

# COURT OF APPEALS OF KENTUCKY

10/21/2005 AT 2:00 P.M.

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1128	MORRIS (LASHOAN M.) VS. COMMONWEALTH OF KENTUCKY OPINION VACATING AND REMANDING MCANULTY (PRESIDING JUDGE) GUIDUGLI (CONCURS IN PART, DISSENTS IN PART, AND FILES SEPARATE OPINION) AND JOHNSON (CONCURS)	2003-CA-0795-MR NOT TO BE PUBLISHED	JEFFERSON
1129	KIMELTON (WILLIAM SCOTT) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING HUDDLESTON (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND TAYLOR (CONCURS)	2004-CA-0928-MR NOT TO BE PUBLISHED	WOLFE
1130	KIDD (ZINA) VS. KENTUCKY RETIREMENT SYSTEMS OPINION AFFIRMING COMBS (PRESIDING JUDGE) MCANULTY (CONCURS) AND PAISLEY (CONCURS)	2004-CA-1166-MR NOT TO BE PUBLISHED	FRANKLIN
1131	FAIRBANKS ARCTIC BLIND COMPANY VS. PRATHER & ASSOCIATES, INC., ET AL. OPINION REVERSING AND REMANDING HUDDLESTON (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND TAYLOR (CONCURS)	2004-CA-1257-MR TO BE PUBLISHED	FAYETTE
1132	GODBY (LARRY) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING IN PART, REVERSING IN PART AND REMANDING SCHRODER (PRESIDING JUDGE) MINTON (CONCURS) AND EMBERTON (CONCURS)	2004-CA-1300-MR NOT TO BE PUBLISHED	PULASKI
1133	ROSE (KENNETH) VS. COMMONWEALTH OF KENTUCKY OPINION REVERSING AND REMANDING SCHRODER (PRESIDING JUDGE) MINTON (DISSENTS AND FILES SEPARATE OPINION) AND TAYLOR (CONCURS)	2004-CA-1313-MR NOT TO BE PUBLISHED	MCCRACKEN

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1134	POSEY (WILLIAM) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING COMBS (PRESIDING JUDGE) MCANULTY (CONCURS) AND PAISLEY (CONCURS)	2004-CA-1373-MR NOT TO BE PUBLISHED	RUSSELL
1135	NICHOLS (DAVID) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING HENRY (PRESIDING JUDGE) COMBS (CONCURS) AND TACKETT (CONCURS)	2004-CA-1426-MR TO BE PUBLISHED	HARDIN
1136	BINDER (MARC LOUIS) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING DYCHE (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND PAISLEY (CONCURS)	2004-CA-1440-MR NOT TO BE PUBLISHED	FAYETTE
1137	MARLOW (GREGORY W.) VS. CONNELLY, JR. (KENNETH A.) OPINION AFFIRMING JOHNSON (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND MCANULTY (CONCURS)	2004-CA-1448-MR NOT TO BE PUBLISHED	JEFFERSON
1138	NORDIKE (DOUGLAS C.) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING DYCHE (PRESIDING JUDGE) BUCKINGHAM (CONCURS) AND TAYLOR (CONCURS)	2004-CA-1500-MR NOT TO BE PUBLISHED	WARREN
1139	SANDOZ PHARMACEUTICALS CORPORATION VS. GUNDERSON (RONALD), ET AL. OPINION AFFIRMING IN PART, VACATING IN PART AND REMANDING KNOPF (PRESIDING JUDGE) TACKETT (CONCURS) AND ROSENBLUM (CONCURS IN PART, DISSENTS IN PART AND FILES SEPARATE OPINION)	2004-CA-1536-MR 2004-CA-1537-MR TO BE PUBLISHED	JEFFERSON

