

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

134. KATHERINE COMBS JARVIS,
AND HUGH J. CAPERTON V.
NATIONAL CITY AND PNC BANK
NATIONAL ASSOCIATION
**OPINION OF THE COURT BY CHIEF
JUSTICE MINTON -
AFFIRMING
ALL SITTING. ALL CONCUR.**
- [2011-SC-000135-DG](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
Testamentary Trusts. Trustee Fees.
Retroactivity. The issue is whether the 2008
repeal of KRS 386.180 applies to
testamentary trusts which were created
prior to 2008.

135. ANTHONY THORNTON V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE VENTERS -
AFFIRMING
ALL SITTING. ALL CONCUR.**
- [2011-SC-000425-MR](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
Third-Degree Assault, Third-Degree
Criminal Mischief, and First-Degree PFO-
20 years. Trial court's failure to provide the
jury with an instruction regarding KRS
501.030 was not error where no such
instruction had been requested. Burden of
proof on insanity does not shift to the
Commonwealth, and defendant
relinquished said argument because he
had proposed the instruction which was
ultimately given. RCr 9.54(3) conditions
entitlement to an instruction on defendant's
right not to testify upon a specific request
by the defendant. Sentencing issues.

136. LESTER KEITH HURT V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE ABRAMSON -
AFFIRMING
ALL SITTING. ALL CONCUR.**
- [2011-SC-000760-MR](#) PERRY
TO BE PUBLISHED

Questions Presented:
Wanton Murder, three counts of First-
Degree Wanton Endangerment, Criminal
Mischief, and Fourth-Degree Assault.
Untimely, and therefore unpreserved
challenge to trial court's refusal to remove
a juror for cause. Trial court did not err in
denying motions for directed verdicts as to
wanton murder and wanton endangerment
charges.

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

137. ODELL K. MARTIN V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE VENTERS –
AFFIRMING**
ALL SITTING. ALL CONCUR.

[2012-SC-000225-MR](#)
TO BE PUBLISHED

HOPKINS

Questions Presented:

First-Degree Trafficking in a Controlled Substance and First-Degree PFO - 20 years. Assignments of error in “the giving or the failure to give” an instruction are subject to RCr 9.54(2)’s bar on appellate review, but unpreserved allegations of defects in the instructions that were given may be accorded palpable error review under RCr 10.26. Manifest injustice did not result from admission of documentary exhibits that contained references to charges that were ultimately dismissed or amended to lesser offenses. Improper statements made during the prosecutor’s penalty phase closing argument were not palpable error.

138. RICHARD SMITH V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE VENTERS –
AFFIRMING**
ALL SITTING. ALL CONCUR.

[2012-SC-000322-MR](#)
TO BE PUBLISHED

WAYNE

Questions Presented:

Wanton Murder, three counts of First-Degree Wanton Endangerment and two counts of Second-Degree Wanton Endangerment-20 years. Admissibility of police interview made while intoxicated. Sufficiency of evidence on first-degree wanton endangerment charges. Alleged Instructional error-failure to define “self-protection.” No requirement to define “reasonable doubt.”

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

139. ALBERT SPRINGFIELD V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE SCOTT –
AFFIRMING**
ALL SITTING. ALL CONCUR.

[2012-SC-000370-MR](#)
TO BE PUBLISHED

HOPKINS

Questions Presented:

First-Degree Trafficking in a Controlled Substance and First-Degree Persistent Felony Offender-20 years. Trial court did not err in: allowing the jury to re-view non-testimonial videotapes in the jury deliberation room; failing to instruct the jury on the offense of criminal facilitation to trafficking in a controlled substance in the first degree; excusing a potential juror for cause based on his religious views; and in denying appellant's request for an instruction of second-degree PFO.

140. RANDY MCCLEERY V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE NOBLE –
AFFIRMING**
ALL SITTING. ALL CONCUR.

[2012-SC-000486-MR](#)
TO BE PUBLISHED

BRECKINRIDGE

Questions Presented:

First-degree fleeing or evading the police-substantial risk element. Objection of counsel for one co-defendant is not deemed to be an objection for the other co-defendant unless counsel makes it clear that the objection is made on behalf of all defendants. Complicity liability. In this case, no manifest injustice resulted from the juror's inability to take their notes into the jury room for deliberation. RCr 9.72.

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

141. DERRICK K. MCATEE V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE SCOTT –
AFFIRMING IN PART AND
REVERSING AND VACATING IN
PART**
MINTON, C.J., ABRAMSON, NOBLE,
AND VENTERS, JJ., CONCUR.
KELLER, J., CONCURS IN RESULT
ONLY WITHOUT SEPARATE
OPINION. CUNNINGHAM, J.,
CONCURS IN RESULT ONLY BY
SEPARATE OPINION.

[2011-SC-000259-MR](#)
TO BE PUBLISHED

JEFFERSON

Questions Presented:

Murder and Tampering with Physical Evidence-25 years. Merely leaving the scene with the murder weapon, without further evidence that the gun was found in a location which would support a guilty verdict or that there was evidence of an “additional act” that would support intent to conceal or otherwise tamper, was insufficient evidence to justify a finding of guilt of tampering with physical evidence. Introduction of out-of-court testimonial statements to police under the “prior inconsistent statements” exception to the hearsay rule.KRE 801(a)(1). Harmless error in allowing jury to take recorded testimonial witness statement to the jury room. Trial court’s ex parte communication with the jury, while erroneous, was harmless. Appellant’s statement to police and the rule of completeness. Trial court’s decision to order further deliberation after the jury indicated that it could not agree on sentencing did not result in a coerced verdict.

