

SUPREME COURT OF KENTUCKY

APRIL 29, 2021 RULINGS

RELEASED: 10:00 A.M.

53. PERRY PUCKETT V. CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.

[2019-SC-0282-DG](#)
TO BE PUBLISHED

FRANKLIN

OPINION OF THE COURT BY JUSTICE KELLER - AFFIRMING

ALL SITTING. ALL CONCUR.

Questions Presented:

Administrative Law. Personnel Board Appeal. Reviewing an administrative appeal of a personnel board decision with a complex procedural history, the Court rules that employee did not properly preserve issues relating to the authority of the person signing his termination letter, precluding judicial review.

54. COMMONWEALTH OF KENTUCKY V. JARED MCCARTHY

[2019-SC-0380-DG](#)
TO BE PUBLISHED

DAVIESS

OPINION OF THE COURT BY JUSTICE HUGHES - AFFIRMING

ALL SITTING. MINTON, C.J.; KELLER, LAMBERT, AND NICKELL, JJ., CONCUR. VANMETER, J., CONCURRING IN PART AND DISSENTING IN PART BY SEPARATE OPINION IN WHICH CONLEY, J., JOINS.

Questions Presented:

Evidence. Implied Consent. Admissibility of Refusal of Warrantless Blood Test. Considering the applicability of the United States Supreme Court's ruling in *Birchfield v. North Dakota*, 136 S.Ct. 2160 (2016) to Kentucky's laws on driving under the influence (DUI), the Court holds that a refusal to submit to a blood test could not be used to enhance a criminal penalty for DUI and, under controlling Kentucky precedent, could not be used as evidence that a defendant was guilty of DUI. The trial court also erred in allowing the introduction of evidence regarding the refusal to explain to the jury the lack of scientific evidence as to the defendant's blood alcohol content.

55. ROBERT CARSON JR. V.
COMMONWEALTH OF KENTUCKY

[2019-SC-0585-MR](#)
TO BE PUBLISHED

KENTON

**OPINION OF THE COURT BY
JUSTICE LAMBERT - AFFIRMING IN
PART, REVERSING IN PART AND
REMANDING**

ALL SITTING. MINTON, C.J.; CONLEY,
HUGHES, NICKELL, AND VANMETER,
JJ., CONCUR. NICKELL, J., CONCURS IN
RESULT ONLY. KELLER, J., DISSENTS
WITHOUT OPINION.

Questions Presented:

Matter of Right Appeal. Improper Lay Opinion. Police detective's testimony about a specific questioning technique went beyond the proper scope of a lay opinion. An investigating officer is permitted to testify as to his or her observations of a defendant during the interview and may even offer opinions regarding the defendant's demeanor. However, when the officer testified that the defendant's deceptive behavior was revealed by the technique, he infringed on the jury's role to determine the veracity of a witness.

56. ALICE JOLLY V. LION APPAREL, INC.,
ET AL.

[2019-SC-0631-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

**OPINION OF THE COURT BY
JUSTICE LAMBERT - REVERSING**

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

Questions Presented:

Workers' Compensation. Petition for Reconsideration. Time for Appeal. An improper petition for reconsideration does not toll the running of time to file an appeal. Where a party improperly filed a second petition for reconsideration of a decision outside the 14-day window of KRS 342.281, and the same party thereafter appealed to the Board, the appeal was untimely.

57. BROWNWOOD PROPERTY, LLC V.
SHEENA THORTON, ET AL.

[2020-SC-0167-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

**OPINION OF THE COURT BY
JUSTICE LAMBERT - REVERSING
AND REMANDING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Workers' Compensation. Agriculture Exemption. Employee was not entitled to workers' compensation benefits where her work was incident to or in conjunction with farm operations pursuant to KRS 342.0011(18). Although the employee performed tasks like cleaning and mowing, the Court must look at the whole character of the individual's employment to determine whether they were employed in agriculture, not just the nature of the tasks or the place the tasks are performed.

58. A. G. V. CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY, ET AL. [2020-SC-0273-DGE](#) JEFFERSON
TO BE PUBLISHED
- OPINION OF THE COURT BY JUSTICE LAMBERT - REVERSING AND VACATING**
- ALL SITTING. ALL CONCUR.
- Questions Presented:**

Interstate Compact For The Placement Of Children (ICPC). KRS 615.030. Opinion of the Court reversing the Court of Appeals and vacating the judgment of the Jefferson Family Court terminating the parental rights of A.G. to his minor son. Court held that a home study is not required for a noncustodial parent who is not the subject of allegations or neglect.
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59. CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY, ET AL. V. H. L. O. [2020-SC-0276-DGE](#) LETCHER
TO BE PUBLISHED
- OPINION OF THE COURT BY JUSTICE KELLER - REVERSING AND REINSTATING**
- ALL SITTING. ALL CONCUR.
- Questions Presented:**