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1140	SKAGGS, JR. (JOHN WAYNE) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING MCANULTY (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND JOHNSON (CONCURS)	2004-CA-1668-MR NOT TO BE PUBLISHED	JEFFERSON
1141	OLIVAS (MARIA) VS. MUIR STATION, LLC, ET AL. OPINION REVERSING AND REMANDING KNOPF (PRESIDING JUDGE) DYCHE (DISSENTS) AND TACKETT (CONCURS)	2004-CA-1885-MR NOT TO BE PUBLISHED	FAYETTE
1142	SUTTON (BARNEY), ET AL. VS. COMMONWEALTH OF KENTUCKY OPINION REVERSING AND REMANDING ROSENBLUM (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND MINTON (CONCURS)	2004-CA-2132-MR NOT TO BE PUBLISHED	BULLITT
1143	THOMPSON (GREGORY) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING DYCHE (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND PAISLEY (CONCURS)	2004-CA-2294-MR NOT TO BE PUBLISHED	HENDERSON
1144	CHILDERS (CANDI CLEM) VS. CLEM (KENNETH WAYNE) OPINION AFFIRMING VANMETER (PRESIDING JUDGE) TAYLOR (CONCURS) AND POTTER (CONCURS)	2004-CA-2478-ME NOT TO BE PUBLISHED	WHITLEY
1145	DRAPER (ANDRE) VS. COMMONWEALTH OF KENTUCKY OPINION AFFIRMING MINTON (PRESIDING JUDGE) BARBER (CONCURS) AND TAYLOR (CONCURS IN RESULT ONLY)	2004-CA-2572-MR NOT TO BE PUBLISHED	JEFFERSON

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1146	MIDWESTERN INSURANCE ALLIANCE, ET AL. VS. WATSON (LISA K.) OPINION VACATING AND REMANDING SCHRODER (PRESIDING JUDGE) DYCHE (CONCURS) AND ROSENBLUM (CONCURS)	2004-CA-2601-MR NOT TO BE PUBLISHED	HOPKINS
1147	CALDWELL (WANDA), ET AL. VS. MAY (NOAH KEITH), ET AL. OPINION AFFIRMING HENRY (PRESIDING JUDGE) GUIDUGLI (CONCURS) AND POTTER (CONCURS)	2005-CA-0532-ME NOT TO BE PUBLISHED	JOHNSON
1148	MEIER (LOUIS C.) VS. KROGER, ET AL. OPINION AFFIRMING DYCHE (PRESIDING JUDGE) SCHRODER (CONCURS) AND ROSENBLUM (CONCURS)	2005-CA-1060-WC NOT TO BE PUBLISHED	WORKERS COMPENSATION BOARD
1149	SPADE CORPORATION VS. DELEON (SECUNDINO), ET AL. OPINION AFFIRMING GUIDUGLI (PRESIDING JUDGE) HENRY (CONCURS) AND POTTER (CONCURS)	2005-CA-1096-WC NOT TO BE PUBLISHED	WORKERS COMPENSATION BOARD

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ORDERS AFFIRMING:

COLLINS (C. WES) 2005-CA-1693-MR FAYETTE
VS.
RICE (PEGGY S. COLLINS)
ENTERED: 10/17/05

EAGLER (ROBERT) 2005-CA-1820-MR OLDHAM
VS.
CHANDLER (LARRY) WARDEN, ET AL.
ENTERED: 10/18/05

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ORDERS GRANTING PETITION FOR WRIT OF MANDAMUS:

GRIFFITH (RANDALL L.) 2005-CA-0807-OA IN COURT OF
VS. APPEALS
HON. LISABETH HUGHES ABRAMSON,
JUDGE JEFFERSON CIRCUIT COURT, ET
AL.
ENTERED: 10/18/05

GRIFFITH (RANDALL L.) 2005-CA-1568-OA IN COURT OF
VS. APPEALS
HON. F. KENNETH CONLIFFE, JUDGE
JEFFERSON CIRCUIT COURT, ET AL.
ENTERED: 10/17/05

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ORDER VACATING AND REMANDING:

PERRY (DARRELL) 2005-CA-1915-ME WARREN
VS.
COMMONWEALTH OF KENTUCKY
ENTERED: 10/18/05

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ORDERS DENYING WRIT OF MANDAMUS:

