

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
NO. 26-5057**

Ramsi A. Woodcock

Appellant

On appeal from the United States District Court
v. for the Eastern District of Kentucky
Civil Action No. 5:25-CV-00424

University of Kentucky, et al.

Appellees

UNIVERSITY’S PETITION FOR PANEL REHEARING

Under RAP 40, the University of Kentucky, President Capilouto, Provost DiPaola, General Counsel Thro, Interim Dean Duff, and Dean Van Tatenhove (collectively the “University”) petition for rehearing of the panel decision.¹

¹ As the caption of the Court’s opinion makes clear, Linda McMahon, in her official capacity as United States Secretary of Education, is a party to this case. Therefore, under Fed. R. App. P. 40(d)(1), the deadline to seek rehearing is forty-five days—not fourteen. This is so even though Secretary McMahon did not participate in this appeal. Even so, the University files petition for rehearing on September 4—well within the normal fourteen-day rule.

INTRODUCTION

This Court adopted a bright line rule—*Younger* abstention does not apply unless a formal proceeding has been commenced.² According to this Court: because a formal proceeding has not been commenced by the University against Woodcock, the district court erred in applying *Younger* abstention.³ On that basis, this Court reversed and remanded “for consideration of Woodcock’s motion for a preliminary injunction and further proceedings consistent with this opinion.”⁴

The University does not ask to rehear this Court’s conclusion that *Younger* does not apply. Rather, the University seeks clarification of the scope of proceedings on remand and to ensure the district court continues to have its inherent authority to manage the case and not to be limited to address other motions that may come before it.

This Court’s decision could be read as directing the district court to immediately decide Woodcock’s preliminary injunction motion. Indeed, based on his Emergency Motion for Immediate Issuance of the Mandate

² *Woodcock v. Univ. of Kentucky*, --- F.4th ----, No. 26-5057, 2026 WL 2474872, at *3 (6th Cir. Aug. 24, 2026).

³ *Id.*

⁴ *Id.*

filed here, Woodcock seems to have adopted this reading. He also is likely to insist that immediately on remand the district court must rule on the motion for preliminary injunction, and that alone. On September 1, 2026, Woodcock filed a Status Report and Notice of Forthcoming Emergency Motion with the district court and provided notice that immediately after the mandate he “intends to file an emergency motion requesting that this [District] Court hold oral argument and issue a ruling on Plaintiff’s motion for a preliminary injunction no later than Friday, September 11, 2026.”⁵

But the University reads the decision as permitting the district court to take other actions before it rules on Woodcock’s preliminary injunction motion. Specifically, the University believes that the district court has the inherent power to delay ruling on Woodcock’s motion for a preliminary injunction until the investigation is complete and the University has determined if formal proceedings are necessary. Similarly, the University believes the district court could address its motion to dismiss, which is based on immunity, before addressing Woodcock’s motion for a preliminary injunction.

⁵ R.57, at Page ID #2165.

The University asks this Court to amend its opinion to make it clear that, on remand, the district court *may* stay proceedings, decide the University's motion to dismiss, or decide Woodcock's preliminary injunction. All are within the district court's discretion to control its docket. The amendment sought here will also provide guidance in future similar cases.

REASONS FOR GRANTING THE PETITION

I. The district court has the inherent power to delay ruling on the preliminary injunction.

As the Supreme Court observed, a district court “has broad discretion to stay proceedings as an incident to its power to control its own docket.”⁶ This Court recognized, “the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes in its docket with economy of time and effort for itself, for counsel and for litigants, and the entry of such an order ordinarily rests with the sound discretion of the District Court.”⁷ So, even when

⁶ *Clinton v. Jones*, 520 U.S. 681, 706 (1997).

⁷ *FTC v. E.M.A. Nationwide, Inc.*, 767 F.3d 611, 626–27 (6th Cir. 2014) (citation modified).

abstention doctrines—like *Younger* or *Colorado River*—are inapplicable, a district court may still stay proceedings.⁸

When this case is returned to the district court, the University intends to ask the district court to use its inherent power to stay the proceedings until such time as the investigation is complete and a decision has been made about whether to commence formal proceedings.⁹ As the University made clear in its briefs and at oral argument, the *sole* reason the investigation is not complete is Professor Woodcock’s refusal to answer a series of written questions given to him on December 1, 2025.¹⁰ Woodcock insisted that he would not answer the questions until

⁸ See, e.g., *James v. Thomas*, 2025 WL 1392156 at *2-3 (W.D. Ky. 2025) (noting courts have an inherent power to grant a stay but ultimately declining to do so); *Nova U.S., Inc. v. DiSimone*, 2024 WL 385706 at* 16 (W.D. Ky. 2024) (finding *Colorado River* abstention to be applicable but also noting “a stay under the Court’s inherent power to manage its docket would alternatively be appropriate.”); *180 Industrial, LLC v. The Brunner Firm, LPA*, 2018 WL 11432484 at *6 (S.D. Ohio 2018) (finding *Colorado River* abstention to be inapplicable but granting stay based on inherent power).

⁹ The University’s original motion for abstention under *Younger* also asked for a stay under the district court’s inherent power. See University’s Mot. to Abstain [R.25].

¹⁰ University’s Br., at 15 n.15 [Record on Appeal (“ROA”) 56].

after the district court and later this Court ruled,¹¹ but he maintained he did wish to participate in the investigation.¹² Had Woodcock answered the questions in December of 2025, the investigation would have been completed and the University would have decided whether to initiate formal proceedings.

