

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

83. IN RE: APPALACHIAN LAND COMPANY V. EQT PRODUCTION COMPANY  
**OPINION OF THE COURT BY JUSTICE CUNNINGHAM – CERTIFYING THE LAW**  
ALL SITTING. BARBER, CUNNINGHAM, KELLER, NOBLE, AND VENTERS, JJ., CONCUR. VENTERS, J., CONCURS BY SEPARATE OPINION IN WHICH NOBLE, J., JOINS. ABRAMSON, J., DISSENTS BY SEPARATE OPINION IN WHICH MINTON, C.J., JOINS.

[2013-SC-000598-CL](#)  
**TO BE PUBLISHED**

FEDERAL

**Questions Presented:**  
Certification of the Law. Mineral Law. Oil and Gas. Unless altered through agreement, the producer severing natural gas from the earth is solely responsible for the payment of the severance tax.

84. JULIUS WALLACE V. COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY JUSTICE NOBLE – AFFIRMING**  
ALL SITTING. ALL CONCUR.

[2013-SC-000332-MR](#)  
**TO BE PUBLISHED**

JEFFERSON

**Questions Presented:**  
Three counts first-degree robbery, two counts second-degree robbery, possession of a handgun by a convicted felon and PFOI -30 years. Error was unpreserved for appellate review and was insufficiently raised to the trial court below where the defense did not request an admonition or timely make a motion for mistrial when the trial court sustained his objection. Striking a juror for cause was not error. Admission of evidence of prior offenses exceeding the scope of the truth-in-sentencing statute was not reversible error. Trial court did not abuse its discretion in “trifurcating” the trial into two guilt phases and one consolidated penalty phase.

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

85. MIKAIL SAJJAAD MUHAMMAD V. [2013-SC-000420-DG](#) OLDHAM  
KENTUCKY PAROLE BOARD  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE ABRAMSON –  
AFFIRMING**  
ALL SITTING. MINTON, C.J., BARBER,  
KELLER, NOBLE, AND VENTERS, JJ.,  
CONCUR. CUNNINGHAM, J.,  
CONCURS IN RESULT ONLY BY  
SEPARATE OPINION.

**Questions Presented:**  
Criminal Law. Post incarceration supervision. Whether a defendant who made a plea bargain with the Commonwealth's Attorney to not revoke his post incarceration supervision is entitled to the benefit of that bargain even though KRS 532.043(5) gives full authority to the Parole Board to make that determination.

86. NOBE BAKER, ETC., ET AL. V. [2013-SC-000497-DG](#) HARLAN  
MAGNUM HUNTER PRODUCTION,  
INC. **TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE ABRAMSON –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Mineral Law. Oil and Gas. What is the correct definition in Kentucky law of "market value at the well" and what costs may natural gas lessees deduct when calculating the royalty to be paid to lessors.

87. JAMES OVERSTREET, ETC. V. [2013-SC-000620-DG](#) MERCER  
KINDRED NURSING CENTERS  
LIMITED PARTNERSHIP, ETC.,  
ET AL. **TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE VENTERS –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Limitation of Actions. KRS 216.515. Issues include whether KRS 216.515 created a new cause of action or whether the cause of action was one for personal injury, and whether the statute of limitations for personal injury or for a newly established statutory action applies.

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

88. QUINTIN DANELL LACKEY V.  
COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY  
CHIEF JUSTICE MINTON –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

[2014-SC-000001-MR](#)  
**TO BE PUBLISHED**

HARDIN

**Questions Presented:**  
Second-degree escape and PFO1 – 20 years. Despite no physical restraints, parolee’s “constructive custody” in parole officer’s office was sufficient for purposes of second degree escape.

89. MICAH HOLLAND V.  
COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY  
JUSTICE VENTERS –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

[2014-SC-000033-MR](#)  
**TO BE PUBLISHED**

CHRISTIAN

**Questions Presented:**  
Wanton murder-20 years. Trial court properly instructed the jury on the charge of wanton murder and declined to elaborate on the meaning of the word “wantonly.” Trial court properly instructed the jury on the issue of self-protection, denied a request for an instruction on extreme emotional disturbance and excluded proffered evidence concerning the victim’s predisposition towards violence.

90. CEDRIC MCNEIL V.  
COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY  
JUSTICE ABRAMSON –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

[2014-SC-000163-MR](#)  
**TO BE PUBLISHED**

JEFFERSON

**Questions Presented:**  
First-degree robbery and first-degree assault-28 years. Convictions for robbery and assault did not violate the prohibition against double jeopardy. Flaws in jury instructions and in an investigator’s testimony, which referred to unauthenticated phone company records, did not constitute reversible error.

