

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Ma'Lik Richmond,	:	
Plaintiff,	:	Case No. 4:17-cv-01927
vs.	:	Judge Benita Y. Pearson
Youngstown State University,	:	
Defendant.	:	

NOTICE OF APPEAL

Notice is hereby given by Defendant, Youngstown State University hereby appeals to the United States Court of Appeals for the Sixth Circuit from a Temporary Restraining Order entered in this action on September 14, 2017. *See Exhibit A*.

Respectfully submitted,

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Ohio Attorney General**

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of September, 2017, I filed the foregoing with the Clerk of Court which will send notification of such service and subsequent filing to all counsel via the Court's Electronic Filing System.

/s/ Christina L. Corl
Christina L. Corl (0067869)

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PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MA'LIK RICHMOND,)	
)	CASE NO. 4:17CV1927
Plaintiff,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
YOUNGSTOWN STATE UNIVERSITY,)	<u>MEMORANDUM OF OPINION</u>
)	<u>AND ORDER GRANTING TRO</u>
Defendant.)	[Resolving <u>ECF No. 3</u>]

The within matter came on for hearing upon Plaintiff's Motion for Temporary Restraining Order (ECF No. 3).

After notice to the parties, the Court held a hearing on the motion. The Court has been advised, having reviewed the record, the parties' briefs and the applicable law. The Court has also considered the oral arguments of counsel.

Four factors are important in determining whether a temporary restraining order is appropriate: (1) the likelihood of the plaintiff's success on the merits; (2) whether the injunction will save the plaintiff from irreparable injury; (3) whether the injunction would harm others; and (4) whether the public interest would be served by the injunction. PACCAR Inc. v. TeleScan Techs., L.L.C., 319 F.3d 243, 249 (6th Cir. 2003) (overruled on other grounds in KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc., 543 U.S. 111 (2004)); In re DeLorean Motor Co., 755 F.2d 1223, 1228 (6th Cir. 1985). The test is a flexible one and the factors are not prerequisites to be met, but must be balanced. In re DeLorean Motor Co., 755 F.2d at 1229. In



(4:17CV1927)

balancing the four considerations applicable to temporary restraining order decisions, the Court holds that equitable relief is appropriate at this time.

1. At this early stage, it is not clear that Plaintiff will prevail on the merits of each claim. Plaintiff's Title IX claim is viable for reasons made known on the record, including its reference by Youngstown State University to explain the decision banning Plaintiff from playing football. The expedited discovery appears targeted to address this claim, and further develop its merits. The breach of an agreement or contract claim is viable as well. Therefore, it is likely, at this stage of the litigation, that Plaintiff's claims will succeed.

2. For the reasons stated on the record, that Plaintiff will suffer irreparable harm is patent. This is due, in part, to the public nature of being banned from playing football due to past behavior---non-YSU student related behavior---without notice, or process. Defendant's statement explaining its reasons for banning Plaintiff from playing repeats that Plaintiff was in "good standing" while acknowledging that he would forfeit a year of eligibility as a result of the ban. This forfeiture of eligibility is a harm that, while not dispositive, bodes in favor of granting the temporary restraining order.

3. To the extent there is harm to Defendant, that harm is self-inflicted. Any harm to the greater community is uncertain as public opinion, both in favor and against, banning Plaintiff has been made known.

4. The public has great interest in promoting respect for the law and the safety of our communities, including college campuses. Concomitantly, the public has great interest in its

(4:17CV1927)

public institutions meeting reasonable expectations, and keeping promises that rise to the level of an agreement, and honoring its contracts.

For the reasons indicated on the record, Plaintiff's Motion for Temporary Restraining Order (ECF No. 3) is granted. In this case, Plaintiff was on the active roster and played football for Defendant this academic year. The status quo shall be maintained.

Accordingly, during the pendency of this case, Defendant is prohibited from either (i) removing Plaintiff from the active player roster of its football team or (ii) forbidding Plaintiff to play in games, unless such actions result from legitimate coaching decisions based solely upon criteria the coach would apply in evaluating other members of the team.

Plaintiff's Motion for Preliminary Injunction (ECF No. 3) shall come on for hearing on September 28, 2017 at 2:00 p.m., in Courtroom 351, Thomas D. Lambros United States Court House, 125 Market Street, Youngstown, Ohio.

IT IS SO ORDERED.

September 14, 2017
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge