PUBLISHED OPINIONS
KENTUCKY COURT OF APPEALS
March 1, 2026 to March 31, 2026

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I. CRIMINAL LAW

A. ***SERGIO MENDEZ FAIN v. COMMONWEALTH OF KENTUCKY (Ky. App. 2026).***

2024-CA-0477-MR 3/06/2026 2026 WL 627007

Opinion Affirming by ACREE, JUDGE; COMBS, J. (CONCURS) AND ECKERLE, J. (CONCURS)

Sergio Fain appeared before the trial court on the Commonwealth's motion to revoke his probation. At the hearing, Fain did not apprise the trial court that he was also on probation in Ohio, and that he was required to reside in Ohio as a condition of his Ohio probation. In lieu of revocation, the trial court amended Fain's probation to require him to reside in Kentucky. Fain did not appeal the trial court's order, but subsequently filed a motion to have administration of his sentence transferred to Ohio. The trial court denied the motion and, on appeal, Fain argued the trial court placed an unreasonable condition on his probation by requiring him to reside in Kentucky, subjecting him to conflicting residency conditions. The Court of Appeals concluded Fain waived that argument by failing to appeal the order imposing the condition. Instead, Fain's appeal arose from the denial of his motion to transfer administration of his sentence. The Court of Appeals explained the trial court had no authority to grant Fain's motion to transfer administration of his sentence to another state. Such transfers are governed by regulations promulgated pursuant to KRS 349.562(7), which vest the authority in the executive branch—the Department of Corrections—in the first instance. The Court of Appeals affirmed the trial court's denial of Fain's improper motion.

II. CIVIL LAW

A. ***CARL EDWIN STONE, EXECUTOR OF THE ESTATE OF CATHERINE STONE, ET AL. v. DEAN DAIRY HOLDINGS, LLC, D/B/A DEAN MILK COMPANY, LLC, ET AL. (Ky. App. 2026).***

2024-CA-0839-MR 3/06/2026 2026 WL 627170

Opinion Affirming by MCNEILL, JUDGE; ECKERLE, J. (CONCURS) AND MOYNAHAN, J. (CONCURS)

Cathy Stone sued her former employer, Dean Milk Company, for discrimination, retaliation, and intentional infliction of emotional distress. After Ms. Stone's death in 2015, her husband, Carl Stone, was substituted as the named plaintiff. The case was remanded from federal court to the Jefferson Circuit Court. In September 2016, defendants successfully sought dismissal for failure to timely revive under KRS 395.278. The Court of Appeals ultimately reversed that dismissal. In August 2022, appellants filed a separate action, alleging violation of the Kentucky Civil Rights Act (KCRA) for retaliation based on a law firm's filing of a Civil Rule 11 motion and a letter threatening fees and potential suit during the previous litigation. The circuit court dismissed under CR 12.02(f) as time-barred by KRS 413.245's one-year limitations period for claims arising from "professional services." The Court of Appeals affirmed, holding the alleged retaliation arose from attorneys' professional services. The Court reasoned that KRS 413.245 applies over the five-year statutory period in KRS 413.120(2), thus rendering the 2022 filing untimely and mooting remaining issues.

B. LINDA REYNOLDS, AS ADMINISTRATRIX OF THE ESTATE OF SUE BUCHANAN v. RICHARD E. BLAIR, D.O., ET AL. (Ky. App. 2026).

2024-CA-1041-MR 3/06/2026 2026 WL 627347

Opinion Reversing and Remanding by TAYLOR, JUDGE; CALDWELL, J. (CONCURS) AND MCNEILL, J. (CONCURS)

Linda Reynolds, as Administratrix of the Estate of Sue Buchanan, sued Genesis Healthcare (Genesis), HBR Madisonville, LLC (HBR), Richard E. Blair, D.O., and Tara Henson, M.D., alleging wrongful death resulting from Buchanan's care at Hillside Center Nursing Home and Retirement Center. Genesis and HBR filed for bankruptcy and the appeal proceeded against Blair and Henson, the treating physicians. In March 2019, Gensis and HBR had moved to compel arbitration pursuant to an agreement Reynolds signed on behalf of Buchanan. The circuit court compelled arbitration for the claims against all parties, over objections from Reynolds that the wrongful death claims against the doctors were separate from the agreement. In 2024, the circuit court sent notice that the action would be dismissed for lack of prosecution unless good cause was shown. Reynolds moved to reinstate the action against the doctors arguing that the arbitration agreement did not apply to those claims. Genesis and HBR argued that the ordered arbitration had not occurred because Reynolds refused to name an arbitrator or proceed to arbitration. The circuit court dismissed the action for lack of prosecution and Reynolds appealed.