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

91. LAWRENCE PATE V. [2013-SC-000558-DG](#) FRANKLIN  
DEPARTMENT OF CORRECTIONS **TO BE PUBLISHED**

LAWRENCE PATE V. [2013-SC-000559-DG](#) BRACKEN  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE CUNNINGHAM –  
AFFIRMING IN PART, REVERSING  
IN PART, AND REMANDING  
ALL SITTING. ALL CONCUR.**

**Questions Presented:**  
Criminal Law. KRS 439.3401. Violent Offender. Department of Corrections. Whether Corrections acted properly when it reclassified an inmate convicted of a Class A felony drug offense from nonviolent offender to violent offender based on its changed interpretation of the violent offender statute.

92. ALTON LIVINGOOD V. [2014-SC-000100-WC](#) FROM COURT  
TRANSFREIGHT, LLC, ET AL. **TO BE PUBLISHED** OF APPEALS

**OPINION OF THE COURT BY  
JUSTICE BARBER –  
AFFIRMING IN PART, REVERSING  
IN PART, AND REMANDING  
ALL SITTING. ALL CONCUR.**

**Questions Presented:**  
Workers Compensation. Temporary total disability (“TTD”) benefits during a period of light-duty work and application of the two multiplier, KRS 342.730(1)(c)(2). Reconsideration of this Court’s holding in *Chrysalis House, Inc. v. Tackett*, 283 S.W.3d 671 (Ky. 2009).

93. COMMONWEALTH OF KENTUCKY V. [2013-SC-000226-DG](#) PENDLETON  
FLOYD WRIGHT **TO BE PUBLISHED**

**AND**  
FLOYD WRIGHT V. [2013-SC-000824-DG](#) PENDLETON  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE KELLER –  
REVERSING  
ALL SITTING. ALL CONCUR.**

**Questions Presented:**  
Criminal Law. Jury Use of Evidence. Propriety of a jury’s use of the prosecutor’s laptop to replay audiotape of a drug transaction admitted into evidence as an exhibit.

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

94. LISA A. DAUGHERTY V. [2013-SC-000764-MR](#) BRECKINRIDGE  
COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY**  
**JUSTICE NOBLE –**  
**REVERSING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
Murder and tampering with physical evidence, hiding the gun used in the shooting-25 years. Evidence. Due Process of Law. Trial court erred by preventing the defendant from testifying that her husband was a felon, who could not legally possess a gun, and from recounting statements her husband allegedly made before, during, and after the shooting.
95. GARRARD COUNTY FISCAL COURT V. [2014-SC-000610-WC](#) FROM COURT  
JULIE CAMPS; HONORABLE J. LANDON OVERFIELD, CHIEF OF APPEALS  
ADMINISTRATIVE LAW JUDGE;  
HONORABLE ALLISON E. JONES,  
ADMINISTRATIVE LAW JUDGE; AND  
WORKERS' COMPENSATION BOARD  
**OPINION OF THE COURT –**  
**REVERSING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
Workers' Compensation. Issues presented include whether wages from a former concurrent employer can be included in an average weekly wage calculation even though the injury occurred after the employee quit the concurrent employer.
96. ADMINISTRATIVE OFFICE OF THE [2013-SC-000373-TG](#) JEFFERSON  
COURTS V.  
BEVERLY MILLER  
**OPINION OF THE COURT BY**  
**SPECIAL JUSTICE JOHN S. REED –**  
**REVERSING ON APPEAL;**  
**AFFIRMING ON CROSS APPEAL**  
BARBER, CUNNINGHAM, NOBLE  
AND VENTERS, JJ., AND SPECIAL  
JUSTICE CHARLES E. ENGLISH AND  
JOHN S. REED, CONCUR. KELLER,  
J., CONCURS IN RESULT ONLY.  
MINTON, C.J.; AND ABRAMSON, J.,  
NOT SITTING.
- Questions Presented:**  
Non-tenured employee was not entitled to termination due process, under the Court of Justice Personnel Policies. Employee did not report or disclose previously concealed or non-public information that would entitle her to protection under KRS 61.102.

