holmes Street
Frankfort, KY 40601
(502) 564-7554
Kristinl.wehking@ky.gov

/s/ Michelle E. Kanter Cohen

January 30, 2020