POLSTON (DOUGLAS WAYNE) VS. HON. W.M. HALL, SPECIAL JUDGE CUMBERLAND CIRCUIT COURT, ET AL. ENTERED: 10/17/05	2005-CA-1478-OA	IN COURT OF APPEALS
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WIMPSETT (JASON SCOTT) VS. HON. JAMES E. BONDURANT, JUDGE NELSON CIRCUIT COURT, ET AL. ENTERED: 10/17/05	2005-CA-1505-OA	IN COURT OF APPEALS
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ORDERS DENYING MOTION FOR BELATED APPEAL:

BROWN (DONALD R.) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/18/05	2005-CA-1177-MR	PULASKI
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SULLIVAN (DANIEL JACKSON) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/18/05	2005-CA-1365-MR	JEFFERSON
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DUNCAN, SR. (MORRIS) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/18/05	2005-CA-1500-MR	HARDIN
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JARVIS (VERNON RAY) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/17/05	2005-CA-1704-MR	CLAY
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ORDER DENYING PETITION FOR REHEARING:

HAMILTON (HARRY) VS. WASHINGTON (MICHAEL), ET AL. ENTERED: 10/18/05	2004-CA-1705-ME 2004-CA-1948-ME	HARDIN
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ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW:

DEW (DANNY) 2005-CA-1600-D TODD  
VS.  
WILLIAMS (THOMAS)  
ENTERED: 10/17/05

LEE (BOB) 2005-CA-1615-D LARUE  
VS.  
ERIKSEN CHIROPRACTIC  
ENTERED: 10/17/05

KING (AMY B.) 2005-CA-1676-DR HARDIN  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/18/05

LYVERS (JAMES P.) 2005-CA-1735-DR NELSON  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/18/05

ANDERSON (PAMELA) (NOW DUVALL) 2005-CA-1794-DR GRAYSON  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/17/05

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ORDER MODIFYING OPINION RENDERED JUNE 24, 2005. THE ATTACHED OPINION IS SUBSTITUTED IN ITS ENTIRETY:

STEELE TECHNOLOGIES, INC. 2003-CA-2090-MR GALLATIN  
VS.  
ESTATE OF MELISSA GAYLE CONGLETON,  
ET AL.  
ENTERED: 10/21/05

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ORDER MODIFYING OPINION RENDERED JULY 22, 2005. THE ATTACHED OPINION IS SUBSTITUTED IN ITS ENTIRETY:

ROLAND (ROBERT L.) 2004-1461-MR KENTON  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/21/05

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ORDERS DISMISSING:

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CUNNINGHAM (WILLIAM EDWARD) VS. KNIGHT (JENNIFER) ENTERED: 10/18/05	2003-CA-2274-MR	JEFFERSON
DISHMAN (MELISSA) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/17/05	2004-CA-1283-MR	CLINTON
COMMONWEALTH OF KENTUCKY VS. BLANKENSHIP (PATTY) ENTERED: 10/18/05	2004-CA-2650-MR 2005-CA-0265-MR	ALLEN
MOSELEY (FORREST ALAN) VS. NORRIS (HAILEY M.) ENTERED: 10/17/05	2005-CA-0355-MR	DAVIESS
PARKER (LAZARUS ROMELL) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/18/05	2005-CA-0595-MR	FAYETTE
TERWILLIGER (WILLIAM), ET AL. VS. KENTUCKY FARM BUREAU MUTUAL INS. CO., ET AL. ENTERED: 10/18/05	2005-CA-0683-MR	SPENCER
KENTUCKY HIGH SCHOOL ATHLETIC ASSOCIATION VS. MITCHELL, (MICHAEL), ET AL. ENTERED: 10/18/05	2005-CA-0703-MR	CAMPBELL
KENTON COUNTY AND MUNICIPAL PLANNING AND ZONING COMMISSION VS. GRAND COMMUNITIES, LTD, ET AL. ENTERED: 10/17/05	2005-CA-0776-MR 2005-CA-0784-MR	KENTON



