

SUPREME COURT OF KENTUCKY

APRIL 27, 2023 RULINGS

RELEASED: 10:00 A.M.

30. LEXINGTON FAYETTE URBAN COUNTY
GOVERNMENT V.
MICHAEL GOSPER, ET AL.

[2021-SC-0386-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Workers' Compensation. Injury Causation. Issues include whether evidence supported the Administrative Law Judge's findings of injury and causation where the employer asserted that a work-related traumatic event or series of events were not the proximate cause of the employee's cumulative injuries.

31. DONNIE CAMPBELL V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0479-MR](#)
TO BE PUBLISHED

ADAIR

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

ALL SITTING. VANMETER, C.J.; BISIG,
KELLER, AND NICKELL, JJ., CONCUR.
THOMPSON, J., CONCURS BY SEPARATE
OPINION. LAMBERT, J., CONCURS IN
RESULT ONLY BY SEPARATE OPINION.

Questions Presented:

Criminal Law. Witness Testimony. Confrontation Clause. Directed Verdict. In this matter of right appeal, issues include whether it was error to permit a witness to testify via Zoom, and whether sufficient evidence supported the trial court's denial of directed verdict as to an assault charge.

32. CHARLES F. MAHL V.
LOUANNE MAHL

[2021-SC-0481-DG](#)
TO BE PUBLISHED

JEFFERSON

AND

LOUANNE MAHL V.
CHARLES F. MAHL

[2021-SC-0487-DG](#)
TO BE PUBLISHED

JEFFERSON

**OPINION OF THE COURT BY JUSTICE
BISIG - REVERSING AND REINSTATING**

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

Questions Presented:

Maintenance. Indispensable Party. Strict Compliance. Unconscionability. Issues include: (1) whether the failure to name an attorney awarded fees by the trial court must result in the dismissal of the entire appeal and (2) whether the trial court abused its discretion in determining that changes in the parties' circumstances rendered the terms of the original maintenance award unconscionable.

33. ANSHANIQUE M. LEAVELL V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0579-MR](#)
TO BE PUBLISHED

CHRISTIAN

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. Self-Defense. Prosecutorial Misconduct. In this matter of right appeal, issues include whether it was error to permit testimony suggesting the defendant did not act consistently with someone who acted in self-defense after the defendant opened the door, and whether it was prosecutorial misconduct to introduce that testimony along with testimony regarding potential gang affiliation.

34. FRIENDS OF LOUISVILLE PUBLIC ART, LLC, ET AL. V. LOUISVILLE/JEFFERSON COUNTY METRO HISTORIC LANDMARKS AND PRESERVATION DISTRICTS COMMISSION, ET AL.

[2022-SC-0025-DG](#)
TO BE PUBLISHED

JEFFERSON

OPINION OF THE COURT BY CHIEF JUSTICE VANMETER - REVERSING AND REMANDING

ALL SITTING. CONLEY, KELLER, LAMBERT, NICKELL, AND THOMPSON, JJ., CONCUR. BISIG, J., DISSENTS BY SEPARATE OPINION.

Questions Presented:

Administrative Law. Due Process. Certificate of Appropriateness. Issues involve due process concerns relating to consideration of a certificate of appropriateness seeking to remove the Castleman statute from a roundabout at a primary entrance to Cherokee Park in Louisville.

35. DAVID A. KIMMEL V. COMMONWEALTH OF KENTUCKY
AND

[2022-SC-0038-MR](#)
TO BE PUBLISHED

BOYD

DAVID A. KIMMEL V. COMMONWEALTH OF KENTUCKY

[2022-SC-0061-MR](#)
TO BE PUBLISHED

BOYD

OPINION OF THE COURT BY JUSTICE BISIG - AFFIRMING IN PART, VACATING IN PART, AND REMANDING

ALL SITTING. LAMBERT AND NICKELL, JJ., CONCUR. THOMPSON, J., CONCURS BY SEPARATE OPINION. CONLEY, J., CONCURS IN PART AND DISSENTS IN PART BY SEPARATE OPINION IN WHICH VANMETER, C.J., AND KELLER, J., JOIN.

Questions Presented:

Criminal Law. Sentencing. Persistent Felony Offender. In this matter of right appeal, the Court considers whether a forty-year sentence imposed after defendant's conviction on multiple shoplifting charges violates the aggregate cap on sentences found in KRS 532.110(c).

36. CITY OF PIKEVILLE, KENTUCKY, ET AL. V. KENTUCKY CONCEALED CARRY COALITION, INC.

[2022-SC-0053-DG](#)
TO BE PUBLISHED

PIKE

OPINION OF THE COURT BY JUSTICE NICKELL - REVERSING AND REMANDING

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

Questions Presented:

Firearms Regulations. Standing. Issues include whether a non-profit corporation interested in the Second Amendment has standing to assert that KRS 65.870 preempts a local government firearms regulation prohibiting the carrying of concealed deadly weapons.

37. RUVIEL HERNANDEZ V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0138-MR](#)
TO BE PUBLISHED

GREENUP

**OPINION OF THE COURT BY JUSTICE
BISIG - AFFIRMING IN PART, VACATING
IN PART, AND REMANDING**

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

Questions Presented:

Criminal Law. *Miranda* warnings. KRE 404(b) evidence. Sentencing. In this matter of right appeal, issues include whether the defendant was in custody at the time of a voluntary interview with law enforcement; whether it was prejudicial to admit witness testimony about defendant's prior abuse of another victim; and the imposition of a sentence ordered to run consecutively with a life sentence.

38. JOE WIELAND, ET AL. V.
DANA FREEMAN, ET AL.

[2022-SC-0139-DG](#)
TO BE PUBLISHED

HENRY

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Contract. Commercial Lease. Summary Judgment. Waiver. CR 52.04. Issues include whether the tenant waived its breach of contract claim against the landlord when: (1) the tenant filed a list of unresolved claims, as requested by the circuit court, which included its contract claim; (2) the circuit court overlooked the tenant's filing and entered a final order stating that all the tenant's claims had been resolved via summary judgment; (3) the tenant appealed, rather than filing a CR 52.04 motion asking the circuit court to make specific factual findings on its contract claim.

39. STEVEN RUSH ROMINES V.
HONORABLE TIMOTHY R COLEMAN, ET
AL.

[2022-SC-0424-MR](#)
TO BE PUBLISHED

EDMONSON

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Writ of Prohibition. Venue. In this appeal from the Court of Appeals' denial of a writ of prohibition, the Court considers whether a defendant in a civil defamation action will suffer irreparable injury from the trial court's denial of his motion for change of venue.

40. CHARLES ELMER EAPMON V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
ALL SITTING. ALL CONCUR.
- [2021-SC-0393-MR](#)
NOT TO BE PUBLISHED
- KENTON
41. JEREMIAH WOLFORK V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
ALL SITTING. ALL CONCUR.
- [2021-SC-0476-MR](#)
NOT TO BE PUBLISHED
- JEFFERSON
42. JOSHUA TURNER V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
ALL SITTING. CONLEY, KELLER,
LAMBERT, NICKELL, AND THOMPSON, JJ.,
CONCUR. BISIG, J., CONCURS IN RESULT
ONLY BY SEPARATE OPINION IN WHICH
VANMETER, C.J., JOINS.
- [2021-SC-0495-MR](#)
NOT TO BE PUBLISHED
- KENTON
43. SHAKKORY WILLIS V.
COMMONWEALTH OF KENTUCKY
**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**
ALL SITTING. ALL CONCUR.
- [2021-SC-0538-MR](#)
NOT TO BE PUBLISHED
- CHRISTIAN

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| 44. | LARRY DIXIE V.
FORD MOTOR COMPANY, ET AL. | 2021-SC-0542-WC
NOT TO BE PUBLISHED | COURT OF APPEALS |
| | AND | | |
| | FORD MOTOR COMPANY V.
LARRY DIXIE, ET AL. | 2021-SC-0547-WC
NOT TO BE PUBLISHED | COURT OF APPEALS |
| | MEMORANDUM OPINION OF THE COURT - <u>AFFIRMING AND REMANDING</u> | | |
| | VANMETER, C.J.; BISIG, CONLEY, KELLER, LAMBERT, AND NICKELL, JJ., SITTING. ALL CONCUR. THOMPSON, J., NOT SITTING. | | |
| 45. | BARRY ELLIOTT V.
COMMONWEALTH OF KENTUCKY | 2021-SC-0550-MR
NOT TO BE PUBLISHED | LOGAN |
| | MEMORANDUM OPINION OF THE COURT - <u>REVERSING AND REMANDING</u> | | |
| | ALL SITTING. BISIG, CONLEY, KELLER, LAMBERT, AND THOMPSON, JJ., CONCUR. VANMETER, C.J.; NICKELL, J., CONCUR IN RESULT ONLY. | | |
| 46. | KELLOGG'S V.
LESLIE LAWRENCE, ET AL. | 2021-SC-0566-WC
NOT TO BE PUBLISHED | COURT OF APPEALS |
| | AND | | |
| | KELLOGG'S V.
LESLIE LAWRENCE, ET AL. | 2022-SC-0010-WC
NOT TO BE PUBLISHED | COURT OF APPEALS |
| | MEMORANDUM OPINION OF THE COURT - <u>AFFIRMING IN PART, REVERSING IN PART AND REMANDING</u> | | |
| | VANMETER, C.J.; BISIG, CONLEY, KELLER, LAMBERT, AND NICKELL, JJ., SITTING. ALL CONCUR. THOMPSON, J., NOT SITTING. | | |

47. ARAMIS MURRAY V. [2022-SC-0093-MR](#) FAYETTE
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**

ALL SITTING. ALL CONCUR.

