

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON
CASE NO. 5:25-cv-00424-BJB

RAMSI A. WOODCOCK

PLAINTIFF

v.

ELI CAPILOUTO, *et al.*

DEFENDANTS

**UNIVERSITY OFFICIALS' RESPONSE TO PLAINTIFF'S
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

The University of Kentucky Officials—President Eli Capilouto, Provost Robert DiPaola, General Counsel William Thro, Former Dean of the College of Law James Duff in his personal capacity, and Current Dean of the College of Law Gregory Van Tatenhove¹—respond to Woodcock's Emergency Motion for a Temporary Restraining Order.²

Woodcock seeks two things: (1) an order halting the University's Title VI investigation of him when that investigation is in the final stages;³ and (2) an order

¹ Gregory F. Van Tatenhove has been appointed Dean of the College of Law and has been substituted as a party to the extent claims against the Dean were made in his official capacity. The Amended Complaint does not expressly reference Dean Van Tatenhove. Nonetheless, this Response includes and is also made on behalf of the Dean in his official capacity.

² Although U.S. Secretary of Education McMahon and Kentucky Attorney General Coleman are parties, neither appears implicated by Woodcock's motion, which alleged a legislative act requiring the University to use a particular definition of antisemitism is unconstitutional.

³ The evidence gathering phase is complete. Woodcock also has submitted his responses to the first evidence review. The only remaining stages are the second evidence review and the final report. Assuming Woodcock submits his

directing the University to allow him to teach in the law school.⁴ For the reasons below, his request should be denied.

INTRODUCTION

Woodcock filed his motion for a temporary restraining order in *this* Court for one reason—the state court was clear that it intended to deny a substantively identical request, which it ultimately did.⁵ Having lost in state court, Woodcock now asks this Court to give him the relief that the state court denied him.

This motion is only the latest example of Woodcock’s blatant forum shopping. When the federal or state judiciary does not act immediately or denies his motions, Woodcock switches courts to try to obtain relief. For example, when the Sixth Circuit refused to depart from standard practice for issuing the mandate so that he could get an expedited ruling from this Court,⁶ he went to state court seeking the same relief. Similarly, when this Court expressed severe skepticism of his attempt to remove Dean Van Tatenhove,⁷ he voluntarily dismissed his federal court suit in this Court and refiled a substantively identical request in state court.⁸ Now, having lost in state court, he returns to this Court.

response to the second evidence review in a timely manner, it is likely the investigation will be complete in early November.

⁴ Plaintiff’s Emergency Motion for a Temporary Restraining Order or, in the alternative, for an Expedited Ruling on his Motion for a Preliminary Injunction and an Order Preserving the Status Quo [DE 65].

⁵ See Franklin Circuit Court Order, attached as Exhibit 1.

⁶ Order denying appellant’s motion for immediate issuance of the mandate, Case No. 26-5057, ROA 108.

⁷ *Woodcock v. Van Tatenhove*, No. 5:26-CV-262-BJB, 2026 WL 2211390 (E.D. Ky. July 31, 2026).

⁸ *Id.* at DE 20.

This forum shopping must end.⁹ Accordingly, the University Officials ask this Court to: (1) summarily deny the motion for temporary restraining order; (2) deny the motion for preliminary injunction based on the full briefing and one day hearing transcript from December 2025 because there is no need for a further hearing; and (3) order expedited briefing on the University Officials' Motion for Judgment on the Pleadings, and grant that motion.

ARGUMENT

I. Because the *Ex parte Young* Doctrine does not apply, Sovereign Immunity Bars the TRO request.

Under the *Ex parte Young* doctrine,¹⁰ “when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes.”¹¹ But that is the extent of the doctrine. It applies only when the “complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.”¹² Unless there is an on-going violation of federal law, this Court may not order the University to stop its investigation, refrain from initiating disciplinary proceedings, or to return him to the classroom mid

⁹ Because Woodcock initially filed suit in this Court, the state court cannot proceed. Kentucky's exclusive concurrent jurisdiction doctrine “essentially prevents the same parties from litigating the same issues in two courts by giving priority to the court that first properly acquired jurisdiction over the parties and their dispute.”⁹ *Beshear v. Ridgeway Props., LLC*, 647 S.W.3d 170, 177 (Ky. 2022). In other words, once a plaintiff files suit in one court and that court has jurisdiction, the plaintiff cannot file a substantively identical suit in another court. The court where the plaintiff first filed has exclusive concurrent jurisdiction. The second court cannot proceed.

¹⁰ *Ex parte Young*, 209 U.S. 123 (1908).

¹¹ *Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 255 (2011).

¹² *Verizon Md. Inc. v. Public Serv. Comm'n of Md.*, 535 U.S. 635, 645 (2002).

semester. In other words, the key to invoking *Ex parte Young* is to state a claim of an *on-going* violation of federal law.¹³

Yet Woodcock's Emergency Motion for temporary restraining order fails to meet even this minimal standard.¹⁴ Quite simply, there is no allegation of an on-going violation of federal law. This is so for three reasons. First, federal law allows the University to complete its Title IX investigation. Second, *Josephson v. Ganzel* does not require stopping the investigation.¹⁵ Third, federal law does not prohibit the University to reassign Woodcock to non-teaching duties.

A. Federal law allows the University to complete its Title VI investigation.

Although Woodcock asserts that all of his conduct under investigation is constitutionally protected, federal law allows the University to complete its Title VI investigation. Indeed, federal law *requires* the University to act whenever it becomes aware of a possible Title VI violation.¹⁶ This requirement does not disappear simply because the person under investigation disagrees. Nor is it apparent the Court need to intervene at this time.

¹³ See *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 106 (1984) (claiming a violation of state law is insufficient to invoke *Ex parte Young*).

¹⁴ Because the University of Kentucky is not a state official, *Kaplan v. University of Louisville*, 10 F.4th 569, 577 (6th Cir. 2021), Professor Woodcock can only invoke the *Ex parte Young* doctrine against the University Officials in their official capacities.

¹⁵ *Josephson v. Ganzel*, 115 F.4th 771 (6th Cir. 2024)

¹⁶ Like all recipients of federal funds, when the University becomes aware of a possible violation of Title VI, it must respond with something other than deliberate indifference. See *Malick v. Croswell-Lexington District Schools*, 148 F.4th 855, 862 (6th Cir. 2025).

There are three possible outcomes to the investigation. First, the investigation may conclude that Woodcock did nothing wrong. If so, then Dean Van Tatenhove will determine an appropriate assignment for the Spring 2027 Semester and subsequent years. In that scenario, any claim for injunctive relief will be moot.¹⁷ As this Court observed in this very case, “it is curious why Woodcock would want to terminate the very investigation that could exonerate him, considering that he contends that he is being wrongly accused. Prematurely terminating the investigation would leave doubts (among students, colleagues, future employers, and the public) rather than ameliorate them as Woodcock suggests.”¹⁸

Second, the investigation may find a violation of Title VI or other university policy. In that case, President Capilouto may conclude such violation is not worthy of tenure revocation or an unpaid suspension. Then, the University may impose some sort of minor sanction. Woodcock may or may not choose to challenge that penalty in this Court.¹⁹

Third, the investigation may conclude formal disciplinary proceedings are appropriate. In that case, Woodcock would likely seek to stop those proceedings.²⁰

¹⁷ As explained in the University’s Motion to Dismiss and the University Officials Motion for Judgment on the Pleadings, all of *his damages claims are barred by immunity*.

¹⁸ *Woodcock v. Univ. of Kentucky*, 820 F. Supp. 3d 555, 578 (E.D. Ky. 2026), rev’d and remanded, No. 26-5057, 2026 WL 2474872 (6th Cir. Aug. 24, 2026), reh’g *denied*, No. 26-5057, 2026 WL 2821944 (6th Cir. Sept. 10, 2026).

¹⁹ Depending on the nature of the sanction, there may not be an adverse action.

²⁰ Because formal charges will have been filed, abstention under *Younger* or this Court’s inherent powers would be appropriate.

Furthermore, even if the completion of the investigation does not resolve the suit but merely reframes the issues, the completion of the investigation will assist this Court in determining whether Woodcock's conduct is actually constitutionally protected. The Investigators factual findings will illuminate the issues before the Court. Put another way, an injunction now would cut off the University's ability to get this right. Professor Woodcock's actions have put the University in the agonizing place of measuring lines and weighing rocks so it—and this Court—may conduct the *Pickering* analysis required.²¹ To properly conduct this assessment, the University needs to be able to reassign Woodcock so it has the needed space and time to conduct the fact gathering needed to conduct the *Pickering* analysis while fulfilling its obligations under Title VI.

B. *Josephson v. Ganzel* does not require stopping the investigation.

Despite what Woodcock may claim, *Josephson v. Ganzel* does not require this Court to stop the University's investigation. This is so for two reasons.

First, while the Sixth Circuit found that *Ex parte Young* applied in that case, the professor there was seeking reinstatement to his job and expungement of the disciplinary record from his personnel.²² In other words, the professor was claiming that federal law required reinstatement and expungement because the university's

²¹ *Bennett v. Metro. Gov't of Nashville & Davidson Cnty., Tennessee*, 977 F.3d 530, 553 (6th Cir. 2020) (Murphy, J. concurring) (“[T] this balancing requires us to compare incomparable interests.”); *Bendix Autolite Corp. v. Midwesco Enters., Inc.*, 486 U.S. 888, 897 (1988) (Scalia, J., concurring in the judgment) (analogizing to the hopeless task of assessing “whether a particular line is longer than a particular rock is heavy”).