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

97. BERRY HALL V. [2012-SC-000423-MR](#) FLOYD  
COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT -  
REVERSING AND REMANDING**  
ALL SITTING. MINTON, C.J.,  
ABRAMSON, BARBER,  
CUNNINGHAM, KELLER, JJ.,  
CONCUR. NOBLE, J., CONCURS  
IN PART AND DISSENTS IN PART  
BY SEPARATE OPINION IN  
WHICH VENTERS, J., JOINS.
- Questions Presented:**  
Guilty but mentally ill. Two counts of murder and four counts of first-degree wanton endangerment-Life without possibility of parole. Improper admission of excessive numbers of needlessly cumulative and extremely gruesome crime scene and autopsy photos of the victims was prejudicial error requiring reversal of the murder convictions. Denial of directed verdict on the four first-degree wanton endangerment counts was proper.
98. COMMONWEALTH OF KENTUCKY V. [2012-SC-000771-DG](#) JEFFERSON  
JAMES BEDWAY  
**OPINION OF THE COURT BY  
JUSTICE KELLER –  
REVERSING AND REMANDING**  
ALL SITTING. MINTON, C.J.,  
ABRAMSON, BARBER, CUNNINGHAM,  
KELLER, AND VENTERS, JJ.,  
CONCUR. NOBLE, J., CONCURS  
IN RESULT ONLY BY SEPARATE  
OPINION.
- Questions Presented:**  
Criminal Law. DUI. KRS 189A.105(3). Issues include the scope of the right to counsel created by KRS 189A.105(3) and whether or not denial of the statutory right requires the exclusion of subsequently obtained evidence.
99. MARY BANKER, ET AL. V. [2013-SC-000108-DG](#) JEFFERSON  
UNIVERSITY OF LOUISVILLE  
ATHLETIC ASSOCIATION, INC.  
**AND**  
UNIVERSITY OF LOUISVILLE  
ATHLETIC ASSOCIATION, INC. V. [2013-SC-000778-DG](#) JEFFERSON  
MARY BANKER, ET AL.  
**OPINION OF THE COURT BY  
JUSTICE KELLER –  
REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
Employment Law. Retaliatory Discharge. Sufficiency of the evidence of causation or pretext to support the jury verdict for the discharged plaintiff.

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

100. LORETTA SARGENT V. [2013-SC-000111-DG](#) FAYETTE  
WILLIAM SHAFFER, M.D. **TO BE PUBLISHED**
- OPINION OF THE COURT BY JUSTICE VENTERS – REVERSING AND REMANDING**  
ALL SITTING. MINTON, C.J., BARBER, CUNNINGHAM, AND NOBLE, JJ., CONCUR. ABRAMSON, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION. KELLER, J., DISSENTS BY SEPARATE OPINION.
- Questions Presented:**  
Evidence Law. Jury Instructions. Medical Malpractice. Informed Consent. KRS 304.40-320(2). Whether a jury instruction on informed consent in a medical negligence action must contain the duty enumerated in KRS 304.40-320(2).
101. KEITH RANDALL SPARKMAN [2013-SC-000119-DG](#) KNOTT  
D/B/A IN-DEPTH SANITARY SERVICE [2013-SC-000831-DG](#) KNOTT  
GROUP, ET AL. V. **TO BE PUBLISHED**  
CONSOL ENERGY, INC. AND CONSOL OF KENTUCKY, INC.
- OPINION OF THE COURT BY JUSTICE ABRAMSON – REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
Civil Procedure. Parties. Standing. Issues include whether the Court of Appeals properly vacated the trial court’s judgment in favor of a business entity that was not a named plaintiff.
102. C.D.G. V. [2014-SC-000329-DGE](#) JEFFERSON  
N.J.S. [2014-SC-000495-DGE](#)  
**TO BE PUBLISHED**
- OPINION OF THE COURT BY JUSTICE NOBLE – REVERSING AND REINSTATING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**  
Child Support. Whether KRS 403.211 or other Kentucky law requires that Social Security dependent retirement benefits received by a child must be credited against the child support obligation, and whether a lump-sum payment of dependent benefits creates an "overpayment" which must be reimbursed by the child's representative payee to the obligor.

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

103. RACHEL ADAMS-SMYRICHINSKY V. [2013-SC-000812-DGE](#) OLDHAM  
PETER T. SMYRICHINSKY  
**OPINION OF THE COURT BY  
JUSTICE NOBLE –  
REVERSING, VACATING AND  
REMANDING**  
ALL SITTING. ALL CONCUR.
- Questions Presented:**

Family Law. Child Support. Emancipation. UIFSA. Issues include whether Kentucky or Indiana law regarding the age of emancipation applies when: (1) the initial child support order was entered in Indiana; (2) both parties subsequently moved to Kentucky; and (3) the Kentucky court has assumed continuing, exclusive jurisdiction to modify the support order.
104. RONALD CHRISTOPHER FAIRCHILD V. [2013-SC-000024-MR](#) ROWAN  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
105. CHARLES TIMOTHY MORRIS V. [2013-SC-000766-MR](#) CHRISTIAN  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
106. ORAN BRUMLEY V. [2013-SC-000805-MR](#) CLAY  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
107. MICHAEL ERNEST MOORE V. [2014-SC-000023-MR](#) BOONE  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
ALL SITTING. MINTON, C.J., BARBER,  
CUNNINGHAM, KELLER, NOBLE, AND  
VENTERS, JJ., CONCUR. ABRAMSON,  
J., CONCURS IN RESULT ONLY.



SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

- |      |   |   |           |
|------|---|---|-----------|
| 108. | KENNETH WAYNE GOBEN V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR. | <a href="#">2014-SC-000039-MR</a><br><b>NOT TO BE PUBLISHED</b> | JEFFERSON |
| 109. | DAVID SALYERS V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.       | <a href="#">2014-SC-000133-MR</a><br><b>NOT TO BE PUBLISHED</b> | GREEN     |
| 110. | DWAYNE LEE DURRETT V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.  | <a href="#">2014-SC-000177-MR</a><br><b>NOT TO BE PUBLISHED</b> | JEFFERSON |
| 111. | DEREK HOOSER V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.        | <a href="#">2014-SC-000239-MR</a><br><b>NOT TO BE PUBLISHED</b> | LAWRENCE  |
| 112. | CHAVEZ CORTEZ BYRD V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.  | <a href="#">2014-SC-000313-MR</a><br><b>NOT TO BE PUBLISHED</b> | DAVISS    |
| 113. | KEELAN WALTON V.<br>COMMONWEALTH OF KENTUCKY<br><b>MEMORANDUM OPINION OF<br/>THE COURT – <u>AFFIRMING</u></b><br>ALL SITTING. ALL CONCUR.       | <a href="#">2014-SC-000321-MR</a><br><b>NOT TO BE PUBLISHED</b> | DAVISS    |

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

114. TERRENCE ALAN SIMS V. [2014-SC-000332-MR](#) FAYETTE  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. MINTON, C.J., BARBER,  
CUNNINGHAM, KELLER, NOBLE, AND  
VENTERS, JJ., CONCUR. ABRAMSON,  
J., CONCURS IN RESULT ONLY.
115. JOSEPH WAYNE ALLEN V. [2014-SC-000356-MR](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
116. ROGER DALE RAFFERTY V. [2014-SC-000408-MR](#) DAVIESS  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. MINTON, C.J.,  
ABRAMSON, BARBER, CUNNINGHAM,  
KELLER, AND VENTERS, JJ., CONCUR.  
NOBLE, J., CONCURS IN RESULT ONLY.
117. TIMOTHY ROBINSON V. [2014-SC-000467-MR](#) LINCOLN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
MINTON, C.J., ABRAMSON, BARBER,  
CUNNINGHAM, KELLER, AND NOBLE,  
JJ., CONCUR. VENTERS, J., DISSENTS  
BY SEPARATE OPINION.

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

118. HAM BROADCASTING COMPANY, INC. V. ERIC ALEXANDER, ANTHEM HEALTH PLANS OF KENTUCKY, INC., HONORABLE THOMAS G. POLITES, ADMINISTRATIVE LAW JUDGE; AND WORKERS' COMPENSATION BOARD  
**MEMORANDUM OPINION OF THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2014-SC-000723-WC](#)  
**NOT TO BE PUBLISHED**
- FROM COURT OF APPEALS
119. EMPLOYMENT SOLUTIONS, INC. V. CHARLES BREEZE, ET AL.  
**MEMORANDUM OPINION OF THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2014-SC-000739-WC](#)  
**NOT TO BE PUBLISHED**
- FROM COURT OF APPEALS
120. JACK GORE V. COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2014-SC-000742-MR](#)  
**NOT TO BE PUBLISHED**
- BELL
121. JEFFERY A. ROBERTS V. LAURIE STICKLEN, INDIVIDUALLY AS THE SURVIVING SPOUSE, ET AL.  
**MEMORANDUM OPINION OF THE COURT – AFFIRMING**  
ALL SITTING. MINTON, C.J., ABRAMSON, BARBER, CUNNINGHAM, NOBLE AND VENTERS, JJ., CONCUR. KELLER, J., CONCURS BY SEPARATE OPINION.
- [2015-SC-000022-WC](#)  
**NOT TO BE PUBLISHED**
- FROM COURT OF APPEALS
122. MODERN PROPERTY MANAGEMENT V. ESTATE OF JEFFREY ALLEN WILBURN (DECEASED), ET AL.  
**MEMORANDUM OPINION OF THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2015-SC-000026-WC](#)  
**NOT TO BE PUBLISHED**
- FROM COURT OF APPEALS

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

123. RONALD CAVANDA JOHNSON V. [2013-SC-000806-MR](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF  
THE COURT – REVERSING AND  
REMANDING**  
ALL SITTING. ALL CONCUR. **NOT TO BE PUBLISHED**

**OPINION AND ORDERS – AUGUST 20, 2015**

JASON P. PRICE V. [2014-SC-000289-KB](#) IN SUPREME  
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT  
**ORDER CONVERTING PRIVATE REPRIMAND  
TO PUBLIC REPRIMAND.**

HOLLIE MOODY V. 2015-SC-000044-MR FROM COURT  
HON. AUDRA ECKERLE, JUDGE, JEFFERSON **NOT TO BE PUBLISHED** OF APPEALS  
CIRCUIT COURT, DIVISION 7. ET AL.  
**ORDER DENYING WRIT OF PROHIBITION.**

KENTUCKY BAR ASSOCIATION V. [2015-SC-000128-KB](#) IN SUPREME  
RICHARD GROVE WARD **TO BE PUBLISHED** COURT  
**ORDER OF SUSPENSION FROM THE  
PRACTICE OF LAW FOR 1 YEAR TO  
RUN CONCURRENTLY WITH HIS OHIO  
SUSPENSION.**

KIMBERLY LYNN BUNTON V. [2015-SC-000219-KB](#) IN SUPREME  
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT  
**ORDER OF SUSPENSION FROM THE  
PRACTICE OF LAW FOR 1 YEAR PROBATED  
FOR A PERIOD OF 2 YEARS, WITH  
CONDITIONS.**

ALL SITTING. ALL CONCUR.