48. JOHN HUNTER V. [2022-SC-0186-MR](#) PIKE
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.

OPINION AND ORDERS - April 27, 2023

KENTUCKY BAR ASSOCIATION V.
ASHLEE DEHNAE SMITH

[2023-SC-0019-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER SUSPENDING FOR
3 YEARS (RETROACTIVE FROM
NOVEMBER 4, 2019 TO NOVEMBER 4,
2022)**

ALL SITTING. ALL CONCUR.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - April 19, 2023

BRADLEY RACING STABLES, LLC, ET AL.
V.
JOI DENISE ROBY, ET AL.

[2022-SC-0508-DG](#)

JEFFERSON

ANTHEM KENTUCKY MANAGED CARE
PLAN, INC. V.
MOLINA HEALTHCARE OF KENTUCKY,
INC., ET AL.

[2022-SC-0515-DG](#)

FRANKLIN

THOMPSON, J., NOT SITTING.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - April 19, 2023

CHURCHILL DOWNS, INC., ET AL. V. [2022-SC-0516-DG](#) JEFFERSON
JOI DENISE ROBY, ET AL.

JOI DENISE ROBY, ET AL. V. [2022-SC-0523-DG](#) JEFFERSON
CHURCHILL DOWNS, INC., ET AL.

JAMES JAVONTE CRITE V. [2022-SC-0541-DG](#) DAVIESS
COMMONWEALTH OF KENTUCKY

NORMANDY FARM, LLC V. [2022-SC-0552-DG](#) FAYETTE
KENNETH MCPEEK RACING STABLE, INC.
VANMETER, C.J., NOT SITTING.

ORDER DENYING DISCRETIONARY REVIEW - April 19, 2023

MARK ADAM CAVE V. [2022-SC-0429-D](#) FAYETTE
COMMONWEALTH OF KENTUCKY

MICHAEL HOBSON V. [2022-SC-0502-D](#) HARDIN
COMMONWEALTH OF KENTUCKY

HARVEY PELFREY, INDIVIDUALLY, ET AL. [2022-SC-0509-D](#) LEE
V.
KIMBERLY HUGHES, AS CO-
ADMINISTRATOR OF THE ESTATE OF
CLYDE SMITH, JR., ET AL.

ZANE GREER V. [2022-SC-0524-D](#) GRAYSON
COMMONWEALTH OF KENTUCKY, ET AL.

TOMA WASHINGTON V. [2022-SC-0530-D](#) FRANKLIN
COMMONWEALTH OF KENTUCKY

ORDER DENYING DISCRETIONARY REVIEW - April 19, 2023

JEFFREY DOUGOUD V. [2022-SC-0531-D](#) CAMPBELL
COMMONWEALTH OF KENTUCKY
THOMPSON, J., NOT SITTING.

MARGARET SPRINGFIELD, ET AL. V. [2022-SC-0537-D](#) WEBSTER
THOMAS D. SPRINGFIELD, ET AL.

SPA RENTALS, LLC, ET AL. V. [2022-SC-0538-D](#) PULASKI
SOMERSET-PULASKI COUNTY AIRPORT
BOARD

TIMOTHY HARGROVES, JR. V. [2022-SC-0540-D](#) HARDIN
COMMONWEALTH OF KENTUCKY
THOMPSON, J., NOT SITTING.

JOLEAN FUGATE V. [2022-SC-0546-D](#) LETCHER
WALMART INC., ET AL.

BARBARA ANN DITTO, ET AL. V. [2022-SC-0548-D](#) BRECKINRIDGE
JERRY T. MUCKER

J.S. V. [2022-SC-0559-DE](#) ALLEN
CABINET FOR HEALTH AND FAMILY
SERVICES, COMMONWEALTH OF
KENTUCKY, ET AL.