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ORDERS DISMISSING (CONTINUED):

HUDSON (ANTHONY ALLEN) VS. HUDSON (AMANDA MARIE) ENTERED: 10/17/05	2005-CA-0787-MR	HARDIN
VIOLETT (DONALD RAY) VS. MILLIKEN (W. CURRIE) ENTERED: 10/17/05	2005-CA-0849-MR	WARREN
DANSBY (CURTIS) VS. BANK ONE BANKING INSTITUTION, BANK ONE, KENTUCKY, N.A. ENTERED: 10/17/05)	2005-CA-0897-MR	BOYLE
JOHNSON (DANNY) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/17/05	2005-CA-0934-MR	LAUREL
REED (JAMES E.) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/18/05	2005-CA-0970-MR	FLEMING
PURVIS (GREGORY) VS. COMMONWEALTH OF KENTUCKY ENTERED: 10/18/05	2005-CA-1108-MR	BATH
LEAKE (STEPHEN TYRONE) VS. LEAKE (PAMELA BRADY) ENTERED: 10/17/05	2005-CA-1295-MR	MARION
HUBBARD (MILDRED) ET AL. VS. THE FILSON HISTORICAL SOCIETY, INC. ENTERED: 10/17/05	2005-CA-1335-MR	JEFFERSON
HAYNES (CHERYL) VS. MEIJER, INC., ET AL. ENTERED: 10/18/05	2005-CA-1353-MR	JEFFERSON

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ORDERS DISMISSING (CONTINUED):

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SKAGGS (PHYLLIS JOAN)  
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2005-CA-1428-MR

BOYD

BASS-ROBINSON (SARAH)  
VS.  
JOHN THURSTON MACHINE, CO., LTD.  
ENTERED: 10/17/05

2005-CA-1446-MR

JEFFERSON

TEAGUE (JA-RON S.)  
VS.  
HON. STEPHEN RYAN, JUDGE  
JEFFERSON CIRCUIT COURT, ET AL.  
ENTERED: 10/18/05

2005-CA-1475-OA

IN COURT OF  
APPEALS

SHABAZZ (RAHIM)  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/17/05

2005-CA-1539-MR

MCCRACKEN

SMITH (MARWIN)  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/17/05

2005-CA-1560-MR

KENTON

MCCRACKEN BUILDERS, PROPERTY AND  
MANAGEMENT, LLC  
VS.  
CENDANT MORTGAGE CORPORATION  
ENTERED: 10/18/05

2005-CA-1603-MR

MCCRACKEN

YOUNG (TIMOTHY)  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/17/05

2005-CA-1627-MR

BOONE

THE LOUISVILLE AND JEFFERSON  
COUNTY METRO GOVERNMENT, ON BEHALF  
OF THE LOUISVILLE METRO POLICE  
DEPT.  
VS.  
LOUISVILLE METRO POLICE MERIT  
BOARD, ET AL.  
ENTERED: 10/17/05

2005-CA-1725-MR

JEFFERSON

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ORDERS DISMISSING (CONTINUED):

MANUEL (MARGARET CUTSHAW)  
VS.  
RULEY (GARY ALAN)  
ENTERED: 10/17/05

2005-CA-1753-MR

HARDIN

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ORDERS FROM PREVIOUS WEEK ENDING OCTOBER 14, 2005:

ORDER DENYING PETITION FOR REHEARING AND MODIFYING OPINION:

ROLAND (ROBERT L.) 2004-CA-1461-MR KENTON  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/14/05

ORDER DENYING PETITION FOR WRIT OF MANDAMUS:

LAYNE (CHARLES FRANKLIN, JR.) 2005-CA-1501-OA IN COURT OF  
VS. APPEALS  
HON. LARRY E. THOMPSON, JUDGE  
PIKE CIRCUIT COURT, ET AL.  
ENTERED: 10/14/05

ORDERS DISMISSING:

CULBREATH (MARGARET C.), 2002-CA-1609-MR CHRISTIAN  
CO-ANCILLARY ADMIN. OF THE ESTATE  
OF JOE DAVID CULBREATH, ET AL.  
VS.  
RINEHART (RICK L.), ET AL.  
ENTERED: 10/14/05

GOODMAN (CHARLES) 2003-CA-0909-MR HARDIN  
VS.  
CITY OF ELIZABETHTOWN, ET AL.  
ENTERED: 10/14/05

BROWN (MICHAEL W.) 2003-CA-1350-MR JEFFERSON  
VS.  
AUTOMATIC WEAPONRY, INC. F/K/A  
SMALL, INC., ET AL.  
ENTERED: 10/13/05

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ORDERS FROM PREVIOUS WEEK ENDING OCTOBER 14, 2005 (CONTINUED):

ORDERS DISMISSING (CONTINUED):

SCROGHAM (TROY) 2004-CA-1794-MR SHELBY  
VS.  
COMMONWEALTH OF KENTUCKY  
ENTERED: 10/14/05

DEWEY (DEBORAH D.) 2004-CA-2291-MR JEFFERSON  
VS. 2004-CA-2359-MR  
LG&E ENERGY CORPORATION  
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BARKER (JOHN R.), ET AL. VS. COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS ENTERED: 10/14/05	2005-CA-0132-MR	MEADE
BROCKMAN (BRIAN) VS. SAFE AUTO INSURANCE COMPANY ENTERED: 10/14/05	2005-CA-0354-MR 2005-CA-0452-MR 2005-CA-0551-MR	BRACKEN
LAWSON (RAYMOND) VS. ECKERLE, M.D. (J.E.), ET AL. ENTERED: 10/14/05	2005-CA-0377-MR	JEFFERSON
WRIGHT (MICHAEL ALLEN) VS. WRIGHT (RENEE EVANS) ENTERED: 10/14/05	2005-CA-0448-MR	JEFFERSON
WEBB (PATRICIA) VS. WEBB (JERRY LEE) ENTERED: 10/13/05	2005-CA-0711-MR	HARDIN

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ORDERS FROM PREVIOUS WEEK ENDING OCTOBER 14, 2005 (CONTINUED):

ORDERS DISMISSING (CONTINUED):

R. (A.) BY HIS NEXT FRIEND, R. (S.), HIS FATHER VS. BOYLE COUNTY PUBLIC SCHOOLS, ET AL. ENTERED: 10/14/05	2005-CA-1181-MR	BOYLE
LYNDON PROPERTY INSURANCE CO., ET AL. VS. GENERAL CONSTRUCTION & EXCAVATING COMPANY, INC. ENTERED: 10/14/05	2005-CA-1282-MR	JEFFERSON

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ESTATE OF DELBERT LEE WESLEY, BY BEVERLY DALLAS, EXECUTRIX, ET AL. VS. STATE AUTO INSURANCE COMPANIES ENTERED: 10/13/05	2005-CA-1283-MR	GALLATIN
LUCKETT (MICHAEL), ET AL. VS. ATLANTA CASUALTY COMPANY ENTERED: 10/14/05	2005-CA-1287-MR	MARION
WIMPSETT (JASON SCOTT) VS. HON. ROBERT W. HEATON, JUDGE NELSON DISTRICT COURT, ET AL. ENTERED: 10/14/05	2005-CA-1461-OA	IN COURT OF APPEALS
MILLER, (WILLIAM), ET AL. VS. OUR HOUSE PRESCHOOL AND CHILDCARE, INC., ET AL. ENTERED: 10/13/2005	2005-CA-1552-MR	JEFFERSON
EQUITY ONE, INC. VS. WHITE (ERIC S.), ET AL. ENTERED: 10/14/05	2005-CA-1741-MR	MADISON
SALLEE (LINDA LOU NOEL) VS. SALLEE (WILLIAM KENNETH) ENTERED: 10/14/05	2005-CA-1760-ME	CASEY