

August 2023

Oral Argument Calendar

Motion Panel

Judge Jeff S. Taylor, Presiding Judge

Judge Susanne M. Cetrulo and
Judge J. Christopher McNeill,
Associate Judges

Kentucky Court of Appeals

Oral Argument Calendar

Thursday, August 03, 2023

Location: BULLITT COUNTY JUDICIAL CENTER, 250 FRANK E. SIMON AVE.,
SHEPHERDSVILLE, KY

1:15 PM
(EST)

SYED JOSEPH ALI V. COMMONWEALTH OF KENTUCKY

[2022-CA-0291](#)

Presiding Judge: HON. JEFF S. TAYLOR

Associate Judges: HON. SUSANNE M. CETRULO and HON. ALLISON E. JONES

Whether circuit court erred by denying Ali's motion for a directed verdict upon the charge of distribution of obscene matter to minor; erred by denying Ali's request to call his mother to testify regarding his education, training, and experience in providing medical care; and erred by denying Ali's request to argue that the Commonwealth's theory of the case and allegations against him had shifted since indictment.

JEFFERSON County, HON. ANNIE O'CONNELL

Attorneys for Appellant: Michael Lawrence Goodwin and Joseph Robinson Eggert

Attorneys for Appellee: Daniel J. Cameron and Matthew Robert Krygiel

2:00 PM
(EST)

MARTIN L. SMITH V. JOHN NORMAN, SUCCESSOR TRUSTEE OF THE MARTIN L. SMITH REVOCABLE TRUST AGREEMENT, ET AL.

[2022-CA-0473](#)

Presiding Judge: HON. SUSANNE M. CETRULO

Associate Judges: HON. ALLISON E. JONES and HON. JEFF S. TAYLOR

This is an appeal from a ruling by the Fayette Circuit Court, affirming a probate court ruling that denied amendment to a Revocable Trust by the original grantor, trustee and primary beneficiary. The courts below found that Appellant lacked the capacity to amend the Trust, based upon Orders of probate courts in both Michigan and Kentucky appointing a guardian/conservator for appellant. The court then also affirmed a sale of Trust assets negotiated by a successor trustee in the amount of \$18,000,000, which appellant contends is significantly undervalued. The trial court further found that appellant lacked standing to bring the appeal as he was not a party to the district court action.

FAYETTE County, HON. KIMBERLY N. BUNNELL, HON. T. BRUCE BELL

Attorneys for Appellant: Bruce Benjamin Paul and William Garrett Carroll

Attorneys for Appellees: Daniel Ernest Hitchcock, Kevin Leslie Johns, and Joseph Whitney Wallingford, II

Tuesday, August 15, 2023

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

1:00 PM
(EST)

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT V. CRYSTAL MARLOWE

[2022-CA-1098](#)

Presiding Judge: HON. GLENN E. ACREE

Associate Judges: HON. JACQUELINE M. CALDWELL and HON. SUSANNE M. CETRULO

Statutory Interpretation; Indemnity: When the statute of limitations (KRS 413.120) begins to run in the context of a local government's claim of indemnity under the Claims Against Local Governments Act (KRS 65.200).

JEFFERSON County, BRIAN C. EDWARDS

Attorneys for Appellant: Kathryn Delaine Meador, Michael J. O'Connell, and Peter Frank Ervin

Attorneys for Appellees: David Warner Mushlin, John Arthur Bahe, Jr., Patrick E Markey, Ryan Christopher Vantrease, and David Lindsay Leighty

1:45 PM
(EST)

COMMONWEALTH OF KENTUCKY, EX REL. ATTORNEY GENERAL DANIEL CAMERON V. ANDY BESHEAR, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE COMMONWEALTH OF KENTUCKY ET AL.

AND

RYAN QUARLES, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE ET AL. V. ANDY BESHEAR, IN HIS OFFICIAL CAPACITY AS GOVERNOR

AND

ANDY BESHEAR, IN HIS OFFICIAL CAPACITY AS GOVERNOR ET. AL. V. RYAN QUARLES, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE DEPARTMENT OF AGRICULTURE ET AL.