BARRY MORGAN V. [2022-SC-0563-D](#) BRECKINRIDGE
COMMONWEALTH OF KENTUCKY

MALCOLM DICKERSON V. [2023-SC-0001-D](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

ORDER DENYING DISCRETIONARY REVIEW - April 19, 2023

TORRIAN BOLES V. COMMONWEALTH OF KENTUCKY	<u>2023-SC-0002-D</u>	HARDIN
NICKELL, J., WOULD GRANT DISCRETIONARY REVIEW.		
CUT-N-SHOOT, L.L.C., ET AL. V. BINGHAM GREENEBAUM DOLL LLP	<u>2023-SC-0006-D</u>	GALLATIN
KELLER, LAMBERT, AND NICKELL, JJ., WOULD GRANT DISCRETIONARY REVIEW. THOMPSON, J., NOT SITTING.		
MORGAN RAE PETTY V. BENJAMIN DAVID ADKINS	<u>2023-SC-0007-D</u>	GRAYSON
THOMPSON, J., NOT SITTING.		
KATHERINE BETZ, ET AL. V. MITCHELL D. KAYE, M.D., ET AL.	<u>2023-SC-0009-D</u>	CHRISTIAN
THOMPSON, J., NOT SITTING.		
MANNING G. WARREN V. UNIVERSITY OF LOUISVILLE	<u>2023-SC-0013-D</u>	FRANKLIN
BISIG, J., NOT SITTING.		
DOUGLAS RANK V. COMMONWEALTH OF KENTUCKY	<u>2023-SC-0016-D</u>	KENTON
ROBERT MARK SCOTT V. FORCHT BANK, N.A.	<u>2023-SC-0018-D</u>	LAUREL
BRETT COLDIRON, ET AL. V. DAVID VORHERR, ET AL.	<u>2023-SC-0022-D</u>	KENTON
KELLER, J., NOT SITTING.		

ORDER DENYING DISCRETIONARY REVIEW - April 19, 2023

NICKALUS T. HOLT V. JUSTIN NEAL O'MALLEY, ET AL.	2023-SC-0026-D	WOODFORD
BRENT YOAKUM V. TT OF B. LOUISVILLE, INC.	2023-SC-0030-D	JEFFERSON
RYAN DOUGLAS SALMONS, BY JOHN J. DAVIS, CONSERVATOR V. QUICKEN LOANS, INC.	2023-SC-0034-D	PIKE
BRIDGETTE EHLV V. COMMONWEALTH OF KENTUCKY, STATE BOARD OF ELECTIONS THOMPSON, J., NOT SITTING.	2023-SC-0037-D	OLDHAM
MELISSA RIVERA V. ROBERTO J. FELIX THOMPSON, J., NOT SITTING.	2023-SC-0038-D	BELL
JULIE WERNER F/K/A JULIE WERNER CROWE V. MICHAEL JAMES CROWE THOMPSON, J., NOT SITTING.	2023-SC-0055-D	DAVIESS
JOHN T. BELL V. COMMONWEALTH OF KENTUCKY THOMPSON, J., NOT SITTING.	2023-SC-0061-D	JEFFERSON
DAVID KHAZAI V. SHAHPAR SHAHAB BISIG, J., NOT SITTING.	2023-SC-0115-DE	JEFFERSON

ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - April 19, 2023

SHERONDA BAILEY, AS MOTHER AND NEXT FRIEND OF KATLIN EDWARDS ("K.E.") V. CHRISTOPHER COLLINS, ET AL.
NICKELL, J., NOT SITTING.

[2023-SC-0003-D](#) JEFFERSON

ORDER DENYING TRANSFER - April 27, 2023

LDG LAND HOLDINGS, LLC, ET AL. V. FRIENDS OF 42, LLC, ET AL.

[2023-SC-0052-T](#) JEFFERSON

BISIG AND THOMPSON, JJ., WOULD GRANT.

LOUISVILLE AND METRO PLANNING COMMISSION, ET AL. V. FRIENDS OF 42 LLC, ET AL.

[2023-SC-0053-T](#) JEFFERSON

BISIG AND THOMPSON, JJ., WOULD GRANT.

PETITION FOR REHEARING DENIED - April 27, 2023

HASAN A. SAXTON V. COMMONWEALTH OF KENTUCKY

[2021-SC-0353-MR](#) GRAVES

ISIAH M. NELSON V. COMMONWEALTH OF KENTUCKY

[2021-SC-0431-MR](#) JEFFERSON

ORDER DENYING - April 27, 2023

INQUIRY COMMISSION V.
BENJAMIN GERALD DUSING

[2021-SC-0512-KB](#)

IN SUPREME
COURT

**ORDER DENYING SECOND PETITION
FOR DISSOLUTION OF TEMPORARY
SUSPENSION**

ALL SITTING. ALL CONCUR.

KENTUCKY BAR ASSOCIATION V.
STEVEN O. THORNTON

[2022-SC-0557-KB](#)

IN SUPREME
COURT

**ORDER DENYING MOTION TO SET
ASIDE INDEFINITE SUSPENSION**

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