

SUPREME COURT OF KENTUCKY

MARCH 14, 2024 RULINGS

RELEASED: 10:00 A.M.

27. IN RE: JOSEPH "JS" FLYNN, PULASKI
CIRCUIT COURT CLERK

[2022-SC-0426-OA](#)
TO BE PUBLISHED

PULASKI

**OPINION AND ORDER REMOVING
CIRCUIT CLERK FROM OFFICE**

VANMETER, C.J.; BISIG, CONLEY,
KELLER, NICKELL, AND THOMPSON,
JJ., SITTING. VANMETER, C.J.; BISIG,
CONLEY, KELLER, AND NICKELL, JJ.,
CONCUR. THOMPSON, J., CONCURS
IN RESULT ONLY. LAMBERT, J., NOT
SITTING.

Questions Presented:

Ky. Const. § 114(3). Removal of Circuit Clerk. Due Process. Hostile Work Environment. In this original action, issues presented include whether good cause existed to remove Pulaski Circuit Clerk for creating a hostile work environment and engaging in quid pro quo harassment. Other issues presented include allocation of the burden of proof and the evidentiary standard to be applied in circuit clerk removal proceedings.

28. WALTER SWYERS V.
ALLEN FAMILY PARTNERSHIP #1,
LLC, INDIVIDUALLY AND
DERIVATIVELY ON BEHALF OF
STATION PLACE LLC, ET AL.

[2022-SC-0478-DG](#)
TO BE PUBLISHED

JEFFERSON

AND

HYSINGER GROUP V.
ALLEN FAMILY PARTNERSHIP #1,
LLC, INDIVIDUALLY AND
DERIVATIVELY ON BEHALF OF
STATION PLACE, LLC, ET AL.

[2022-SC-0479-DG](#)
TO BE PUBLISHED

**OPINION OF THE COURT BY
JUSTICE BISIG REVERSING**

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

Questions Presented:

Contract Law. Business Entities. Sale of Commercial Real Estate. Division of Sale Proceeds. Allocation of Expenses. Fiduciary Duties. In this discretionary appeal, the Court considers whether the trial court erred when it interpreted written agreements among LLC members to determine whether distribution of proceeds from sale of real estate was correctly made. Other issues include whether the trial court erred in determining that prevailing party was entitled to indemnification for attorney's fees incurred.

29. LANCE BOWMAN V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0073-MR](#)
TO BE PUBLISHED

JEFFERSON

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

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

Questions Presented:

Murder. Miranda Warnings. Narrative Testimony. Initial Aggressor Instruction. Jury Polling. In this matter of right appeal, issues include whether the trial court erred by not suppressing statements defendant made to police before and after he was read his Miranda rights. Other issues include whether testimony narrating surveillance footage amounted to palpable error, whether giving an initial aggressor limitation instruction was error, and whether the trial court’s method of polling the jury was palpable error.

30. JUSTIN ALDAVA V.
ANGELA JOHNSON, ET AL.

[2023-SC-0251-MR](#)
TO BE PUBLISHED

JEFFERSON

**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:

Writ of Prohibition. Child Custody. UCCJEA. KRS 403.800(7). Temporary Absences. In this matter of right appeal, issues include whether Kentucky or Texas had jurisdiction over child custody action, and whether child living for months in a third state for the father’s job constituted a “temporary absence” under UCCJEA for jurisdiction purposes.

31. LEWIS HICKS V.
KEMI, ET AL.

[2023-SC-0284-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

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

VANMETER, C.J.; BISIG, CONLEY,
KELLER, NICKELL, AND THOMPSON,
JJ., SITTING. VANMETER, C.J.; BISIG,
AND CONLEY, JJ., CONCUR. KELLER,
J., DISSENTS BY SEPARATE OPINION
IN WHICH THOMPSON, J., JOINS.
LAMBERT, J., NOT SITTING.

Questions Presented:

Workers Compensation. KRS 342.670. Extraterritorial Jurisdiction. Principally Localized Employment. In this workers’ compensation appeal, the Court considers whether Kentucky had extraterritorial jurisdiction under KRS 342.670 for injuries sustained in West Virginia working for company headquartered in Kentucky.

32. JEFFREY HEATH HALL V. COMMONWEALTH OF KENTUCKY [2022-SC-0475-MR](#) BOYD
NOT TO BE PUBLISHED
- MEMORANDUM OPINION OF THE COURT AFFIRMING**
- ALL SITTING. ALL CONCUR.
33. ROBERT K. COLLINS V. COMMONWEALTH OF KENTUCKY [2022-SC-0482-MR](#) MENIFEE
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.
34. TYRONE RAEHME V. COMMONWEALTH OF KENTUCKY [2022-SC-0506-MR](#) HARDIN
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.
35. CHRISTOPHER HUGHES V. COMMONWEALTH OF KENTUCKY [2022-SC-0514-MR](#) MONTGOMERY
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.

36. DUSTIN BELL V. [2022-SC-0551-MR](#) GARRARD
COMMONWEALTH OF KENTUCKY **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.

