

SUPREME COURT OF KENTUCKY

FEBRUARY 15, 2024 RULINGS

RELEASED: 10:00 A.M.

12. RODNEY MCMILLIN, M.D. V. [2022-SC-0272-DG](#) JEFFERSON
MARIO SANCHEZ, ET AL. **TO BE PUBLISHED**

AND

- MARIO SANCHEZ V. [2022-SC-0274-DG](#)
RODNEY MCMILLIN, M.D., ET AL. **TO BE PUBLISHED**

**OPINION OF THE COURT BY JUSTICE
CONLEY AFFIRMING IN PART,
REVERSING IN PART**

VANMETER, C.J.; BISIG, CONLEY,
KELLER, LAMBERT, AND NICKELL, JJ.,
SITTING. ALL CONCUR. THOMPSON, J.,
NOT SITTING.

Questions Presented:

Medical Malpractice. KRS 411.167. Certificate of Merit. CR 6.02. In this discretionary appeal, the Court considers whether KRS 411.167 applies to represented and unrepresented plaintiffs, and whether responding to written discovery requests constitutes compliance with KRS 411.167.

13. LINDA THOMPSON, ET AL. V. [2022-SC-0308-DG](#) JEFFERSON
SAMANTHA KILLARY **TO BE PUBLISHED**

**OPINION OF THE COURT BY CHIEF
JUSTICE VANMETER REVERSING**

ALL SITTING. CONLEY, LAMBERT, AND
THOMPSON, JJ., CONCUR. KELLER, J.,
CONCURS IN RESULT ONLY. NICKELL,
J., CONCURS BY SEPARATE OPINION IN
WHICH THOMPSON, J., JOINS. BISIG, J.,
CONCURS IN PART AND DISSENTS IN
PART BY SEPARATE OPINION.

Questions Presented:

KRS 413.249. Statute of Limitations. Retroactive Applicability. Vested Rights. In this discretionary appeal, the Court reviews whether amendments to KRS 413.249 revived sexual abuse claims whose statutes of limitations had already expired at the time of the amendments.

14. HUGH KEITH MCWHORTER, ET AL. V. [2022-SC-0354-DG](#) FAYETTE
BAPTIST HEALTHCARE SYSTEM, INC. **TO BE PUBLISHED**
D/B/A BAPTIST HEALTH LEXINGTON

**OPINION OF THE COURT BY JUSTICE
CONLEY AFFIRMING**

VANMETER, C.J.; BISIG, CONLEY,
KELLER, LAMBERT, AND NICKELL, JJ.,
SITTING. ALL CONCUR. THOMPSON, J.,
NOT SITTING.

Questions Presented:

Medical Malpractice. KRS 411.167. Certificate of Merit. Preservation of Error. In this discretionary appeal, the Court considers whether trial court erred in dismissing appellant's complaint for failing to file certificate of merit in compliance with KRS 411.167, and whether appellant preserved his claims of error for appellate review.

15. JAMES NATHAN ("REBEL") COMBS V. [2022-SC-0438-DG](#) BREATHITT
TERESA SPICER **TO BE PUBLISHED**

**OPINION OF THE COURT BY JUSTICE
THOMPSON AFFIRMING**

ALL SITTING. BISIG, CONLEY, KELLER,
LAMBERT, AND NICKELL, JJ., CONCUR.
VANMETER, C.J., CONCURS IN RESULT
ONLY.

Questions Presented:

Intentional Infliction of Emotional Distress. Release of Claims. CR 12.02(f). In this matter of right appeal, the Court considers whether release signed in appellee's capacity as personal representative of estate also released appellee's individual intentional infliction of emotional distress claim.

16. KORY E. HELMICK V. [2022-SC-0504-MR](#) GREENUP
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

**OPINION OF THE COURT BY JUSTICE
KELLER AFFIRMING**

VANMETER, C.J.; BISIG, KELLER,
LAMBERT, NICKELL, AND THOMPSON,
JJ., SITTING. ALL CONCUR. CONLEY, J.,
NOT SITTING.

Questions Presented:

Sodomy. Directed Verdict. Motion to Continue. Double Jeopardy. In this matter of right appeal, the Court considers whether the Commonwealth presented sufficient evidence that the victim was physically helpless to sustain the conviction for first degree sodomy.