Termination of Parental Rights. Calculation of Time Spent in Out-of-Home Care. Reviewing the Court of Appeals’ reversal of the trial court’s judgment terminating parental rights, the Court finds there was substantial evidence in the record to support the trial court’s findings and reinstates the judgment.
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60. CLIFFORD ANTHONY VICK V. COMMONWEALTH OF KENTUCKY [2019-SC-0489-MR](#) MUHLENBERG
NOT TO BE PUBLISHED
- MEMORANDUM OPINION OF THE COURT - AFFIRMING**
- ALL SITTING. ALL CONCUR.
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61. BLUEGRASS OAKWOOD, INC. V. HEATHER MORGAN, ET AL. [2019-SC-0490-WC](#) COURT OF APPEALS
NOT TO BE PUBLISHED
- MEMORANDUM OPINION OF THE COURT - AFFIRMING**
- MINTON, C.J.; CONLEY, HUGHES, KELLER, LAMBERT, AND VANMETER, JJ., SITTING. ALL CONCUR. NICKELL, J., NOT SITTING.

62. WHAS-TV V. BRYAN DERBY, ET AL. [2019-SC-0683-WC](#) COURT OF
NOT TO BE PUBLISHED APPEALS
- MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
- ALL SITTING. ALL CONCUR.
63. LISA R. HARVEY V. COMMONWEALTH OF KENTUCKY [2019-SC-0732-MR](#) HARDIN
NOT TO BE PUBLISHED
- MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
- ALL SITTING. ALL CONCUR.
64. DARNELL RICHARDS NUTTER V. COMMONWEALTH OF KENTUCKY [2019-SC-0736-MR](#) FAYETTE
NOT TO BE PUBLISHED
- MEMORANDUM OPINION OF THE
COURT - REVERSING AND
REMANDING**
- MINTON, C.J.; CONLEY, HUGHES,
KELLER, LAMBERT, AND NICKELL, JJ.,
SITTING. ALL CONCUR. VANMETER, J.,
NOT SITTING.
65. DAWAN Q. MULAZIM V. COMMONWEALTH OF KENTUCKY [2020-SC-0087-MR](#) FAYETTE
NOT TO BE PUBLISHED
- MEMORANDUM OPINION OF THE
COURT - AFFIRMING IN PART,
REVERSING IN PART AND
REMANDING**
- ALL SITTING. ALL CONCUR.
66. DYLAN CAPPS V. COMMONWEALTH OF KENTUCKY [2020-SC-0105-MR](#) FAYETTE
NOT TO BE PUBLISHED
- MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
- ALL SITTING. ALL CONCUR.

67. JSE, INC., D/B/A PERMA STAFF II V. PATRICIA AHART, ET AL. [2020-SC-0154-WC](#) COURT OF APPEALS
NOT TO BE PUBLISHED

MEMORANDUM OPINION OF THE COURT - AFFIRMING

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

68. JBS SWIFT V. LYNN FIELDS, ET AL. [2020-SC-0239-WC](#) COURT OF APPEALS
NOT TO BE PUBLISHED

MEMORANDUM OPINION OF THE COURT - AFFIRMING

ALL SITTING. ALL CONCUR.

69. CANDY CURRENS V. RJ INSULATION, ET AL. [2020-SC-0298-WC](#) COURT OF APPEALS
NOT TO BE PUBLISHED

MEMORANDUM OPINION OF THE COURT - AFFIRMING

ALL SITTING. ALL CONCUR.

70. LAVERN GRAY V. COMMONWEALTH OF KENTUCKY [2020-SC-0335-MR](#) KNOX
NOT TO BE PUBLISHED

MEMORANDUM OPINION OF THE COURT - AFFIRMING

ALL SITTING. ALL CONCUR.

OPINION AND ORDERS – APRIL 29, 2021

ALECIA LOCOCO V.
KENTUCKY BAR ASSOCIATION

[2020-SC-0543-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**GRANTING MOVANT'S APPLICATION
FOR REINSTATEMENT TO THE
PRACTICE OF LAW**

ALL SITTING. ALL CONCUR.

**EXPEDITED ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL
ARGUMENT) - April 20, 2021**

DANIEL SMITH V. JASON MCCOY

[2021-SC-0050-DGE](#)

WARREN

**EXPEDITED ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) -
April 20, 2021**

J. S. B. V. S. R. V.

[2021-SC-0008-DGE](#)

LIVINGSTON

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - April 20, 2021

KEVIN O'BRYAN V. PRIMAL VANTAGE
COMPANY, INC., ET AL.

[2021-SC-0064-DG](#)

JEFFERSON

AND

SANTE' O'BRYAN V. PRIMAL VANTAGE
COMPANY, INC., ET AL.