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

**OPINION AND ORDERS – AUGUST 20, 2015**

KENTUCKY BAR ASSOCIATION V.  
JUSTIN ROSS MORGAN  
**ORDER OF SUSPENSION FROM THE  
PRACTICE OF LAW FOR 90 DAYS.**  
MINTON, C.J.; ABRAMSON, CUNNINGHAM,  
KELLER, NOBLE, AND VENTERS, JJ., SITTING.  
ALL CONCUR. BARBER, J., NOT SITTING.

[2015-SC-000250-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

INQUIRY COMMISSION V.  
JASON PAUL PRICE  
**ORDER OF TEMPORARY SUSPENSION.**  
ALL SITTING. ALL CONCUR.

[2015-SC-000267-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

COMMONWEALTH OF KENTUCKY,  
DEPARTMENT OF INSURANCE, ET AL. V.  
UNITED INSURANCE COMPANY OF AMERICA,  
ET AL.

2014-SC-000549-DG

FRANKLIN

KATHY MCABEE V.  
DARREN C. CHAPMAN, M.D.

2014-SC-000555-DG

HOPKINS

FURLONG DEVELOPMENT CO., LLC,  
ET AL. V.  
GEORGETOWN-SCOTT COUNTY PLANNING  
AND ZONING COMMISSION, ET AL.

2014-SC-000594-DG

SCOTT

TERESA GRUBB, ET AL. V.  
ROXANNE SMITH, ET AL.

2014-SC-000641-DG

CLAY

TRACEY CASSETTY V.  
COMMONWEALTH OF KENTUCKY

2014-SC-000716-DG

LOGAN

BROWN-FORMAN CORPORATION,  
ET AL. V.  
BRUCE MERRICK, ET AL.

2014-SC-000717-DG

JEFFERSON

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

GARRY W. NEWKIRK V. COMMONWEALTH OF KENTUCKY	2014-SC-000749-DG	JEFFERSON
LINDA DAVIS V. KAREN DAVIS, ET AL.	2014-SC-000751-DG	GREENUP
SAMANTHA G. HOLLAWAY V. DIRECT GENERAL INSURANCE COMPANY OF MISSISSIPPI, INC.	2014-SC-000758-DG	FAYETTE
COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES V. S.H., ET AL.	2015-SC-000185-DGE	CLAY
MICHELLE CARVER (BUTLER) V. LANCE G. CARVER	2015-SC-000212-DGE	BOYD
A.H. V. W.R.L., ET AL.	2015-SC-000247-DGE	KENTON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

EDWARD H. FLINT V. COACH HOUSE, INC., ET AL.	2014-SC-000375-D	JEFFERSON
<b>AND</b> EDWARD H. FLINT V. COACH HOUSE, INC., ET AL. <b>BARBER, CUNNINGHAM, KELLER, NOBLE, AND VENTERS, JJ., AND NORMAN E. HARNED AND JOHN S. REED, SPECIAL JUSTICES, SITTING.</b>	2014-SC-000449-D	JEFFERSON
ANTHONY WAYNE FAGAN V. COMMONWEALTH OF KENTUCKY	2014-SC-000475-D	MCCRACKEN

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

COMMONWEALTH OF KENTUCKY V. ANTWAN ROUSE <b>BARBER, CUNNINGHAM AND VENTERS, JJ., WOULD GRANT.</b>	2014-SC-000525-D	CHRISTIAN
TAQUAN CORTEZ NEBLETT V. COMMONWEALTH OF KENTUCKY	2014-SC-000531-D	FAYETTE
NELSON GILMORE V. CHRISTOPHER D. LANKFORD, ET AL. <b>AND</b> MARTY PRAY V. CHRISTOPHER D. LANKFORD, ET AL. <b>AND</b> CHRISTOPHER D. LANKFORD, ET AL. V. LOUISVILLE JEFFERSON COUNTY METRO GOVERNMENT, ET AL. <b>AND</b> MARK ZOELLER, ET AL. V. CHRISTOPHER D. LANKFORD, ET AL. <b>AND</b> ESTATE OF CARROLL BARRETT V. CHRISTOPHER D. LANKFORD, ET AL. <b>AND</b> ANGEL RIVERA V. CHRISTOPHER D. LANKFORD, ET AL. <b>AND</b> MARY COFFEY V. CHRISTOPHER D. LANKFORD, ET AL. <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2014-SC-000545-D  2014-SC-000552-D  2014-SC-000567-D	JEFFERSON  JEFFERSON  JEFFERSON
LORI WARD, ET AL. V. STACEY WELLS, ET AL. <b>CUNNINGHAM, J., WOULD GRANT.</b>	2014-SC-000570-D	JEFFERSON
CHARLES GAMBILL V. COMMONWEALTH OF KENTUCKY <b>KELLER, J., NOT SITTING.</b>	2014-SC-000571-D  2014-SC-000574-D  2014-SC-000577-D	JEFFERSON  JEFFERSON  JEFFERSON
	2014-SC-000578-D	PENDLETON
	2014-SC-000585-D	MAGOFFIN

