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Mauk's latest call: Suing NCAA

But UC's moving on despite ex-QB's desperation play to extend eligibility

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University of Cincinnati football coach Brian Kelly will not allow former quarterback Ben Mauk to practice with the Bearcats despite a temporary restraining order issued in response to a lawsuit Mauk filed against the NCAA.

The order, issued by Judge William D. Hart in Hardin County (Ohio) Common Pleas Court, says the NCAA cannot prevent Mauk "from practicing, participating and playing football for the University of Cincinnati."

Kelly said Thursday that if UC allows Mauk to practice and the NCAA eventually prevails in court, UC could be forced to forfeit games and return bowl money.

"Ben Mauk, myself and everybody else here will not go down that road," Kelly said. "That's ludicrous to even think that we would put him on the field and put our football team in harm's way."

UC does not have to let Mauk practice because the school is not named as a party in the restraining order, UC assistant general counsel Douglas Nienaber said. Kevin Murphy, an attorney representing Mauk from the local firm of Graydon Head and Ritchey, said if UC doesn't let Mauk play "or if they do not let him participate" it will be "only because of the NCAA's threats to the university, which they use to prevent people from exercising their legal rights."

The NCAA's Student-Athlete Reinstatement Committee last Friday denied Mauk's appeal to a previous NCAA ruling that said Mauk was not entitled to a sixth year to complete his four years of eligibility.

Mauk had claimed an injury prevented him from playing during his freshman year at Wake Forest. But the NCAA ruled neither he nor UC could produce contemporaneous documentation to support that contention, and Mauk was not entitled to a medical hardship waiver.

"We are disappointed in the ruling granting the temporary restraining order," NCAA spokesperson Erik Christianson said. "We look forward to explaining more fully our reasons for the decision and the careful review given not only by our staff but also by representatives from our member schools."

Mauk's claim is that Wake Forest is at fault for the lack of documentation, and therefore he should not be penalized by not being granted the chance to compete for a fourth year.

"Obviously, neither the University of Cincinnati nor Ben Mauk had any means or vehicle to get that," Murphy said. "If there was a lack of information, that's not his problem or that wasn't in his control."

Murphy said he found one case that is "very close" to Mauk's in which the NCAA ruled in the student-athlete's favor.

"We have one that we know of, and we're hoping that the NCAA will allow us to present it with information so that they can give the same type of due process to Ben that they have to others," Murphy said.

The request for the temporary restraining order also claims the NCAA made its decision "without affording Mr. Mauk the opportunity for an oral hearing, an opportunity provided for in the NCAA's regulations."

A hearing on a preliminary/permanent injunction has been scheduled for Aug. 22 in Hardin County Common Pleas Court.

If Mauk eventually prevails, Kelly said he would welcome him back to the Bearcats.

"I've never heard of it," Kelly said, "but if they beat the NCAA on something and he's cleared, sure, we'd bring him back under those circumstances. But I think you've got a better chance of me losing 20 pounds in the next three weeks. That ain't happening either."

Mauk was not at practice Thursday morning and declined comment on his legal situation, referring questions to his attorney via text message.

"I'm sure every kid who gets their thing overturned, the first thing they think of is, 'I'm going to sue them,'" Kelly said. "He's got to do what he's got to do. I've got to coach my football team. If it gets overturned and he's free to play, sure, but that's nuts. It's not even worth me spending time on."

Kelly said he last talked to Mauk Monday evening when Mauk showed up at UC's training camp at the Higher Ground Retreat Center in West Harrison, Ind., to clean out his room. He said Mauk told him he intended to accept Kelly's offer to become a UC graduate assistant.