As Woodcock has already informed this Court, on August 25, 2026, the day after this Court issued its published opinion, the University's investigator informed Woodcock that she expected answers to the questions by September 8 and, if he did not respond, she would assume he did not want to participate. If Woodcock answers the questions, then the investigator will quickly move to the evidence reviews promised to Woodcock and the investigation will be completed by the end of October. Alternatively, if Woodcock declines to answer the questions or otherwise participate, then the investigation will be final by September 15.

¹¹ Initially, Woodcock wished to wait until after the district court ruled on his injunction motion. After the district court abstained under *Younger*, Woodcock wanted to delay until after this Court ruled on his emergency motion for an injunction pending appeal. After this Court denied his request, he insisted on waiting until this Court ruled on the merits of his appeal.

¹² Desiring to have Woodcock participate, the University's investigator agreed to the delays.

Regardless of which choice Woodcock makes, the University will need approximately two weeks to review the report and determine whether to commence formal proceedings. If the investigation finds no evidence of a violation or only a minor violation, then formal proceedings will not be commenced.¹³ If the investigation finds evidence of a major violation, then formal proceedings will be commenced.

But Woodcock apparently interprets the published opinion as precluding the district court from doing anything other than ruling on the preliminary injunction hearing. That is not right. Thus, granting Rehearing and then amending the published opinion to acknowledge the district court's inherent authority to stay proceedings would resolve that ambiguity.

II. Acknowledging a district court's inherent authority to stay proceedings will provide guidance in future cases.

Amending the published opinion to acknowledge a district court's inherent authority to stay proceedings will provide clarity in this case but also will provide guidance in future cases.

¹³ Presumably, a decision not to initiate formal proceedings will moot his claim for injunctive relief.

This Court’s adoption of a bright line rule—*Younger* does not apply when formal proceedings have not commenced—is problematic for public universities subject to Title VI and Title IX. Consider a situation where students claim a professor is engaging in classroom speech that amounts to racial or sexual harassment. Title VI and Title IX require an investigation into the professor’s speech. Still, if the professor sues to stop the investigation claiming his speech is protected under *Merriwether v. Hartop*,¹⁴ the university cannot raise *Younger* as a defense. So, despite its legal obligation to investigate, there is a greater possibility the university will be unable to complete the investigation it is legally obligated to complete.

But if this Court explicitly acknowledges a district court’s inherent authority to stay proceedings, it provides guidance—in a published opinion—for future cases. Both bench and bar will recognize that a short stay of proceedings to complete an investigation is a realistic alternative to *Younger*. To be sure, persuading the district court to stay the proceedings is a more difficult burden than simply invoking *Younger*, but the public university should still have this option.

¹⁴ *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021).

This Court should amend the published opinion to recognize the district court's inherent authority to stay proceedings and that this opinion does not foreclose that option.

III. The district court may decide the motion to dismiss on immunity grounds before the motion for preliminary injunction.

On remand, the district court has discretion to stay the proceedings or to address Woodcock's motion for a preliminary injunction. But there is a third option—the district could address the University's motion to dismiss on immunity grounds.

In addition to moving to abstain, the University moved to dismiss Woodcock's complaint on sovereign immunity and qualified immunity grounds.¹⁵ Although Woodcock filed an amended complaint a few hours prior to the district court granting the motion for abstention,¹⁶ all of the claims against the University are barred by sovereign immunity and

¹⁵ University's Motion to Dismiss [DE 23]. The University also raised a failure to state a claim argument. That is because the *Ex parte Young* doctrine requires stating a claim for an on-going violation of federal law in order to be entitled to prospective injunctive relief. The sovereign immunity argument and Woodcock's failure to state a claim are inextricably linked. *See, e.g., Verizon Maryland, Inc. v. Pub. Serv. Comm'n of Maryland*, 535 U.S. 635, 645 (2002).

¹⁶ Amended Complaint [DE 36].

qualified immunity.¹⁷ So, when this case is remanded to the district court, the University will be moving to dismiss the Amended Complaint on immunity grounds.

The district court could address that motion to dismiss before addressing Woodcock's motion for a preliminary injunction. As this Court has explained, "the issue of immunity should be resolved at the earliest possible stage of a litigation, in order to prevent the litigant from having to endure pretrial matters such as discovery."¹⁸ Additionally, if the district court addressed the motion to dismiss first and granted the University's motion, then the injunctive claims against the University would be moot.

This Court should acknowledge this possibility. To do so, this Court should amend its published opinion to acknowledge the district court's discretion to decide a motion to dismiss on immunity before Woodcock's preliminary injunction motion.

¹⁷ Woodcock's Amended Complaint also includes claims against Kentucky Attorney General Coleman and U.S. Secretary of Education McMahon. *Id.*

¹⁸ *Barrett v. Harrington*, 130 F.3d 246, 252 (6th Cir. 1997) (citations omitted).

CONCLUSION

For the reasons above, this Court should grant the panel rehearing, amend its published opinion to explicitly acknowledge the district court's inherent authority to stay proceedings, and amend its published opinion to explicitly acknowledge the district court's ability to decide the University's motion to dismiss on immunity grounds before Woodcock's preliminary injunction motion.

Respectfully submitted,

/s/ Bryan H. Beauman

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CERTIFICATE OF COMPLIANCE

This response complies with the type-volume limitation of Fed. R. App. P. 40(d)(3) because it contains 1,915 words, excluding those parts exempted by Fed. R. App. P. 32(f).

This response complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared using proportionally-spaced, 14-point face.

/s/ Bryan H. Beauman
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CERTIFICATE OF SERVICE

I certify that on September 4, 2026, I served a true and complete copy of this Notice using the Court's CM/ECF system, which will serve counsel of record.

/s/ Bryan H. Beauman
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