²² *Josephson*, 115 F.4th at 782–83.

decision to fire him for his speech was unconstitutional. In contrast, Woodcock has not been terminated and is simply claiming that federal law precludes *any* investigation of his alleged conduct.

Second, *Josephson* does not establish that Woodcock's conduct is constitutionally protected. The Sixth Circuit found the professor's presentation to the Heritage Foundation was *not* part of his official duties.²³ He was speaking as a private citizen.²⁴ In contrast, the University is investigating *whether* Woodcock spoke as a public employee when he allegedly made antisemitic comments at certain academic conferences, shouted down other speakers, sent antisemitic messages to the American Association of Law Schools list serv, and sought to advance his personal political agenda through the University's email system.

Moreover, while *Josephson* extended the Sixth Circuit's academic freedom exception to *Garcetti* to the context of a presentation at an academic conference, the Court found the professor's "speech stemmed from his scholarship and thus related to scholarship or teaching."²⁵ In contrast, antisemitic expressive conduct has nothing to do with an expertise in anti-trust or law and economics.

C. Federal law allows the University to reassign Woodcock to non-teaching duties while it investigates.

Federal law allows the University to reassign Woodcock to other duties while it conducts a Title VI investigation. While tenured professors at the University of

²³ *Id.* at 784.

²⁴ *Id.*

²⁵ *Id.* at 787.

Kentucky have a constitutionally protected property interest in their faculty position,²⁶ that interest does not extend to teaching classes or any particular duties.²⁷ The University retains the discretion to determine the nature of a faculty member's assignments, including whether a faculty member will teach and, if so, what courses. Moreover, when there are allegations of misconduct, the Sixth Circuit has permitted reassignment of faculty members during investigations.²⁸

Although Woodcock would prefer to teach, his property interest in being a tenured professor does not allow him to choose his work assignments. Were it otherwise, the University could never direct faculty members to teach a particular class if they did not wish to do so. Importantly, Woodcock receives his full salary, may enter the building, has access to his university email account, and can pursue his scholarship.

Moreover, the University's reassignment to non-teaching duties does not constitute a prior restraint. *Blick v. Ann Arbor Public School District* illustrates the point.²⁹ In that case, a school district placed an elementary school principal on administrative leave with pay while it investigated whether she was involved in fraudulent activity.³⁰ The school district also prohibited her from speaking about the

²⁶ *Board of Regents v. Roth*, 408 U.S. 564, 576–77 (1972); *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

²⁷ *Parate v. Isibor*, 868 F.2d 821, 832 (6th Cir. 1989) (explaining “no constitutional right to teach a specific class exists”); *see also Kaplan v. Univ. of Louisville*, 10 F.4th 569, 586 (6th Cir. 2021) (observing similarities between *Kaplan* and *Parate*).

²⁸ *Id.* at 583–84.

²⁹ *Blick v. Ann Arbor Pub. Sch. Dist.*, 105 F.4th 868, 880–81 (6th Cir. 2024)

³⁰ *Id.* at 874–76,

matter.³¹ The principal claimed that placing her on administrative leave and restricting her ability to speak about the matter during the investigation constituted a prior restraint.³² The Sixth Circuit disagreed because she failed to identify what she would have said without the restrictions.³³

In contrast, there are no restrictions on Woodcock's speech. He simply has a non-teaching assignment. Woodcock is free to express himself and has done so. He has protested the appointment of Dean Van Tatenhove, continued to pursue his scholarship, and addressed an on-campus event by the Students for Justice in Palestine.

II. The University Officials adopt and incorporate other arguments.

In the interests of brevity and judicial economy, the University adopts and incorporates all arguments made in the Response to Woodcock's Motion for a Preliminary Injunction,³⁴ the University Official's Motion to Dismiss the Original Complaint,³⁵ the University's Motion to Dismiss the Amended Complaint,³⁶ and the University Officials Motion for Judgment on the Pleadings.³⁷

CONCLUSION

For these reasons, the Court should (1) summarily deny the motion for temporary restraining order; (2) deny the motion for preliminary injunction based on

³¹ *Id.* at 879–80.

³² *Id.* at 879–80.

³³ *Id.* at 881–82.

³⁴ DE 26.

³⁵ DE 23.

³⁶ DE 61.

³⁷ DE 63.

the full briefing and one day hearing transcript from December 2025 because there is no need for a further hearing; and (3) order expedited briefing on the University Officials' Motion for Judgment on the Pleadings, and grant that motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2026 the foregoing document was electronically filed using the Court's CM/ECF system, which will send notification of such filing to all parties registered to receive electronic filings and via electronic mail to the below listed.

/s/ Bryan H. Beauman

Counsel for Defendants