[2022-CA-0020, 2021-CA-1459, 2021-CA-1503](#)

Presiding Judge: HON. SUSANNE M. CETRULO

Associate Judges: HON. GLENN E. ACREE and HON. JACQUELINE M. CALDWELL

These three appeals arise from a ruling of the Jefferson Circuit Court that certain provisions of House Bill 518 violate the Kentucky Constitution. House Bill 518, passed by the Legislature in 2021, made several changes to the composition of the Kentucky State Fair Board and the methods by which its members are selected. House Bill 518 also modified the structural governance of the Board, designating it as "an independent de jure municipal corporation." The Tourism Cabinet had previously overseen the Board's functions, budget and personnel. The trial court found that some portions were unconstitutional, and other clauses were in keeping with the Legislature's powers. These arguments require a review of the separation of powers doctrine, our Kentucky Constitution, and case law in interpreting those provisions and KRS 446.090 as to severability.

JEFFERSON County, HON. MARY M. SHAW

Attorneys for Appellants in 2022-CA-0020: Michael Robert Wajda, Heather Lynn Becker, and Matthew Franklin Kuhn

Tuesday, August 15, 2023

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

Attorneys for Appellees in 2022-CA-0020: Donna Allen Schneider, Mitchel Terence Denham, Sarah Gaines Grider Cronan, Derek Ryon Miles, Steven Travis Mayo, Ellen Frances Benzing, David Eric Lycan, Gregory Allen Woosley, Joseph Alexander Bilby, David Earl Fleenor, Jean Winfield Bird, and R. Vaughn Murphy

Attorney for Appellants in 2021-CA-1459: Ellen Frances Benzing and Joseph Alexander Bilby

Attorneys for Appellees in 2021-CA-1459: Derek Ryon Miles, Mitchel Terence Denham, Steven Travis Mayo, Donna Allen Schneider, Sarah Gaines Grider Cronan, Michael Robert Wajda, Heather Lynn Becker, Matthew Franklin Kuhn, David Eric Lycan, Gregory Allen Woosley, David Earl Fleenor, Jean Winfield Bird, and R. Vaughn Murphy

Attorneys for Cross-Appellants 2021-CA-1503: Mitchel Terence Denham, Donna Allen Schneider, Sarah Gaines Grider Cronan, Derek Ryon Miles, Madison Gamble Johnson, and Steven Travis Mayo

Attorneys for Cross-Appellees in 2021-CA-1503: Matthew Franklin Kuhn, Heather Lynn Becker, Ellen Frances Benzing, David Eric Lycan, Gregory Allen Woosley, David Earl Fleenor, Jean Winfield Bird, R. Vaughn Murphy, and Joseph Alexander Bilby

Tuesday, August 29, 2023

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

**1:30PM
EST**

KENTUCKY OPEN GOVERNMENT COALITION, INC. V. KENTUCKY DEPARTMENT OF FISH AND WILDLIFE COMMISSION

AND

KENTUCKY DEPARTMENT OF FISH AND WILDLIFE RESOURCES COMMISSION V. KENTUCKY OPEN GOVERNMENT COALITION, INC.

[2022-CA-0170](#), [2022-CA-0192](#)

Presiding Judge: HON. JEFF S. TAYLOR

Associate Judges: HON. SARA W. COMBS and J. CHRISTOPHER McNEILL

Whether circuit court erred by determining that public records sent or received by a public official, pertaining to public behavior are exempt from disclosure simply because they were sent, received, or currently stored on a nongovernment funded email or electronic device.

FRANKLIN County, HON. THOMAS D. WINGATE

Attorneys for Appellant/Cross-Appellees: Jon L. Fleischaker, Michael Patrick Abate, and William Richard Adams, II

Attorneys for Appellee/Cross-Appellant: Anthony R. Johnson, Charles Harding Cassis, Jan Michele West, and Jonathan David Goldberg