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL. <b>V.</b> RIVERVALLEY BEHAVIORAL HEALTH	2014-SC-000590-D	FRANKLIN
BRANDON SPANN <b>V.</b> COMMONWEALTH OF KENTUCKY <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2014-SC-000593-D	GRAVES
BIG RIVERS ELECTRIC CORPORATION <b>V.</b> CITY OF HENDERSON, KENTUCKY, ET AL.	2014-SC-000595-D	HENDERSON
DAVID TOLLE <b>V.</b> COMMONWEALTH OF KENTUCKY	2014-SC-000608-D	BRACKEN
GALVAMET AMERICA CORPORATION <b>V.</b> THE NORRENBROCK COMPANY, INC.	2014-SC-000617-D	KENTON
GARY LEWIS, ET AL. <b>V.</b> RONNIE G. JOHNSON, ET AL.	2014-SC-000618-D	HARDIN
OHIO VALLEY ALUMINUM COMPANY, LLC. <b>V.</b> KENTUCKY DEPARTMENT OF REVENUE, ETC.	2014-SC-000619-D	SHELBY
BRIAN L. WEFENSTETTE <b>V.</b> COMMONWEALTH OF KENTUCKY	2014-SC-000620-D	JOHNSON
WILMA GISH <b>V.</b> KENTUCKY RETIREMENT SYSTEMS, ET AL.	2014-SC-000622-D	FRANKLIN
COMMONWEALTH OF KENTUCKY <b>V.</b> DONNA HACK <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2014-SC-000623-D	GRAVES
MATTHEW B. DEHART <b>V.</b> THEODORE H. LAVIT	2014-SC-000624-D	WASHINGTON



SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

VIRGINIA S. YOUNG V. KENTUCKY UNEMPLOYMENT INSURANCE COMMISSION, ET AL.	2014-SC-000625-D	DAVISS
DANIEL D. TAYLOE V. SELLCO TWO CORPORATION <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2014-SC-000629-D	FAYETTE
HOLLIS DESHAUN KING V. COMMONWEALTH OF KENTUCKY	2014-SC-000630-D	FAYETTE
EMANUEL H. RADER V. SAMMIE RAE CORNETT RADER <b>BARBER, J., WOULD GRANT.</b>	2014-SC-000631-D	BELL
PENNY JOHNSON V. COMMONWEALTH OF KENTUCKY	2014-SC-000634-D	HARDIN
GENE AULDIN CANTRELL V. COMMONWEALTH OF KENTUCKY	2014-SC-000635-D	LETCHER
NATHAN DAY, ET AL. V. INEZ DEPOSIT BANK	2014-SC-000638-D	KNOTT
THE HELM COMPANY, LLC. V. AL J. SCHNEIDER CO., ET AL.	2014-SC-000642-D	JEFFERSON
CHAMP CHANEY, ET AL. V. RALPH JUSTICE, ET AL. <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2014-SC-000650-D	PIKE
MARK EVAN SCOTT V. TINA SCOTT, (NOW ROMANO)	2014-SC-000651-D	SCOTT
KENTUCKY EXECUTIVE BRANCH ETHICS COMMISSION V. FELICIA M. WOOTEN, ET AL.	2014-SC-000655-D	FRANKLIN

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

JONATHAN HUNTER V. COMMONWEALTH OF KENTUCKY	2014-SC-000656-D	TRIGG
COMMONWEALTH OF KENTUCKY V. ONES LEROYCE BARLOW	2014-SC-000669-D	METCALFE
MICHAEL J. BOUVETTE V. MARY M. BOUVETTE <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b> BARBER, CUNNINGHAM AND VENTERS, JJ., WOULD GRANT.	2014-SC-000671-D	JEFFERSON
KENNETH GATEWOOD V. COMMONWEALTH OF KENTUCKY	2014-SC-000672-D	JEFFERSON
JAD FARHAT IRREVOCABLE GSTT TRUST #1 V. T.T.M. GROUP, LLC.	2014-SC-000673-D	FAYETTE
BASS WEBB V. COMMONWEALTH OF KENTUCKY	2014-SC-000677-D	FAYETTE
KENTUCKY RETIREMENT SYSTEMS, ET AL. V. ROBERT MARANGO	2014-SC-000680-D	FRANKLIN
TRANSIT AUTHORITY OF RIVER CITY V. JONATHAN L. TAYLOR, ET AL.	2014-SC-000682-D	JEFFERSON
JOHN C. MARTIN V. COMMONWEALTH OF KENTUCKY <b>CUNNINGHAM, J., WOULD GRANT.</b>	2014-SC-000683-D	ANDERSON
EDWARD F. VAUGHN V. ZOPPOTH LAW FIRM	2014-SC-000684-D	JEFFERSON

