

April 2023

Oral Argument Calendar

Motion Panel

Judge Jacqueline Caldwell, Presiding Judge

Judge Pamela Goodwine and
Judge Allison Jones,
Associate Judges

Kentucky Court of Appeals

Oral Argument Calendar

Thursday, April 13, 2023

Location: MCCRACKEN COUNTY COURTHOUSE, 300 CLARENCE GAINES ST.,
PADUCAH, KY

10:00 AM
(CST)

**BILL DUNN, MCCRACKEN COUNTY PROPERTY VALUATION ADMINISTRATOR V.
SOLOMON FOUNDATION, ET. AL.**

[2022-CA-0399](#) and [2022-CA-0401](#)

Presiding Judge: HON. KELLY MARK EASTON

Associate Judges: HON. SUSANNE M. CETRULO and HON. DONNA L. DIXON

Application of Kentucky Constitution Section 170 tax exemption for property "owned and operated" by religious institutions where property is owned by one entity and operated by another.

MCCRACKEN County, HON. TIMOTHY KALTENBACH

Attorneys for Appellants: Cody R Walls and Glenn David Denton

Attorneys for Appellees: Bethany Atkins Rice, Douglas Melvin Dowell, Richard William Bertelson, III, Mark Allen Loyd, JR., Bailey Roese, Mark Allen Loyd, JR., and Stephanie Marie Bruns

Attorneys for Amicus: Bridget M Bush and Robert Kent Westberry

Thursday, April 20, 2023

Location: FAYETTE COUNTY CIRCUIT COURTHOUSE, 120 NORTH LIMESTONE,
LEXINGTON, KY

**11:00 AM
(EST)**

MELZENA LULABELL MOORE V. COMMONWEALTH OF KENTUCKY

[2021-CA-1349](#)

Presiding Judge: HON. JACQUELINE M. CALDWELL

Associate Judges: HON. PAMELA R. GOODWINE and J. CHRISTOPHER McNEILL

Criminal – Appeal from circuit court’s denial of DV exception under the violent offender statute where Appellant pled guilty to first-degree manslaughter under extreme emotional disturbance.

LAUREL County, HON. GREGORY A. LAY

Attorneys for Appellant: Aaron Reed Baker and Kathleen Kallaher Schmidt

Attorneys for Appellee: Daniel J. Cameron and Kristin Leigh Conder

Tuesday, April 25, 2023

Location: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, LOUISVILLE, KY

1:00 PM (EST) ANNIE JACOBS, ET. AL. V. KRM WAGERING, LLC

[2022-CA-0543](#)

Presiding Judge: HON. LARRY E. THOMPSON

Associate Judges: HON. SUSANNE M. CETRULO and HON. AUDRA J. ECKERLE

Horse racing case: Did the trial court err in dismissing Appellants' claims against Appellees that the wagers Appellants made using historic horse racing slot machines were illegal? The trial court held that Appellants were not able to recover the monies lost on these machines. The trial court held that KRS 372.005, which states that gambling transactions are not void as long as the gambling has been legalized or permitted, applied to preclude Appellants' recovery. The court also held that KRS 230.210, which defines pari-mutuel wagering, applied retroactively to the time when Appellants made their alleged illegal gambling bets. The court also held that KRS 367.220, the Kentucky Consumer Protection Act, could not allow for recovery because there was no evidence that Appellees were acting in a false or misleading manner. Finally, the court held that there was no unjust enrichment because Appellants entered into a proper gambling contract with Appellees.

FAYETTE County, HON. JULIE M. GOODMAN

Attorneys for Appellants: Andre Fereole Regard, and Ivey Lorraine Workman

Attorneys for Appellees: Anthony Joseph Phelps, Brad S Keeton, Kathryn Swany Beck, Steven Brian Loy, William M Lear, JR., Preston Clark Worley, Robert Edwin Maclin, III, and Scott Alexander Schuette,

Attorneys for Amicus: Bethany A Breetz, Chadwick Aaron McTighe, Jeffrey Steven Moad, and Philip Wallace Collier

Tuesday, April 25, 2023

Location: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, LOUISVILLE, KY

1:45 PM
(EST)

JEWISH HOSPITAL, AN ASSUMMED NAME OF JEWISH HOSPITAL & ST. MARY'S HEALTHCARE, INC., ET. AL. V. KAREN REDDINGTON, INDIVIDUALLY, ET. AL.

