

SUPREME COURT OF KENTUCKY

APRIL 28, 2022 RULINGS

RELEASED: 10:00 A.M.

45. LAWRENCE RICHARDSON V.
COMMONWEALTH OF KENTUCKY

[2020-SC-0300-DG](#)
TO BE PUBLISHED

NICHOLAS

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

ALL SITTING. MINTON, C.J.; CONLEY,
KELLER, NICKELL, AND VANMETER, JJ.,
CONCUR. LAMBERT, J., CONCURS IN PART
AND DISSENTS IN PART WITHOUT
SEPARATE OPINION.

Questions Presented:

Criminal Law. Sex Offenses. Attempt
Crimes. Post-Incarceration Supervision. Issues
include whether a defendant who is convicted of
an attempted sex crime is required to complete
post-incarceration supervision where the
provisions of the supervision statute make no
mention of attempt crimes, but the provisions of
another sex offender statute—SORA—expressly
include attempt crimes.

46. BERRY HALL V.
COMMONWEALTH OF KENTUCKY

[2020-SC-0334-MR](#)
TO BE PUBLISHED

FLOYD

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. Insanity Defense. Extreme
Emotional Disturbance (EED). In this matter of
right case on its second appeal, the Court
considers whether it was prejudicial for the jury to
hear the entire 911 call from after the incident;
whether directed verdict on wanton endangerment
charges was appropriate considering shots were
fired toward a home within which children were
located; whether a witness provided appropriate
lay testimony as to the defendant's mental state;
whether the prosecutor made inappropriate
statements during closing argument; and whether
the trial court correctly refused to instruct the jury
on the shifting burden and standard of proof
regarding the insanity defense.

47. BEN MARTIN V.
DURBIN WALLACE

[2020-SC-0437-DG](#)
TO BE PUBLISHED

SCOTT

OPINION OF THE COURT BY JUSTICE NICKELL - AFFIRMING IN PART AND REVERSING IN PART

ALL SITTING. MINTON, C.J.; CONLEY, HUGHES, KELLER, AND LAMBERT, JJ., CONCUR. VANMETER J., CONCURS IN RESULT ONLY.

Questions Presented:

Qualified Immunity. Malice. Probable Cause. Summary Judgment. The issue is whether a school resource officer is entitled to qualified immunity from a bus driver's malicious prosecution, abuse of process, and defamation claims when: (1) the officer investigated allegations that the driver injured a student; (2) as a result of the officer's investigation, the driver was arrested and criminally charged; and (3) the driver was acquitted in the criminal case.

48. DAVID M. WARD, ET AL. V.
SECRETARY OF STATE, EX REL. MICHAEL G. ADAMS IN HIS OFFICIAL CAPACITY, ET AL.

[2020-SC-0520-I](#)
TO BE PUBLISHED

FRANKLIN

AND

SENATOR WHITNEY WESTERFIELD, IN BOTH HIS OFFICIAL AND PERSONAL CAPACITIES, ET AL. V.
DAVID WARD, ET AL.

[2020-SC-0544-I](#)
TO BE PUBLISHED

FRANKLIN

OPINION OF THE COURT BY CHIEF JUSTICE MINTON - VACATING AND REMANDING

ALL SITTING. CONLEY, HUGHES, KELLER, LAMBERT AND NICKELL, JJ., CONCUR. VANMETER, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION.

Questions Presented:

Interlocutory Relief. Standing. Constitutional Ballot Initiative. The Court considers whether plaintiffs challenging a constitutional amendment ballot question have standing as citizens, voters, or taxpayers.

49. ESTATE OF PHILLIS T. WORRALL BY EXECUTOR JAMES WORRALL V.
J.P. MORGAN BANK, N.A., TRUSTEE OF THE JAMES P. THOMPSON TRUST

[2021-SC-0166-DG](#)
TO BE PUBLISHED

JEFFERSON

OPINION OF THE COURT BY JUSTICE VANMETER - REVERSING AND REMANDING

ALL SITTING. ALL CONCUR.

Questions Presented:

Trust. Issues involve the propriety of a district court termination of a trust and distribution of trust assets.

50. COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES V.
TAMMY BAKER, ET AL.

[2021-SC-0180-DGE](#)
TO BE PUBLISHED

BULLITT

**OPINION OF THE COURT BY JUSTICE
HUGHES - VACATING AND REMANDING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Dependency, Neglect and Abuse. KRS 600.020(47). KRS 620.070. Governmental Immunity. Issues include whether the dependency, neglect and abuse statutes apply to the Cabinet such that a petition may be filed against it or whether governmental immunity prohibits this application.

51. APPLE VALLEY SANITATION, INC. V.
JON STAMBAUGH, ET AL.

[2021-SC-0227-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

**OPINION OF THE COURT BY CHIEF
JUSTICE MINTON - AFFIRMING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Workers' Compensation. Permanent Partial Disability Benefits. The Court considers whether it was appropriate to apply the three-multiplier from KRS 342.730(1)(c)1 to injuries sustained on two separate occasions where employee continued working following the first injury.

52. COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES, EX REL. CHILD SUPPORT
ENFORCEMENT V.
B.N.T., ET AL.

[2021-SC-0287-DGE](#)
TO BE PUBLISHED

CLARK

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Civil Procedure. CR 60.02. Child Support and Paternity. Issues involve application of multiple sections of CR 60.02 to an attempt to modify an agreed judgment regarding lack of paternity.

53. SCOTT D. SEAMAN V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
ALL SITTING. ALL CONCUR.
- [2020-SC-0486-MR](#)
NOT TO BE PUBLISHED
- JEFFERSON
54. ALFRED T. KESSEH V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
MINTON, C.J.; CONLEY, HUGHES, KELLER,
LAMBERT, AND VANMETER, JJ., SITTING.
ALL CONCUR. NICKELL, J., NOT SITTING.
- [2021-SC-0032-MR](#)
NOT TO BE PUBLISHED
- JEFFERSON
55. JOHN RAY WILLIAMS V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
ALL SITTING. ALL CONCUR.
- [2021-SC-0039-MR](#)
NOT TO BE PUBLISHED
- GRAVES
56. CHARLES DAVID MCGEORGE V.
WAL-MART, ET AL.
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
MINTON, C.J.; CONLEY, HUGHES, KELLER,
NICKELL, AND VANMETER, JJ., SITTING.
ALL CONCUR. LAMBERT, J., NOT SITTING.
- [2021-SC-0084-WC](#)
NOT TO BE PUBLISHED
- COURT OF
APPEALS

OPINION AND ORDERS - April 28, 2022

DAVID RANDOLPH BEDELL V.
HONORABLE CHARLES L. CUNNINGHAM, ET
AL.

[2021-SC-0355-MR](#)
NOT TO BE PUBLISHED

JEFFERSON

**MEMORANDUM OPINION AND ORDER –
AFFIRMING**

ALL SITTING. ALL CONCUR.

KENTUCKY BAR ASSOCIATION V.
GRACE INGRID GARDINER

[2021-SC-0468-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

OPINION AND ORDER – SUSPENDING

ALL SITTING. ALL CONCUR.

KENTUCKY BAR ASSOCIATION V.
JUSTIN JEROME MARCUM

[2022-SC-0002-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER - SUSPENDING FOR
TWO YEARS (180 DAYS TO SERVE)**

ALL SITTING. ALL CONCUR.

DAWN MICHELLE GENTRY V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0063-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER - SUSPENDING FOR
FOUR YEARS**

ALL SITTING. MINTON, C.J.; KELLER AND
NICKELL, JJ., CONCUR. HUGHES, J., CONCURS
IN RESULT ONLY BY SEPARATE OPINION.
LAMBERT, J., DISSENTS BY SEPARATE
OPINION IN WHICH CONLEY AND VANMETER,
JJ., JOIN.