37. SHIRLEY VICKERY V. [2022-SC-0554-MR](#) BARREN
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT AFFIRMING**

ALL SITTING. ALL CONCUR.

38. MARK HANDY V. [2023-SC-0044-DG](#) JEFFERSON
LOUISVILLE/JEFFERSON COUNTY **NOT TO BE PUBLISHED**
METRO GOVERNMENT

**MEMORANDUM OPINION OF THE
COURT REVERSING AND
REINSTATING**

ALL SITTING. VANMETER, C.J.;
CONLEY, KELLER, LAMBERT, AND
NICKELL, JJ., CONCUR. THOMPSON, J.,
DISSENTS BY SEPARATE OPINION IN
WHICH BISIG, J., JOINS.

39. DAVID LYNN MORGAN V. [2023-SC-0045-MR](#) LOGAN
COMMONWEALTH OF KENTUCKY **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.

40. KEVIN MADISON V. [2023-SC-0127-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
**MEMORANDUM OPINION OF THE
COURT AFFIRMING**
ALL SITTING. ALL CONCUR.

41. ANTHONY OWENS V. [2023-SC-0189-MR](#) SPENCER
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
**MEMORANDUM OPINION OF THE
COURT AFFIRMING**
ALL SITTING. ALL CONCUR.

OPINION AND ORDER- March 14, 2024

IN RE: RONNIE LEE GOLDY, JR. [2024-SC-0048-KB](#) IN SUPREME
OPINION AND ORDER AUTOMATICALLY **TO BE PUBLISHED** COURT
SUSPENDING DUE TO FELONY CONVICTION
ALL SITTING. ALL CONCUR.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - March 06, 2024

NATHAN TORIAN, INDIVIDUALLY, AND AS A [2023-SC-0395-DG](#) MCCRACKEN
REPRESENTATIVE OF A CLASS OF SIMILARLY
SITUATED PERSONS COMPRISING THE
UNINCORPORATED LABOR ORGANIZATION,
THE INTERNATIONAL ASSOCIATION OF FIRE
FIGHTERS, LOCAL 168 V.
CITY OF PADUCAH, KENTUCKY, ET AL.

DAVID LEMASTER V. [2023-SC-0454-DG](#) GREENUP
KENDRA STILTNER, ET AL.
CONLEY, J., NOT SITTING.

RUSSELL COLEMAN, IN HIS OFFICIAL [2023-SC-0498-DG](#) JEFFERSON
CAPACITY AS ATTORNEY GENERAL OF THE
COMMONWEALTH OF KENTUCKY V.
JEFFERSON COUNTY BOARD OF EDUCATION,
ET AL.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - March 06, 2024

ERIE INSURANCE EXCHANGE V. [2024-SC-0018-DG](#) FLOYD
MEGAN JOHNSON, ET AL.

ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - March 06, 2024

COMMONWEALTH OF KENTUCKY V. [2023-SC-0457-DG](#) WARREN
CALVIN ANDREW MCKINNEY
THOMPSON, J., NOT SITTING.

ORDER DENYING DISCRETIONARY REVIEW AND PUBLISHING OPINION OF COURT OF APPEALS- March 08, 2024

JERRY KEY, ET AL.V. [2023-SC-0456-D](#) JEFFERSON
CITIMORTGAGE, INC., ET AL.

OPINION AND ORDER GRANTING DISCRETIONARY REVIEW IN PART, DENYING DISCRETIONARY REVIEW IN PART- March 06, 2024

CHRISTOPHER ALEXANDER POPE V. [2023-SC-0468-D](#) LINCOLN
COMMONWEALTH OF KENTUCKY

ORDER DENYING DISCRETIONARY REVIEW - March 06, 2024

JUSTIN HARTNETT V. [2023-SC-0159-D](#) HARDIN
COMMONWEALTH OF KENTUCKY

CRYSTAL ROBERTS, ET AL. V. [2023-SC-0328-D](#) BULLITT
HOME BUYERS WARRANTY CORPORATION, ET AL.

RHONDA BEINLEIN, ET AL. V. [2023-SC-0402-D](#) JEFFERSON,
KIDZ UNIVERSITY, INC., ET AL.