The Court of Appeals reversed and remanded. The Court found that the doctors were not parties to the arbitration agreement. The agreement was made between Genesis and Reynolds (on behalf of Buchanan) and the doctors were not employees of Genesis. Only Genesis and HBC moved to enforce the agreement, and the doctors did not join that motion. And throughout the case, the doctors maintained that they were not bound by the arbitration agreement nor required to participate in an arbitration proceeding. Also, this Court found that the arbitration agreement was not enforceable. The agreement contained provisions to handle a party refusing to name an arbitrator or refusing to participate. The agreement called for the complying party to move the court to progress the arbitration. However, Genesis and HBC stood by and did nothing for 5 years. KRS 417.070 puts to onus on a party to make an application to the court to appoint an arbitrator if the agreed method fails. Genesis and HBC waived the right seek arbitration. The wrongful death claims against the doctors were remanded for proceedings on the merits.

III. KENTUCKY UNIFORM ARBITRATION ACT

A. FIDELITY BROKERAGE SERVICES LLC v. ESTATE OF NANCY BOLTON (Ky. App. 2026).

2024-CA-0514-MR 3/25/2026 2026 WL 784745

Opinion Affirming by CALDWELL, JUDGE; CETRULO, J. (CONCURS) AND ECKERLE, J. (DISSENTS AND FILES SEPARATE OPINION)

This appeal challenged the trial court's determination that it did not have subject matter jurisdiction to enforce an arbitration agreement upon motion by Fidelity Brokerage Services LLC to either dismiss the action pursuant to CR 12.02(a),(c) or (f) or, in the alternative, compel arbitration in accordance with the Federal Arbitration Act (FAA).

This Court affirmed the trial court. While Fidelity argued arbitration was enforceable under the FAA, the agreement tendered to the trial court by the Appellant had no explicit indication it would be governed by the FAA. And in fact, explicitly did contain a choice-of-law provision for Massachusetts law to govern enforcement of the contract with no exclusion for application of the Massachusetts Arbitration Act. And, because the agreement did not contain a provision that arbitration would take place in Kentucky, the trial court correctly concluded it lacked subject matter jurisdiction to compel arbitration under KUAA (Kentucky Uniform Arbitration Act).

The dissent would have held that the trial court, having concluded that it lacked subject-matter jurisdiction to enforce the arbitration agreement, should have remanded the motion, dismissed the lawsuit outright, and advised the parties that they should sue in Massachusetts, the choice of-law-state. The dissent found that the trial court below

lacked jurisdiction not just regarding the arbitration agreement, but that it was not a competent court of jurisdiction to adjudicate any of the merits of the controversy. Therefore, it was required to remand the motion and dismiss the case.

IV. FAMILY LAW

A. DANIEL KANABROSKI v. DANA KANABROSKI, ET AL. (Ky. App. 2026).

2025-CA-0262-ME 3/06/2026 2026 WL 627596

Discretionary Review Granted 9/16/2026

Opinion Reversing and Remanding by A. JONES, JUDGE; ECKERLE, J. (CONCURS) AND TAYLOR, J. (CONCURS IN RESULT ONLY)

Dana Kanabroski ("Mother") sought a domestic violence order on behalf of her two minor children against Daniel ("Father"). The children had witnessed Father choke their older stepbrother, and Mother The family court entered a no-contact domestic violence order, citing *Crabtree v. Crabtree*, 484 S.W.3d 316 (Ky. App. 2016), for its premise that acts of domestic violence committed in close proximity to the child may be sufficient to establish a risk of imminent harm.

Our Court noted the guardian ad litem failed to enter an appearance in this Court and failed to file an appellee brief on behalf of the children, and did not otherwise take any position in the appeal. We noted GALs can and should be active appellate participants, especially where there are concerns that domestic violence occurred toward the Minor Children.

Most of the testimony Mother proffered primarily reflected conflict between the parents and poor boundaries in co-parenting, and it did not rise to the level supporting domestic violence and abuse. The only testimony warranting further analysis was testimony that Father had attempted to choke the children's stepbrother in their presence. Kentucky Courts have recognized that in limited circumstances, domestic violence acts committed against third parties in presence of a child may support entry of a DVO-however, the child must be placed in fear of imminent physical injury or that the conduct created a present and continuing risk of harm. The *Crabtree* case stands for the principle that when surrounding facts demonstrate that the child was placed in fear of imminent physical injury or exposed to ongoing domestic violence environment. But it does not establish a rule that any isolated act of violence automatically satisfies the statutory definition under KRS 403.720(1). Our Court held that acts of domestic violence committed in close proximity to a child may, in appropriate circumstances, support a DVO on the child's behalf, the statute still requires evidence and findings tethering the conduct to fear or risk of harm to the child. Mere exposure to parental or other intrafamily conflict, without proof of fear of imminent injury or impact on the child, is insufficient.