OPINION AND ORDERS - April 28, 2022

TRACI LEE TIDBALL PEPPERS V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0106-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER - SUSPENDING FOR
FIVE YEARS**

ALL SITTING. MINTON, C.J.; CONLEY, HUGHES,
KELLER, LAMBERT, AND NICKELL, JJ.,
CONCUR. VANMETER, J., DISSENTS BY
SEPARATE OPINION.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - April 20, 2022

MARION HUGHES, ET AL. V.
UPS SUPPLY CHAIN SOLUTIONS, INC., ET
AL.

[2021-SC-0444-DG](#)

JEFFERSON

JOYCE TURNER V.
NORTON HEALTHCARE, INC.

[2022-SC-0004-DG](#)

JEFFERSON

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - April 27, 2022

MGG INVESTMENT GROUP, LP V.
BEMAK N.V., LTD., ET AL.

[2021-SC-0561-D](#)

FAYETTE

ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - April 20, 2022

COMMONWEALTH OF KENTUCKY V.
KAYLA MELTON

[2021-SC-0427-DG](#)

SCOTT

LISA THIELMEIER V.
KENNETH THIELMEIER

[2021-SC-0532-DG](#)

JEFFERSON

ORDER DENYING DISCRETIONARY REVIEW - April 20, 2022

JEFFREY A. SEXTON, ET AL. V.
US BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR MORGAN STANLEY
MORTGAGE LOAN TRUST 2006-8AR, ET AL.

[2021-SC-0380-D](#)

JEFFERSON

ORDER DENYING DISCRETIONARY REVIEW - April 20, 2022

DANIEL ARENAS V. COMMONWEALTH OF KENTUCKY	2021-SC-0442-D	KENTON
CHRISTOPHER ESPER V. COMMONWEALTH OF KENTUCKY	2021-SC-0451-D	KENTON
TRACI M. CULL V. DYCK-O'NEAL, INC., ET AL.	2021-SC-0466-D	CAMPBELL
KIMBERLY JOHNSON V. MEDICAL PROTECTIVE COMPANY, ET AL. LAMBERT, J., NOT SITTING.	2021-SC-0484-D	FLEMING
ALEKSANDRA HOFFMAN, ET AL. V. MAURICE PATTERSON, ET AL.	2021-SC-0497-D	JEFFERSON
SCOTTY HEDGESPETH, ET AL. V. TAYLOR COUNTY FISCAL COURT MEMBERS, ET AL.	2021-SC-0501-D	TAYLOR
KEVIN NIGEL STANFORD V. COMMONWEALTH OF KENTUCKY CONLEY, J., WOULD GRANT DISCRETIONARY REVIEW.	2021-SC-0516-D	JEFFERSON
BRIANNA BOEL V. EARVANCE TYSON A/K/A LYNETTE TYSON	2021-SC-0523-D	JEFFERSON
JOHN GASH, ET AL. V. RUBY BRANGERS, AS ADMINISTRATRIX FOR THE ESTATE OF ANTHONY BRANGERS, SR.	2021-SC-0528-D	JEFFERSON

ORDER DENYING DISCRETIONARY REVIEW - April 20, 2022

STATE FARM FIRE AND CASUALTY COMPANY, ET AL. V. KRISTINA D. BRATCHER	<u>2021-SC-0529-D</u>	JEFFERSON
DEANDRE MCCAIN V. COMMONWEALTH OF KENTUCKY	<u>2021-SC-0553-D</u>	JEFFERSON
ANTHONY WYATT V. COMMONWEALTH OF KENTUCKY	<u>2021-SC-0555-D</u>	HARDIN
DOROTHEA BRADLEY V. COMMONWEALTH OF KENTUCKY	<u>2021-SC-0557-D</u>	JEFFERSON
MIKE MCINTOSH V. VALARIE BLOCK, ET AL.	<u>2021-SC-0575-D</u>	HOPKINS
PERIAN SALVIOLA V. COMMONWEALTH OF KENTUCKY, ENERGY AND ENVIRONMENT CABINET	<u>2021-SC-0576-D</u>	FRANKLIN
PUBLIC SERVICE COMMISSION OF KENTUCKY V. COREY M. BIDDLE, ET AL.	<u>2021-SC-0580-D</u>	FRANKLIN
SUSAN BLOOD V. THE CITIZENS BANK (MOREHEAD, KY), ET AL.	<u>2021-SC-0583-D</u>	BATH
SCOT GAITHER V. COMMONWEALTH OF KENTUCKY	<u>2021-SC-0587-D</u>	DAVIESS
WAYMAN ELLIOTT, ET AL. V. BOBBIE SMITH, ET AL.	<u>2022-SC-0001-DE</u>	GREENUP