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

AUNDRIA BURKHART-DAVIS V. FEDERAL NATIONAL MORTGAGE ASSOCIATION, ET AL. <b>CUNNINGHAM AND VENTERS, JJ., WOULD GRANT.</b>	2014-SC-000689-D	FAYETTE
EMORY JOHNNY CAVENDER V. COMMONWEALTH OF KENTUCKY	2014-SC-000691-D	WOLFE
CHARLES G. MIDDLETON, III, ET AL. V. PNC BANK, N.A.	2014-SC-000702-D	JEFFERSON
ARTHUR L. MASTERSON V. SIEMENS INDUSTRY, INC., ET AL.	2014-SC-000705-D	JEFFERSON
THOMAS SEABOLT V. HANK BLANDFORD, ET AL.	2014-SC-000707-D	FRANKLIN
OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT, ETC., ET AL. V. BETTY BOWLES	2014-SC-000710-D	DAVISS
MARVIN LEE YOUNG, JR. V. COMMONWEALTH OF KENTUCKY	2014-SC-000711-D	FAYETTE
JEREMY EDWARD DEVERS V. COMMONWEALTH OF KENTUCKY	2014-SC-000721-D	JEFFERSON
JAMES ELI ADAMS V. DANIEL C. HICKS	2014-SC-000731-D	CHRISTIAN
LORRIE HALL V. COMMONWEALTH OF KENTUCKY	2014-SC-000732-D	MADISON
BRENDA MARTIN V. KENTUCKY RETIREMENT SYSTEMS, ET AL.	2014-SC-000735-D	FRANKLIN
LAWRENCE M. MORTON, ET AL. V. CAROLYN GAGO, ET AL.	2014-SC-000737-D	FAYETTE

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
AUGUST 12, 2015**

ROSALAND MOSS V. KENTUCKY STATE UNIVERSITY	2014-SC-000740-D	FRANKLIN
DUANE ROBINSON, ET AL. V. JASON GARDNER, ET AL.	2014-SC-000748-D	GRAVES
MONTE SETH CARMICAL V. HOME FEDERAL BANK CORPORATION, ET AL. <b>BARBER, J., WOULD GRANT.</b>	2014-SC-000750-D	HARLAN
RAYMOND H. ELMS V. WESTERN KENTUCKY UNIVERSITY	2014-SC-000752-D	WARREN
MANAGEMENT REGISTRY, INC., ETC. V. JENNY MARIE BURDEN	2014-SC-000756-D	JEFFERSON
MARKITA JONES V. JOEL TOPF, D/B/A/ TOPF CERAMIC TILE AND ELECTRIC	2014-SC-000759-D	JEFFERSON
COMMONWEALTH OF KENTUCKY V. BRAD A. BECKMAN	2014-SC-000760-D	JEFFERSON
KURT ROBERT SMITH V. COMMONWEALTH OF KENTUCKY	2014-SC-000762-D	BOYLE
MELISSA HOSKINS (NOW BROWN) V. CORY DAVID HOSKINS <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2015-SC-000186-DE	MORGAN
T.J., A CHILD UNDER THE AGE OF EIGHTEEN V. COMMONWEALTH OF KENTUCKY, ET AL. <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2015-SC-000231-DE	FAYETTE

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDER DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE  
MOTION FOR DISCRETIONARY REVIEW**

RAY PENNINGTON V. 2015-SC-000266-D JOHNSON  
WHEELER AND CLEVINGER OIL COMPANY  
**NOBLE, DCJ.; VENTERS, ABRAMSON AND  
BARBER, JJ., SITTING. ALL CONCUR.**  
ENTERED: AUGUST 13, 2015

**COURT ORDERS DENYING MOTION TO TRANSFER – AUGUST 18, 2015**

PATRICIA NAVE V. 2015-SC-000116-T FAYETTE  
ROSS STINETORF  
**MINTON, C.J., AND NOBLE, VENTERS,  
ABRAMSON AND CUNNINGHAM, JJ., SITTING.  
ALL CONCUR.**  
ENTERED: AUGUST 18, 2015