B. ***GARRY DEWAYNE EDWARDS v. GLORIA DENISE EDWARDS, ET AL. (Ky. App. 2026).***

2025-CA-0887-ME 3/06/2026 2026 WL 627478

Opinion and Order Dismissing by ECKERLE, JUDGE; A. JONES, J. (CONCURS) AND L. JONES, J. (CONCURS)

The Court struck the Appellant's brief, tendered pro se, and dismissed the appeal because the brief failed to comply with the Kentucky Rules of Appellate procedure in six major ways: 1) noncompliant statement of points and authorities; 2) lack of citations to the record in the statement of the case section; 3) dearth of citations to the record in the argument section; 4) insufficiency of citations to supportive authority; 5) absence of preservation statements; and 6) deficient appendix in which the order under review was not placed immediately after the index and which did lacked citations to the location of the items in the Circuit Court record. The Court also rejected Appellant's unsupported argument that he had a constitutional right to oral argument on appeal. Finally, the Court rejected Appellant's contention that he had a constitutional right to appear in person to be heard in opposition to a motion to extend a domestic violence order. Precedent does not require a hearing be held at all on a motion to extend a domestic violence order, and there was no error in the Trial Court's decision to conduct a hearing on such a motion electronically. Appellant had notice and an opportunity to be heard electronically but intentionally chose to not participate in the hearing without showing that he was unable to do so.

C. ***N.L., ET AL. v. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL. (Ky. App. 2026).***

2025-CA-0080-ME 3/13/2026 2026 WL 705622
2025-CA-0083-ME
2025-CA-0084-ME
2025-CA-0086-ME
2025-CA-0087-ME
2025-CA-0088-ME

Opinion Affirming by CALDWELL, JUDGE; MCNEILL, J. (CONCURS) AND MOYNAHAN, J. (CONCURS)

This appeal challenged the family court's finding of dependency, neglect or abuse where the court determined that the minor children were educationally neglected and at risk for emotional injury. The parents challenged the family court's findings based on any alleged acts of emotional injury occurring only to an older child and that their children were homeschooled, that KY law does not establish specific, clear requirements for

what must be taught, and how it must be taught in a homeschool to avoid a finding of educational neglect.

The court affirmed the family court's findings of the risk of emotional harm. The court held the testimony of a qualified medical professional who performed an individual assessment of the child alleged to have been emotionally injured, but only reviewed the forensic interviews of the children who witnessed this treatment, was enough to support the finding. The qualified medical professional testified that, based on the interviews, the other children witnessing the maltreatment of the older child led them to believe that such treatment was normal, which is an observable and substantial impairment to their ability to function. And even though the qualified medical professional did not observe these children in person, the statutory definition of emotional injury does not specifically require direct observation, but simply refers to an "observable" impairment.

The court affirmed the finding of educational neglect in that, while no Kentucky statute specifically defines what an adequate education is for purposes of a DNA proceeding or that homeschools are subject to a minimum number of hours of instruction, KRS 620.010 states that children have a fundamental right to educational instruction and the right to develop to their mental, emotional and physical potential. The family court found ample evidence for educational neglect including, but not only, that mother admitted to only laying out children's school work and providing little other instruction or any formal instruction time; and further found, based on child's testimony, that there were significant periods of no educational instruction.

D. N.L., ET AL. v. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL. (Ky. App. 2026).

2025-CA-0629-ME 2025-CA-0630-ME 2025-CA-0631-ME 2025-CA-0637-ME 2025-CA-0772-ME 2025-CA-0774-ME	3/13/2026	2026 WL 705737

Opinion Affirming and Remanding by CALDWELL, JUDGE; MCNEILL, J. (CONCURS) AND MOYNAHAN, J. (CONCURS)

This appeal challenged the family court's finding of civil contempt for failing to keep the children enrolled in in-person school because by the time of the contempt hearing, the children were enrolled in Ann Arbor schools. The appeal further challenged the trial court's imposition of sanctions for civil contempt as the parties argued they were fully in compliance with court orders at the time of the hearing and the sanctions amounted to punishment for potential future behavior.

The Court affirmed the family court's finding of contempt. The court's order had been for the children, who had been determined to have suffered educational neglect at the hands of the parents, to be enrolled in in-person school. They were required to attend school daily, and the parents were to provide documentation of school attendance quarterly. The children, who had been enrolled in Jefferson County Public Schools, were unenrolled on January 13, 2025, and were not reenrolled in an in-person school until they were enrolled in Ann Arbor Schools on March 11, 2025. And at the time of the hearing in late March of 2025, only one of the minor children had actually attended Ann Arbor Schools.