ORDER DENYING DISCRETIONARY REVIEW - April 20, 2022

D'KORIEL MARTAZE HOBSON V. COMMONWEALTH OF KENTUCKY	2022-SC-0008-D	DAVIESS
PHILIP MUNCY V. ROSCOE EVERSOLE, ET AL.	2022-SC-0012-D	LESLIE
SEKY HOLDING CO., F/K/A FIRST CORBIN LONG TERM CARE, INC. V. AMERICAN WELDING & GAS, INC., SUCCESSOR BY MERGER TO SCOTT- GROSS COMPANY, INC.	2022-SC-0013-D	FAYETTE
TONYA DALE RAY V. COMMONWEALTH OF KENTUCKY	2022-SC-0021-D	MCCRACKEN
STEVEN PETTWAY V. COMMONWEALTH OF KENTUCKY	2022-SC-0022-D	JEFFERSON
RICHARD CODY GREER V. COMMONWEALTH OF KENTUCKY	2022-SC-0052-D	SHELBY
COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL. V. J.K. MINTON, C.J.; AND KELLER, J., WOULD GRANT DISCRETIONARY REVIEW.	2022-SC-0067-DE	BOONE
MEGAN WEBB, ET AL. V. KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY	2022-SC-0075-D	MONTGOMERY

ORDER AFFIRMING - EQUALLY DIVIDED COURT- April 28, 2022

CLEVELAND CONSTRUCTION V. JOSHUA SHACKLEFORD, ET AL.

[2021-SC-0190-WC](#)

COURT OF APPEALS

THE VOTE OF THE SIX MEMBERS OF THIS COURT PARTICIPATING IN THE DETERMINATION OF THIS APPEAL BEING EQUALLY DIVIDED, PURSUANT TO SCR 1.020, THE OPINION OF THE COURT OF APPEALS HEREBY STANDS AFFIRMED.

MINTON, C.J.; KELLER AND NICKELL, JJ., WOULD AFFIRM THE OPINION OF THE COURT OF APPEALS. CONLEY, HUGHES, AND VANMETER, JJ., WOULD REVERSE THE OPINION OF THE COURT OF APPEALS. LAMBERT, J., NOT SITTING.

ORDER GRANTING TRANSFER - April 05, 2022

LEIF HALVORSEN V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0048-TG](#)

FAYETTE

AND

LEIF HALVORSEN V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0095-TG](#)

FAYETTE

ORDER DENYING TRANSFER - April 19, 2022

BENJAMIN G. DUSING V.
BRIAN HALLORAN, ET AL.

[2022-SC-0141-T](#)

KENTON

PETITION FOR REHEARING DENIED - April 28, 2022

MICHAEL FIELDS V.
COMMONWEALTH OF KENTUCKY

[2019-SC-0663-DG](#)

SCOTT

ORDER MODIFYING - April 28, 2022

ROGER EPPERSON V.
COMMONWEALTH OF KENTUCKY

[2019-SC-0724-MR](#)

WARREN

**ORDER MODIFYING OPINION OF THE
COURT**

ALL SITTING. ALL CONCUR.

ORDER DENYING - April 28, 2022

KENTUCKY BAR ASSOCIATION V.
GRACE INGRID GARDINER

[2021-SC-0468-KB](#)

IN SUPREME
COURT

ORDER DENYING MOTION TO CLARIFY

ALL SITTING. ALL CONCUR.

ORDER DISMISSING - April 06, 2022

JIM KING V.
BEVERAGE WAREHOUSE LLC, ET AL.

[2021-SC-0259-DG](#)

JEFFERSON

**ORDER GRANTING JOINT MOTION TO
DISMISS**

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