**COURT ORDERS GRANTING MOTION TO TRANSFER**

COMMONWEALTH OF KENTUCKY V. 2015-SC-000259-TG FAYETTE  
ROBERT GUERNSEY  
**ALL SITTING. ALL CONCUR.**  
ENTERED: JUNE 25, 2015

COMMONWEALTH OF KENTUCKY V. 2015-SC-000260-TG FAYETTE  
TRUSTIN JONES  
**ALL SITTING. ALL CONCUR.**  
ENTERED: JUNE 25, 2015

COMMONWEALTH OF KENTUCKY V. 2015-SC-000261-TG FAYETTE  
ROBERT GUERNSEY  
**ALL SITTING. ALL CONCUR.**  
ENTERED: JUNE 25, 2015

COMMONWEALTH OF KENTUCKY V. 2015-SC-000262-TG FAYETTE  
TRUSTIN JONES  
**ALL SITTING. ALL CONCUR.**  
ENTERED: JUNE 25, 2015

SUPREME COURT OF KENTUCKY

AUGUST 20, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING PETITION FOR REHEARING – AUGUST 20, 2015**

COMMONWEALTH OF KENTUCKY V. SAMUEL TERRELL <b>ALL SITTING. MINTON, C.J.; ABRAMSON, BARBER, CUNNINGHAM, NOBLE AND VENTERS, JJ., CONCUR. KELLER, J., WOULD GRANT.</b>	2012-SC-000550-DG	NICHOLAS
MARK ADAM CAVE V. COMMONWEALTH OF KENTUCKY <b>ALL SITTING. ALL CONCUR.</b>	2013-SC-000542-MR	FAYETTE
TERRY ASHLEY V. MICHAEL MERCER, ET AL. <b>ALL SITTING. ALL CONCUR.</b>	2014-SC-000273-WC	FROM COURT OF APPEALS

**COURT ORDERS DISMISSING**

LP PIKEVILLE, LLC, D/B/A SIGNATURE HEALTHCARE OF PIKEVILLE, ET AL. V. NANNETTE PINSON, ETC., ET AL. <b>NOBLE, DCJ.; VENTERS, ABRAMSON AND BARBER, JJ., SITTING. ALL CONCUR.</b> ENTERED: AUGUST 13, 2015	2013-SC-000504-D	PIKE
GARY J. RICHARD, ET AL. V. HON. STEVEN D. COMBS, JUDGE, PIKE CIRCUIT COURT, DIVISION II, ET AL. <b>NOBLE, DCJ.; VENTERS, ABRAMSON AND BARBER, JJ., SITTING. ALL CONCUR.</b> ENTERED: AUGUST 13, 2015	2015-SC-000229-MR	FROM COURT OF APPEALS
DARRIN WRIGHT, SR. ET AL.V. HON. TARA HAGERTY, JUDGE, JEFFERSON FAMILY COURT, ET AL. <b>ENTERED: JUNE 18, 2015</b>	2015-SC-000238-MR	FROM COURT OF APPEALS

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS**

DANIEL E. BAILEY, JR., M.D. V. [2013-SC-000386-MR](#) FROM COURT  
HONORABLE ALLAN RAY BERTRAM, JUDGE, **TO BE PUBLISHED** OF APPEALS  
MARION CIRCUIT COURT, DIVISION, II, ET AL.  
**ORDER CORRECTED THE OPINION OF THE  
COURT BY JUSTICE NOBLE RENDERED  
MAY 14, 2015, BY SUBSTITUTION OF THIS  
OPINION IN LIEU OF THE ORIGINAL  
OPINION.**  
ENTERED: JUNE 10, 2015

KENTUCKY BAR ASSOCIATION V. 2015-SC-000023-KB IN SUPREME  
ERIC C. DETERS 2015-SC-000025-KB COURT  
**ORDER DENIED MOTION TO RECONSIDER.**  
ALL SITTING. ALL CONCUR.  
**ENTERED: AUGUST 20, 2015**

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE  
KENTUCKY BAR ASSOCIATION**

STEVEN WRAY WALTERS V. 2015-SC-000368-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: JULY 9, 2015**

JOHN PATRICK HAGOOD V. 2015-SC-000419-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: AUGUST 5, 2015**

EARLE JAY MAIMAN V. 2015-SC-000420-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: AUGUST 5, 2015**

STEVEN LLOYD SCHILLER V. 2015-SC-000421-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: AUGUST 5, 2015**

ROBERT CHARLES MELIHERCIK V. 2015-SC-000424-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: AUGUST 6, 2015**

**SUPREME COURT OF KENTUCKY**

**AUGUST 20, 2015 MINUTES**

**RELEASED: 10:00 A.M.**

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE  
KENTUCKY BAR ASSOCIATION**

**ERICKA HERNANDEZ HOSTETTER V.  
KENTUCKY BAR ASSOCIATION  
ENTERED: AUGUST 10, 2015**

**2015-SC-000429-KB**

**IN SUPREME  
COURT**