17. COMMONWEALTH OF KENTUCKY V. AHMAD RASHAD DAVIS [2023-SC-0178-DG](#) FAYETTE
TO BE PUBLISHED

OPINION OF THE COURT BY JUSTICE KELLER REVERSING

VANMETER, C.J.; BISIG, CONLEY, KELLER, LAMBERT, AND NICKELL, JJ., SITTING. ALL CONCUR. THOMPSON, J., NOT SITTING.

Questions Presented:

Expungement. Dismissal In Exchange for Guilty Plea. KRS 431.076. In this discretionary appeal, the Court considers whether a trial court, tasked with determining a criminal defendant's eligibility for expungement under KRS 431.076(1)(b), may look beyond the four corners of a final judgment to determine whether dismissal of a charge was conditioned on entry of a guilty plea to another charge.

18. BENNETT D. COUCH V. COMMONWEALTH OF KENTUCKY [2023-SC-0237-MR](#) KENTON
TO BE PUBLISHED

OPINION OF THE COURT BY CHIEF JUSTICE VANMETER AFFIRMING

ALL SITTING. BISIG, CONLEY, KELLER, LAMBERT, AND NICKELL, JJ., CONCUR. THOMPSON, J., CONCURS IN RESULT ONLY.

Questions Presented:

Child pornography. KRS 531.330. Search Warrant. Suppression. Probable Cause. In this matter of right appeal, the Court reviews adequacy of affidavit in support of search warrant for electronic devices. Other issues include whether Court may review constitutional challenge to KRS 531.330 where appellant failed to notify Attorney General at trial court pursuant to KRS 418.075.

19. ANTONIO MARSONEL WILSON V. COMMONWEALTH OF KENTUCKY [2022-SC-0215-MR](#) WARREN
NOT TO BE PUBLISHED

MEMORANDUM OPINION OF THE COURT AFFIRMING

ALL SITTING. ALL CONCUR.

20. TERRY NEAL STRODE V. COMMONWEALTH OF KENTUCKY [2022-SC-0439-MR](#) MONROE
NOT TO BE PUBLISHED

MEMORANDUM OPINION OF THE COURT AFFIRMING

ALL SITTING. ALL CONCUR.

21. CHRISTOPHER LAUPP V. COMMONWEALTH OF KENTUCKY [2022-SC-0443-MR](#) BOONE
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF THE COURT AFFIRMING
ALL SITTING. ALL CONCUR.
22. JOHN C. UPTON V. COMMONWEALTH OF KENTUCKY [2022-SC-0465-MR](#) GREEN
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF THE COURT AFFIRMING IN PART, VACATING IN PART, AND REMANDING
ALL SITTING. CONLEY, KELLER, LAMBERT, AND THOMPSON, JJ., CONCUR. VANMETER, C.J., CONCURS IN PART AND DISSENTS IN PART BY SEPARATE OPINION IN WHICH BISIG AND NICKELL, JJ., JOIN.
23. RONNIE SPARKMAN V. COMMONWEALTH OF KENTUCKY [2022-SC-0474-MR](#) HENRY
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF THE COURT AFFIRMING
ALL SITTING. ALL CONCUR.
24. ROGERRICK MILLER V. COMMONWEALTH OF KENTUCKY [2023-SC-0046-MR](#) JEFFERSON
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF THE COURT AFFIRMING
ALL SITTING. VANMETER, C.J.; BISIG, CONLEY, KELLER, LAMBERT, AND NICKELL, JJ., CONCUR. THOMPSON, J., CONCURS IN RESULT ONLY.

25. BRENDA PORTER V. COMMONWEALTH OF KENTUCKY [2023-SC-0107-MR](#) JEFFERSON
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF THE COURT AFFIRMING
ALL SITTING. ALL CONCUR.

26. CORTES THORNTON V. COMMONWEALTH OF KENTUCKY [2023-SC-0231-MR](#) GRAVES
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF THE COURT AFFIRMING
ALL SITTING. VANMETER, C.J.; BISIG, CONLEY, KELLER, LAMBERT, AND NICKELL, JJ., CONCUR. THOMPSON, J., CONCURS IN RESULT ONLY.