[2021-SC-0065-DG](#)

JEFFERSON

**ORDER GRANTING DISCRETIONARY REVIEW, VACATING AND REMANDING - April
20, 2021**

DEIONTA L. HAYES V. COMMONWEALTH
OF KENTUCKY

[2020-SC-0348-DG](#)

FAYETTE

**ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - April 20,
2021**

HENRY GRAY V. FRANK STEWART, ET
AL.

[2020-SC-0395-DG](#)

BELL

LAMBERT, J., NOT SITTING.

ORDER DENYING DISCRETIONARY REVIEW - April 20, 2021

PAULINE AVERY PLONSKI V. BRIAN E. PLONSKI	2020-SC-0354-D	OLDHAM
ANGEL MEJIA V. COMMONWEALTH OF KENTUCKY	2020-SC-0390-D	FAYETTE
AUTO-OWNERS INSURANCE CO. V. UNIVERSITY OF KENTUCKY	2020-SC-0392-D	FRANKLIN
ARETE VENTURES, INC. V. UNIVERSITY OF KENTUCKY, ET AL.	2020-SC-0394-D	FRANKLIN
KELLI POORE, ET AL. V. 21ST CENTURY PARKS, INC., ET AL.	2020-SC-0416-D	JEFFERSON
SHAUN JECKER V. COMMONWEALTH OF KENTUCKY	2020-SC-0429-D	JEFFERSON
CHRIS DOUGLAS HAWKINS V. DEEDRA HART, WARDEN	2020-SC-0499-D	LYON
MICHAEL HARPER V. COMMONWEALTH OF KENTUCKY	2020-SC-0516-D	KENTON
AND		
MICHAEL HARPER V. COMMONWEALTH OF KENTUCKY	2020-SC-0525-D	KENTON
SASAN PASHA, ET AL. V. BRENT J. EISELE, ET AL.	2020-SC-0519-D	FAYETTE
COMMONWEALTH OF KENTUCKY V. BRANDON SENTELL RILEY	2020-SC-0535-D	FAYETTE

ORDER DENYING DISCRETIONARY REVIEW - April 20, 2021

JAYNE KISSLING TANNENBAUM, PERSONAL REPRESENTATIVE OF THE ESTATE OF FRED KISSLING, JR., DECEASED V. LEXINGTON-FAYETTE URBAN COUNTY PLANNING COMMISSION, ET AL.	2020-SC-0538-D	FAYETTE
COMMONWEALTH OF KENTUCKY V. ROBERT E. CURRY	2020-SC-0539-D	HARLAN
ERIC GLEN BECK V. COMMONWEALTH OF KENTUCKY	2020-SC-0559-D	MUHLENBERG
JEREMY DERAY LAWTON V. COMMONWEALTH OF KENTUCKY	2020-SC-0561-D	FAYETTE
TIRRELL BARBOUR V. COMMONWEALTH OF KENTUCKY	2020-SC-0597-D	HARDIN
J. D. V. CABINET FOR HEALTH AND FAMILY SERVICES COMMONWEALTH OF KENTUCKY, ET AL.	2020-SC-0598-DE	HENRY
J. D. V. CABINET FOR HEALTH AND FAMILY SERVICES COMMONWEALTH OF KENTUCKY, ET AL.	2020-SC-0599-DE	HENRY
EUGENE SISCO, III V. ALEXANDRIA ALLEN, ET AL.	2020-SC-0610-D	PIKE

ORDER DENYING DISCRETIONARY REVIEW - April 20, 2021

I.L., A MINOR, BY AND THROUGH HIS NATURAL PARENTS AND NEXT FRIENDS, CHRISTIE LAUGHLIN AND MATT LAUGHLIN V. DONNA HARGANS, SUPERINTENDENT OF JEFFERSON COUNTY PUBLIC SCHOOLS, IN HER OFFICIAL CAPACITY AND INDIVIDUALLY, ET AL. [2021-SC-0003-D](#) JEFFERSON

KATHY LITTLE, ET AL. V. LOUISVILLE GAS AND ELECTRIC COMPANY [2021-SC-0013-DE](#) JEFFERSON

GEORGE WAYNE COLE V. COMMONWEALTH OF KENTUCKY [2021-SC-0017-D](#) CLINTON

BRENT D. BOSTICK V. COMMONWEALTH OF KENTUCKY [2021-SC-0019-D](#) LEWIS
CONLEY, J., NOT SITTING.

PRESTON BROWN V. CHAQUISHA WASHINGTON [2021-SC-0036-DE](#) JEFFERSON

JESSICA SKAGGS V. COMMONWEALTH OF KENTUCKY [2021-SC-0047-D](#) ROWAN

KELLER, J., WOULD GRANT DISCRETIONARY REVIEW.