[2022-CA-0579](#)

Presiding Judge: HON. LARRY E. THOMPSON

Associate Judges: HON. SUSANNE M. CETRULO and HON. AUDRA J. ECKERLE

Did the trial court make evidentiary and jury instruction errors that would necessitate vacating a jury verdict in favor of Appellee? Appellants argue that Appellee did not provide causation evidence that the hospital was the proximate cause of the patient's death and that the trial court should have granted summary judgment in their favor before trial began. Also, did the trial court violate the Kentucky "bare bones" jury instruction standard by giving a too detailed instruction to the jury? Further, did the trial court err in giving the jury a spoliation instruction? Also, did the trial court err in allowing Appellee to question witnesses about reports on changes made by the hospital after the death seemingly in violation of KRS 311.377, which prohibits such information from being introduced into evidence at trial. The court also allowed the jury to hear evidence of remedial policy changes made after the death of the patient.

JEFFERSON County, HON. MITCHELL PERRY

Attorneys for Appellants: Bryan Todd Thompson, Eleanor M B Davis and Joseph Andrew Wright

Attorneys for Appellees: Jack Conway, Jamie Kristin Neal and Kevin Crosby Burke

Wednesday, April 26, 2023

Location: JEFFERSON COUNTY JUDICIAL CENTER, 10TH FLOOR APPELLATE COURTROOM, LOUISVILLE, KY

**10:00 AM
(EST)**

COMMONWEALTH OF KENTUCKY TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS V. HAROLD T. WILKERSON, ET. AL.

[2022-CA-0397](#)

Presiding Judge: HON. SUSANNE M. CETRULO

Associate Judges: HON. AUDRA J. ECKERLE and HON. LARRY E. THOMPSON

This is a condemnation case arising out of the taking of (condemnation) approximately 18 acres of Wilkerson's farm for construction of a bypass road in Taylor County. The parties were unable to agree to a value of the property and the matter was submitted to a jury which awarded a fair market value far in excess of the value assessed and awarded by the Commonwealth. On appeal, the Commonwealth (Department of Transportation) first asserts that it was entitled to a directed verdict. In regard to the trial itself, there are several complaints. It is alleged that the trial court erred by refusing to strike the testimony of Wilkerson's expert witness and that the witness used the improper method valuation. It is alleged that the trial court erred by allowing testimony and argument regarding potential post-condemnation developments in the area. Finally, it is asserted that the trial court's instructions to the jury were erroneous.

TAYLOR County, HON. SAMUEL TODD SPALDING

Attorneys for Appellant: Thomas Neal Kerrick and Colton William Givens

Attorneys for Appellees: George Barry Bertram and Robert Spragens, JR.

**11:00 AM
(EST)**

CHARLES G. MIDDLETON, III, ET. AL. V. COMMONWEALTH BANK & TRUST COMPANY, IN ITS CAPACITY AS SUCCESSOR TRUSTEE FOR THE LAWRENCE L. JONES, SR., TRUST UNDER AGREEMENT DATES DECEMBER 28, 1933, ET. AL.

[2021-CA-1035 and 2022-CA-0675](#)

Presiding Judge: HON. AUDRA J. ECKERLE

Associate Judges: HON. SUSANNE M. CETRULO and HON. LARRY E. THOMPSON

JEFFERSON County, HON. SUSAN SCHULTZ GIBSON

Attorneys for Appellants: Mark Gabriel Hall, Charles G Middleton, III, and Michael J O'Connell

Attorney for Appellees: David Brandeis Tachau, William Patrick Harbison, David Marcus Cantor, Earl Lipscomb Martin, III and Edward H Stopher