OPINION AND ORDERS - February 15, 2024

INQUIRY COMMISSION V. JAMES CAROL WORTHINGTON [2023-SC-0506-KB](#) IN SUPREME COURT
TO BE PUBLISHED
OPINION AND ORDER GRANTING PETITION FOR TEMPORARY SUSPENSION
ALL SITTING. ALL CONCUR.

CHARLOTTE DARLENE JOHNSON V. KENTUCKY BAR ASSOCIATION [2023-SC-0554-KB](#) IN SUPREME COURT
TO BE PUBLISHED
OPINION AND ORDER GRANTING MOTION FOR NEGOTIATED SANCTIONS
ALL SITTING. ALL CONCUR.

NICHOLAS SCOTT CALMES V. KENTUCKY BAR ASSOCIATION [2023-SC-0555-KB](#) IN SUPREME COURT
TO BE PUBLISHED
OPINION AND ORDER GRANTING MOTION FOR NEGOTIATED SANCTIONS
ALL SITTING. ALL CONCUR.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - February 07, 2024

BLACKSTONE ALTERNATIVE ASSET MANAGEMENT L.P. V. KENTUCKY PUBLIC PENSIONS AUTHORITY, ET AL. [2023-SC-0354-DG](#) FRANKLIN

CITY OF PAINTSVILLE, ET AL. V. PAULA M. HANEY, AS PERSONAL REPRESENTATIVE OF ESTATE OF DONALD PRATER, JR., ET AL. [2023-SC-0361-DG](#) JOHNSON

ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - February 07, 2024

COMMONWEALTH OF KENTUCKY V. MELZENA LULABELL MOORE [2023-SC-0433-DG](#) LAUREL

COMMONWEALTH OF KENTUCKY V. THOMAS RAIDER [2023-SC-0504-DG](#) ESTILL

ORDER DENYING DISCRETIONARY REVIEW - February 07, 2024

DONALD HOSKINS V. COMMONWEALTH OF KENTUCKY [2023-SC-0350-D](#) TRIMBLE

APPLIED BEHAVIORAL ADVANCEMENTS, LLC, ET AL. V. JENNIFER MICK [2023-SC-0365-D](#) JEFFERSON

BRENDA COMPTON V. BODDIE NOELL ENTERPRISES, INC., D/B/A HARDEE'S RESTAURANT [2023-SC-0371-D](#) JOHNSON

JOHN P. ASKIN V. UNIVERSITY OF NOTRE DAME BISIG, J., NOT SITTING. [2023-SC-0382-D](#) JEFFERSON

ORDER DENYING DISCRETIONARY REVIEW - February 07, 2024

ADAM GRAY V. COMMONWEALTH OF KENTUCKY	2023-SC-0396-D	HOPKINS
SPENCER HEATON V. COMMONWEALTH OF KENTUCKY	2023-SC-0434-D	CALDWELL
STEPHEN A. SCHANTZ, M.D., ET AL. V. CHRISSEN MEADE KELLER AND NICKELL, JJ., WOULD GRANT DISCRETIONARY REVIEW. LAMBERT, J., NOT SITTING.	2023-SC-0438-D	FAYETTE
GARY FERGUSON, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS BELL COUNTY JAILER, ET AL. V. NICK J. EPPS	2023-SC-0439-D	BELL
SYED JOSEPH ALI V. COMMONWEALTH OF KENTUCKY	2023-SC-0451-D	JEFFERSON
D.M., PARENT, ET AL. V. MCCRACKEN COUNTY SCHOOL DISTRICT AND BOARD OF EDUCATION, ET AL. NICKELL, J., NOT SITTING.	2023-SC-0475-D	MCCRACKEN
CHRISTOPHER HILL V. COMMONWEALTH OF KENTUCKY	2023-SC-0477-D	JEFFERSON
BRYAN SCOTT ALLEN V. VALERIE SUE EDER	2023-SC-0490-DE	KENTON
CHRISTOPHER ROBERTS V. COMMONWEALTH OF KENTUCKY	2023-SC-0491-D	ESTILL

ORDER DENYING DISCRETIONARY REVIEW - February 07, 2024

JAMES D. JARBOE V. [2023-SC-0500-D](#) JEFFERSON
MARKLEY M. MEISTER, AS CO-
ADMINISTRATOR OF THE ESTATE OF
RICHARD JARBOE, ET AL.

