

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2012-CA-000156-MR

ERIC CUNNINGHAM

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE PAMELA R. GOODWINE, JUDGE  
ACTION NO. 11-CI-05038

FAYETTE COUNTY DETENTION  
CENTER; OFFICER HUNDLEY;  
AND DWIGHT HALL

APPELLEES

OPINION  
AFFIRMING  
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BEFORE: ACREE, CHIEF JUDGE; KELLER AND MOORE, JUDGES.

KELLER, JUDGE: Eric Cunningham (Cunningham) appeals *pro se* from an order of the Fayette Circuit Court dismissing his petition for declaration of rights against the Fayette County Detention Center, Officer Hundley, and Dwight Hall (the Appellees). For the following reasons, we affirm.

## FACTS

In August 2011, Cunningham was a pretrial detainee at the Fayette County Detention Center. On August 18, 2011, Cunningham filed a grievance alleging that, on August 16 and 17, 2011, Officer Hundley denied him and other Muslim inmates the right to participate in group prayer during Ramadan. Dwight Hall responded to Cunningham's grievance regarding Officer Hundley's behavior and determined that it was unsubstantiated and noted that Cunningham could "exercise prayer at any time inside [his] sub-day room."

On October 6, 2011, Cunningham filed a petition for declaration of rights against the Appellees in the Fayette Circuit Court alleging that his constitutional right to the free exercise of religion was violated. The declarations sought by Cunningham concerned the conditions of his confinement. Specifically, he sought a declaration that pretrial detainees have a right to practice their religion and participate in group prayer, and a declaration that religious practices "cannot be revoked at the whim of any officer." Cunningham further sought an order requiring the Appellees to make all religious policies available to inmates and officers. He also requested damages.

On November 1, 2011, the Appellees filed a motion to dismiss, which the trial court granted in an order entered on December 21, 2011. This appeal followed.

## ANALYSIS

On appeal, Cunningham argues that the trial court erred in dismissing his petition for declaration of rights. The Appellees contend that, because Cunningham is no longer detained at the Fayette County Detention Center, his request for declaratory relief is moot.

As set forth in *Medical Vision Group, P.S.C. v. Philpot*, 261 S.W.3d 485, 491 (Ky. 2008):

[A]n appellate court is required to dismiss an appeal when a change in circumstance renders that court unable to grant meaningful relief to either party. Unless there is “an actual case or controversy,” this Court has no jurisdiction to hear an issue and is prohibited from producing mere advisory opinions.

(Citations omitted).

We conclude that because Cunningham is no longer an inmate at the Fayette County Detention Center, any possible claims for declaratory relief are now moot. *See Colvin v. Caruso*, 605 F.3d 282, 289 (6th Cir. 2010) (claim for declaratory and injunctive relief based on prisoner’s denial of kosher meals was rendered moot by subsequent transfer to a different institution); *Kensu v. Haigh*, 87 F.3d 172, 175 (6th Cir. 1996) (finding that a prisoner’s request for injunctive relief from prison inspection of his mail was moot because he had been transferred to a different facility that did not search his mail).

As to the monetary damages, Kentucky Revised Statute (KRS) 454.405(5) provides that “[n]o inmate may maintain a civil action for monetary damages in any state court for mental or emotional injury without a prior showing of physical

injury.” Although it is unclear what type of damages Cunningham seeks, he has not alleged that he suffered a physical injury. Thus, his claim for monetary damages is not proper.

### CONCLUSION

For the foregoing reasons, the order of the Fayette Circuit Court denying Cunningham’s petition for declaration of rights is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Eric Cunningham, *pro se*  
Lexington, Kentucky

BRIEF FOR APPELLEE:

Tracy W. Jones  
Lexington, Kentucky