ORDER DENYING DISCRETIONARY REVIEW - March 06, 2024

DELENE ANN GILKERSON V. CHARLES RANDALL GILKERSON	<u>2023-SC-0446-D</u>	ROWAN
DEPARTMENT OF REVENUE, FINANCE AND ADMINISTRATION CABINET, COMMONWEALTH OF KENTUCKY V. CARRIAGE FORD, INC.	<u>2023-SC-0448-D</u>	FRANKLIN
MARCELLA CORNETT V. TERRI CORNETT, AS ADMINISTRATIX OF THE ESTATE OF JEFFERY CORNETT	<u>2023-SC-0452-D</u>	PERRY
EDWARD WILSON V. KENTUCKY RETIREMENT SYSTEMS, ET AL.	<u>2023-SC-0459-D</u>	FRANKLIN
JOHN TELEK V. VERNON WEST THOMPSON, J., WOULD GRANT DISCRETIONARY REVIEW.	<u>2023-SC-0462-D</u>	CAMPBELL
THOMAS E. LONG V. NUTRIEN AG SOLUTIONS, INC.	<u>2023-SC-0465-D</u>	UNION
PETER E. BERKELEY, ET AL. V. PERSIMMON RIDGE HOMEOWNERS ASSOCIATION, INC., ET AL.	<u>2023-SC-0466-D</u>	SHELBY
THE ESTATE OF MARIE GARMON, BY DAVID GARMON, ET AL. V. MAGO CONSTRUCTION COMPANY, LLC, ET AL.	<u>2023-SC-0493-D</u>	ANDERSON,
RICHARD SANZENBACKER, ET AL. V. RODRICK JOHNSON, ET AL.	<u>2023-SC-0496-D</u>	CAMPBELL

ORDER DENYING DISCRETIONARY REVIEW - March 06, 2024

ERIC JENKINS, ET AL. V. THE ESTATE OF MARIE GARMON, BY DAVID GARMON, ET AL.	<u>2023-SC-0502-D</u>	ANDERSON,
KHF, LLC V. CHRISTOPHER T. FARMER	<u>2023-SC-0526-D</u>	MARION
SCOTT EDWARD BITTER V. COMMONWEALTH OF KENTUCKY	<u>2023-SC-0531-D</u>	KENTON
DELANNA MILLER, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF JUSTIN MILLER, ET AL. V. KENTUCKY POWER COMPANY D/B/A KENTUCKY POWER, ET AL.	<u>2023-SC-0533-D</u>	BREATHITT
BASS WEBB V. COMMONWEALTH OF KENTUCKY	<u>2023-SC-0546-D</u>	MONTGOMERY
L.G. V. CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY, ET AL.	<u>2023-SC-0547-DE</u>	JEFFERSON
DONJUAN JOHNSON V. COMMONWEALTH OF KENTUCKY	<u>2023-SC-0560-D</u>	JEFFERSON
XAVIER D. SMITH V. COMMONWEALTH OF KENTUCKY	<u>2023-SC-0566-D</u>	CHRISTIAN
BROOKS WILLIAM HOUCK V. COMMONWEALTH OF KENTUCKY	<u>2023-SC-0572-DE</u>	NELSON

ORDER AFFIRMING EQUALLY DIVIDED COURT - March 14, 2024

ANTHEM KENTUCKY MANAGED CARE PLAN, [2022-SC-0515-DG](#)
INC. V.
MOLINA HEALTHCARE OF KENTUCKY, INC., ET
AL.

FRANKLIN

**ORDER AFFIRMING EQUALLY DIVIDED
COURT**

ORDER AFFIRMING EQUALLY DIVIDED COURT.
BISIG, CONLEY, AND KELLER, JJ., WOULD
AFFIRM OPINION OF THE COURT OF APPEALS.
VANMETER, C.J.; LAMBERT, AND NICKELL, JJ.,
WOULD REVERSE THE OPINION OF THE COURT
OF APPEALS. THOMPSON, J., NOT SITTING.

ORDER DENYING - March 14, 2024

JOHN GILES V. [2021-SC-0558-MR](#)
COMMONWEALTH OF KENTUCKY

GRAVES

ORDER DENYING MOTION TO PUBLISH

ALL SITTING. ALL CONCUR.

ORDER DENYING IN PART, GRANTING IN PART- March 14, 2024

WILLIAM KENNETH RIGGLE, SR. V. [2021-SC-0510-MR](#)
COMMONWEALTH OF KENTUCKY

JEFFERSON

**ORDER DENYING IN PART, GRANTING IN
PART PETITION FOR REHEARING AND
MODIFICATION**

ALL SITTING. ALL CONCUR.

ORDER DENYING AND DISMISSING - March 14, 2024

JERRY T. HUGHES V. [2023-SC-0128-D](#)
GARRARD COUNTY, KENTUCKY BY AND
THROUGH GARRARD FISCAL COURT

GARRARD

**ORDER DENYING SECOND MOTION FOR
EXTENSION OF TIME TO FILE MOTION FOR
DISCRETIONARY REVIEW AND DISMISSING
APPEAL**

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

ORDER DENYING AND DISMISSING - March 14, 2024

DONALD TERRY BARTLEY V.
KEVIN MAZZA

[2024-SC-0045-DE](#)

BOYLE

**ORDER DENYING MOTION FOR
ENLARGEMENT OF TIME TO FILE MOTION
FOR DISCRETIONARY REVIEW AND
DISMISSING APPEAL**

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

ORDER WITHDRAWING - February 22, 2024

IN RE: JAMI KAY SUVER

[2024-SC-0062-KB](#)

IN SUPREME
COURT

IN RE: SUDEEP KUMAR BHATIA

[2024-SC-0063-KB](#)

IN SUPREME
COURT