ROBERT GRUMBLATT V. DEBORAH GRUMBLATT [2021-SC-0061-D](#) JEFFERSON

JOEY LYNN SMITH V. COMMONWEALTH OF KENTUCKY [2021-SC-0067-D](#) HARDIN

ORDER GRANTING TRANSFER - April 15, 2021

DANIEL J. CAMERON, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE COMMONWEALTH OF KENTUCKY V. ANDY BESHEAR, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE COMMONWEALTH OF KENTUCKY, ET AL. [2021-SC-0107-I](#) FRANKLIN

ANDY BESHEAR, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE COMMONWEALTH OF KENTUCKY, ET AL. V. GOODWOOD BREWING COMPANY, LLC, D/B/A LOUISVILLE TAPROOM, FRANKFORT BREWPUB, AND LEXINGTON BREWPUB, ET AL. [2021-SC-0126-I](#) SCOTT

ORDER GRANTING TRANSFER - April 29, 2021

JEFFERSON COUNTY BOARD OF EDUCATION V. BOBBY HOLSCLOW, ET AL. [2020-SC-0569-T](#) JEFFERSON

AND

JEFFERSON COUNTY TEACHERS ASSOCIATION V. FRED DEVON FRIEDMANN, ET AL. [2020-SC-0571-T](#) JEFFERSON

ORDER DENYING TRANSFER - April 15, 2021

ANDY BESHEAR, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE COMMONWEALTH OF KENTUCKY, ET AL. V. GOODWOOD BREWING COMPANY, LLC, D/B/A LOUISVILLE TAPROOM, FRANKFORT BREWPUB, AND LEXINGTON BREWPUB, ET AL. [2021-SC-0125-T](#) SCOTT

PETITION FOR REHEARING DENIED WITH ORDER MODIFYING OPINION - April 29, 2021

LAURA R. NORMANDIN V. SCOTT W.
NORMANDIN

[2018-SC-0451-DG](#)

OLDHAM

LP LOUISVILLE EAST, LLC D/B/A
SIGNATURE HEALTHCARE OF EAST
LOUISVILLE, ET. AL. V. KENNETH R.
PATTON, ADMINISTRATOR OF THE
ESTATE OF TOMMY ROBERT PATTON

[2019-SC-0016-DG](#)

JEFFERSON

AND

KENNETH R. PATTON ADMINISTRATOR
OF THE ESTATE OF TOMMY ROBERT
PATTON V. LP LOUISVILLE EAST, LLC
D/B/A SIGNATURE HEALTHCARE OF
EAST LOUISVILLE, ET AL.

[2019-SC-0211-DG](#)

JEFFERSON

KENNETH L. MATTINGLY, JR. V.
COMMONWEALTH OF KENTUCKY

[2019-SC-0255-MR](#)

JEFFERSON

ORDER DISMISSING - April 07, 2021

SCOTTY WATSON V. COMMONWEALTH OF KENTUCKY CONLEY, HUGHES, NICKELL, VANMETER, JJ., SITTING. ALL CONCUR.	2019-SC-0595-MR	LYON
POTENTATE ABIYAH HABIN YAH EX REL: PAUL K. SMITH V. DAVID GREEN CONLEY, HUGHES, NICKELL, VANMETER, JJ., SITTING. ALL CONCUR.	2021-SC-0010-DE	MORGAN
LISA HOGG V. DOROTHY ANN HOGG, ET AL. CONLEY, HUGHES, NICKELL, VANMETER, JJ., SITTING. ALL CONCUR.	2021-SC-0056-D	LETCHER
LIZBETH STONE V. BRIDLEWOOD HOMEOWNERS ASSOCIATION, INC., ET AL. CONLEY, HUGHES, NICKELL, VANMETER, JJ., SITTING. ALL CONCUR.	2021-SC-0058-D	JEFFERSON
SEAN MICHAEL PIERSON V. KENTUCKY BAR ASSOCIATION CONLEY, HUGHES, NICKELL, VANMETER, JJ., SITTING. ALL CONCUR.	2021-SC-0034-KB	IN SUPREME COURT
JAMES HENRY BERRY V. COMMONWEALTH OF KENTUCKY CONLEY, HUGHES, NICKELL, VANMETER, JJ., SITTING. ALL CONCUR.	2020-SC-0471-OA	IN SUPREME COURT

ORDER DISMISSING - April 09, 2021

DARRELL BROWN V. COMMONWEALTH
OF KENTUCKY

[2019-SC-0268-MR](#)

HARDIN

CONLEY, HUGHES, NICKELL, VANMETER,
JJ., SITTING. ALL CONCUR.

JOHN RAY WILLIAMS V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0042-MR](#)

GRAVES

CONLEY, HUGHES, NICKELL, VANMETER,
JJ., SITTING. ALL CONCUR.