

Nos. 19-5095 & 19-5097

ARGUED ON OCTOBER 11, 2019

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**RONNIE MAURICE STEWART, et al.,
Plaintiffs-Appellees**

v.

**ALEX M. AZAR II, Secretary of Health & Human Services, et al.,
Defendants-Appellants,**

**COMMONWEALTH OF KENTUCKY,
Intervenor-Defendant-Appellant.**

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**INTERVENOR-DEFENDANT-APPELLANT
COMMONWEALTH OF KENTUCKY'S
MOTION TO VOLUNTARILY DISMISS APPEAL**

Intervenor-Defendant-Appellant, Commonwealth of Kentucky (“the Commonwealth”), respectfully moves this Court for voluntary dismissal of the above-styled appeals pursuant to Federal Rule of Appellate Procedure (“FRAP”) 42(b), Circuit Rule 42 and Circuit Rule 27(g). On December 16, 2019, the Commonwealth notified the Department of Health and Human Services, Centers for Medicaid and Medicare Services of the termination of its section 1115

demonstration project entitled “Kentucky Helping to Engage and Achieve Long Term Health” (KY HEALTH) (Project Number 11-W-00306/4 and 21-W-00067/4) that the Centers for Medicaid & Medicare Services (CMS) approved on January 12, 2018, and the Kentucky HEALTH program that the Centers for Medicaid & Medicare Services approved on November 20, 2018 as a component the previously-referenced demonstration project. (*See* Letter to CMS, Dec. 16, 2019, attached as Exhibit A).

The Commonwealth having terminated the section 1115 demonstration project that is the sole issue of the above-styled appeals, the appeals are moot and should be dismissed, with prejudice. The voluntary dismissal of the above-styled appeals will not affect any other appeal before this Court, including *Charles Gresham, et al. v. Alex M. Azar II, et al.*, Nos. 19-5904 and 19-5096.

Further, counsel for Plaintiffs-Appellees and counsel for the Commonwealth agree to resolve the assessment of costs and attorney’s fees through extrajudicial means.

Wherefore, the Intervenor-Defendant-Appellant Commonwealth of Kentucky moves for the voluntary dismissal of the above-styled appeals, with prejudice.

Respectfully submitted,

/s/ S. Travis Mayo

La Tasha Buckner

General Counsel

S. Travis Mayo

Chief Deputy General Counsel

Office of the Governor

Commonwealth of Kentucky

700 Capitol Avenue, Suite 106

Frankfort, Kentucky 40601

(502) 564-2611

*Counsel for Intervenor-Defendant-Appellant
Commonwealth of Kentucky*

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2019, I electronically filed this Brief of the Intervenor-Defendant-Appellant Commonwealth of Kentucky with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all parties.

/s/ S. Travis Mayo

S. Travis Mayo

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of Federal Rule of Appellate Procedure 27(d)(2) because it contains 228 words, according to the count of Microsoft Word. I further certify that this brief complies with typeface and style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) because it has been prepared in Microsoft Word using 14-point Times New Roman font.

Dated: December 16, 2019

/s S. Travis Mayo
S. Travis Mayo