S.S. V. [2023-SC-0512-DE](#) JEFFERSON
COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES, ET AL.

COLIN MULHALL, AS EXECUTRIX OF [2023-SC-0520-D](#) JEFFERSON
THE ESTATE OF CAROL MULHALL V.
SUNRISE SENIOR LIVING
MANAGEMENT, INC., ET AL.

GREGORY KAYS V. [2023-SC-0535-D](#) MERCER
STRATEGIC HOLDINGS, LLC

ORDER DENYING DISCRETIONARY REVIEW - February 08, 2024

DARRIS SMITH V. [2023-SC-0528-D](#) ROWAN
ST. CLAIRE REGIONAL MEDICAL
CENTER, ASSUMED NAME OF ST.
CLAIRE MEDICAL CENTER, INC.

ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - February 07, 2024

KEN MOELLMAN, SR., ET AL. V. [2023-SC-0419-D](#) CAMPBELL
CAMPBELL COUNTY BOARD OF
EDUCATION

BISIG AND KELLER, JJ., WOULD
GRANT DISCRETIONARY REVIEW.

CARRIE L. CARROLL V. [2023-SC-0420-D](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

THOMPSON, J., WOULD GRANT
DISCRETIONARY REVIEW.

ORDER DISMISSING - February 15, 2024

V.H. V.
HONORABLE LORI N. GOODWIN, ET
AL.

[2023-SC-0011-MR](#)

JEFFERSON
BRECKINRIDGE

**ORDER GRANTING MOTION TO
DISMISS**

ALL SITTING. ALL CONCUR.

ORDER DISMISSING - February 12, 2024

JOHNSON & JOHNSON V. CYNTHIA
HAYES, AS EXECUTRIX OF THE
ESTATE OF DONNA ANN HAYES

[2021-SC-0079-DG](#)

JEFFERSON

AND

CYNTHIA HAYES, AS EXECUTRIX OF
THE ESTATE OF DONNA ANN HAYES
V. JOHNSON & JOHNSON, ET AL.

[2021-SC-0352-DG](#)

**ORDER GRANTING IN PART,
DENYING IN PART JOINT MOTION
TO DISMISS AND DISMISSING
APPEALS**

CONLEY, LAMBERT, KELLER, AND
NICKELL, JJ., SITTING. ALL CONCUR.

ORDER DENYING PETITION FOR REHEARING- February 15, 2024

CHRISTIAN RICHARD MARTIN V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0399-MR](#)

CHRISTIAN

**ORDER DENYING PETITION FOR
REHEARING**

VANMETER, C.J.; BISIG, CONLEY,
KELLER, LAMBERT, AND NICKELL, JJ.,
SITTING. ALL CONCUR. THOMPSON, J.,
NOT SITTING.

ORDER DENYING MOTION TO TRANSFER- February 15, 2024

CHERI WINSTEAD, ADMINISTRATRIX OF THE ESTATE OF LANDON NOKES V. COMMONWEALTH OF KENTUCKY, ET AL. [2023-SC-0501-T](#) JEFFERSON

ORDER DENYING MOTION TO TRANSFER

ALL SITTING. ALL CONCUR.

CAITLIN HUFF, ET AL. V. UNIVERSITY OF KENTUCKY [2023-SC-0559-T](#) FAYETTE

ORDER DENYING MOTION TO TRANSFER

ALL SITTING. ALL CONCUR.

ORDER GRANTING RECOMMENDATION TO TRANSFER- February 15, 2024

NINA MORGAN V. COMMONWEALTH OF KENTUCKY [2023-SC-0443-T](#) CHRISTIAN

ORDER GRANTING RECOMMENDATION TO TRANSFER FROM COURT OF APPEALS

ALL SITTING. ALL CONCUR.

ORDER WITHDRAWING - January 29, 2024

IN RE: CARRIE CHERYL TURNER [2024-SC-0032-KB](#) IN SUPREME COURT

IN RE: JOHN LOCHRY THURMAN [2024-SC-0033-KB](#) IN SUPREME COURT

ORDER WITHDRAWING - February 06, 2024

IN RE: ANA CECILIA REYES [2024-SC-0047-KB](#) IN SUPREME COURT