As for the sanctions, a sentence of 90 days of incarceration conditionally discharged for two years, the Court found it to be an appropriate coercive sanction to ensure future compliance with the trial court's orders, and not a punitive sanction for future possible misconduct. And there was no indication of proof that the parents were incapable of sending their children to in-person school each day. The Court did remand the case to the trial court to amend the sanction to expressly state that the parents would be entitled to notice, a hearing and a finding that they are not incapable of following the court's orders for any future violations.

E. COMMONWEALTH OF KENTUCKY v. A.L., ET AL. (Ky. App. 2026).

2025-CA-1258-ME 3/25/2026 2026 WL 784561

Opinion Affirming by KAREM, JUDGE; EASTON, J. (CONCURS) AND TAYLOR, J. (CONCURS)

The Cabinet of Health and Family Services (the "Cabinet") filed a petition for emergency custody following a report of bruising on a three-month-old child's abdomen. The trial court granted emergency custody to the Cabinet and set the case for a temporary removal hearing.

At the hearing, the child was represented by a Guardian Ad Litem. Parents were represented by private counsel. The Bullitt County Attorney ("BCA") presented evidence in the form of testimony by the social worker for the Cabinet. Finding the Commonwealth had not proved its case by a preponderance of the evidence, the trial court returned the child to the custody of the parents and set the case for a final hearing.

In an effort to defend the dependency, neglect, and abuse (DNA) case, the parents' attorney propounded to the BCA requests for discovery, including a request for admissions. The BCA maintained throughout the litigation that it was not its responsibility to respond to the discovery request for admissions because the responses would need to be obtained from the Cabinet. Because the BCA never responded to the request for admissions, the trial court granted the parents' motion to

deem them admitted. The BCA was therefore limited in its presentation of evidence at trial to the testimony of the social worker. The BCA's expert was not allowed to testify as her purported testimony would contradict the admissions.

At trial, the BCA motioned to trial court to allow their expert to testify, arguing the parents "opened the door" to her testimony during the cross-examination of the social worker. When the trial court overruled the motion, the BCA requested the expert be allowed to testify by avowal. The trial court overruled that motion as well. Ultimately, the trial court found that dependency, neglect, or abuse had not been proven, and the case was dismissed.

The Court affirmed the trial court's finding that it is the responsibility of the county attorney to respond to discovery in a DNA case. The trial court did not err in disallowing the testimony of the BCA's expert due to the failure of the BCA to respond to the request for admissions. Further, the parents did not "open the door" to allowing the disallowed testimony.

V. WRIT OF PROHIBITION

A. KAILAN FLYNN, ET AL. v. HON. LUCY ANNE VANMETER, JUDGE, FAYETTE CIRCUIT COURT, ET AL. (Ky. App. 2026).

2025-CA-1510-OA 3/06/2026 2026 WL 627763

Opinion and Order Granting Petition for Writ of Prohibition by A. JONES, JUDGE; ECKERLE, J. (CONCURS) AND L. JONES, J. (CONCURS)

Kailan Flynn filed a complaint alleging Arthur Patrick St. George physically restrained her and engaged in unwanted sexual contact while she was at work at the Lexington Country Club. After the complaint was filed, a story was run in the Lexington Herald-Leader (LHL). Flynn claimed that the article caused her additional stress and anxiety. In Flynn's deposition, she stated that she did not contact anyone at LHL. When asked if her attorney contacted LHL, she claimed attorney-client privilege. St. George moved to compel a deposition of Flynn's attorney, Hon. Michael Cox. The circuit court granted the motion to compel Cox's deposition after St. George showed there was no other way to obtain information regarding whether Cox told LHL of the complaint or caused LHL to learn of it.

Flynn moved for a writ of prohibition asking this Court to enter an order requiring Hon. Judge Vanmeter to vacate to order compelling Cox's deposition. The Court found that any alleged communication between Cox and LHL would not be privileged; however, compelling the deposition of opposing counsel is an extraordinary measure that poses a substantial risk to the attorney-client relationship, risks counsel's disqualification, and may improperly convert an advocate into a witness. *See McMurry v. Eckert*, 833 S.W.2d 828, 830-31 (Ky. 1992). The Court examined the third *McMurry* element that

requires that the information sought be crucial to the preparation of the case. Crucial is different than relevant and helpful. The Court explained that the public availability of the information in the complaint renders the source of its discovery largely irrelevant. Reviewing the record, the Court cannot conclude that any information Cox may possess regarding contact with LHL is critical to St. George's defense. The writ of prohibition is granted.