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

142. SCOTTIE ROBERTS V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE SCOTT –
AFFIRMING IN PART AND
VACATING AND REMANDING IN
PART**
ALL SITTING. ALL CONCUR.

[2012-SC-000528-MR](#)
TO BE PUBLISHED

LESLIE

Questions Presented:
Manufacturing Methamphetamine, Possession of a Defaced Firearm, Use of or Possession with Intent to Use Drug Paraphernalia, Second-Degree Possession of a Controlled Substance, and Fourth-Degree Controlled Substance Endangerment to a Child-20 years and \$1,500 fine. Because Criminal Facilitation is not a lesser offense of manufacturing methamphetamine, appellant was not entitled to a Criminal Facilitation jury instruction. Trial court did not err in failing to instruct the jury on Unlawful Possession of a methamphetamine Precursor where the instruction had not been requested by counsel. Fines may not be imposed on indigent defendants.

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

143. COMMONWEALTH OF KENTUCKY V. [2010-SC-000494-DG](#) BULLITT
JANICE HASCH **TO BE PUBLISHED**

AND

JANICE HASCH V. [2011-SC-000232-DG](#) BULLITT
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

OPINION OF THE COURT BY

JUSTICE VENTERS –

REVERSING

ALL SITTING. ALL CONCUR. SCOTT, J., ALSO CONCURS BY SEPARATE OPINION IN WHICH CUNNINGHAM AND NOBLE, JJ., JOIN.

Questions Presented:

Criminal law. Self-defense. Jury Instructions. Immunity. The issues include: 1. Whether the Commonwealth can introduce evidence of a defendant's opportunity to escape the victim in a self-defense case, thus permitting the court to instruct on lesser degrees of murder over the defendant's objection; 2. Whether the lower court erred by admitting the autopsy report as a Commonwealth exhibit; 3. Whether the lower court erred by excluding two defense witnesses; 4. Whether the jury instructions in the guilt and penalty phases were erroneous; and 5. Whether the lower court erred by failing to hold a probable cause hearing when Hasch sought immunity from prosecution under KRS 503.085.

144. STATE FARM MUTUAL AUTOMOBILE [2011-SC-000266-DG](#) ROCKCASTLE
INSURANCE COMPANY V. **TO BE PUBLISHED**

KAREN HODGKISS-WARRICK

OPINION OF THE COURT BY JUSTICE

ABRAMSON -

REVERSING

MINTON, C.J.; KELLER AND NOBLE, JJ., CONCUR. SCOTT, J., DISSENTS BY SEPARATE OPINION IN WHICH CUNNINGHAM, J., JOINS. VENTERS, J., NOT SITTING.

Questions Presented:

Choice of Law. Underinsured Motorist Coverage. "Regular use" exclusion in optional Pennsylvania UIM coverage does not offend Kentucky's public policy and is enforceable.

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

145. COMMONWEALTH OF KENTUCKY V. [2012-SC-000106-DG](#) KENTON
LEAH TRAMBLE
TO BE PUBLISHED

**OPINION OF THE COURT BY
JUSTICE VENTERS –
REVERSING**

MINTON, C.J., ABRAMSON,
CUNNINGHAM, KELLER, SCOTT AND
VENTERS, JJ., CONCUR. NOBLE, J.,
DISSENTS BECAUSE THE
ERRONEOUS ADMISSION OF
EVIDENCE OF COTTRELL'S PRIOR
CRIME AND THE PROSECUTOR'S
COMMENT UPON IT WERE NOT
HARMLESS AND REQUIRE
REVERSAL.

Questions Presented:

Criminal Law. Prosecutorial Misconduct.
KRE 404(b) Prior Bad Acts. Issues include:
(1) whether the trial court erred by
permitting the prosecutor to correct his
improper reference to facts not in evidence
during closing argument; and (2) whether
the trial court erred by finding that evidence
of similar criminal activity involving the
defendant was admissible to prove
knowledge.

146. COMMONWEALTH OF KENTUCKY V. [2012-SC-000164-DG](#) FAYETTE
JOSEPH WILLIAM PARKER
TO BE PUBLISHED

**OPINION OF THE COURT BY
JUSTICE KELLER –
REVERSING**

ALL SITTING. MINTON, C.J.,
ABRAMSON, NOBLE AND
VENTERS, JJ., CONCUR.
CUNNINGHAM, J., CONCURS IN
RESULT ONLY BY SEPARATE
OPINION IN WHICH SCOTT, J., JOINS.

Questions Presented:

Criminal Law. Criminal Procedure.
Evidence. Issues include whether a
defendant has standing to object to "show-
up" identification of a co-defendant as
unconstitutionally suggestive.

147. RICKY ALLEN V. [2011-SC-000009-MR](#) LAUREL
COMMONWEALTH OF KENTUCKY
TO BE PUBLISHED

**OPINION OF THE COURT BY
CHIEF JUSTICE MINTON –
REVERSING AND REMANDING**

ALL SITTING. ABRAMSON, KELLER,
NOBLE, AND VENTERS, JJ.,
CONCUR. SCOTT, J., DISSENTS BY
SEPARATE OPINION IN WHICH
CUNNINGHAM, J., JOINS.

Questions Presented:

Self-Representation. Standby counsel.
Trial court's restriction of standby counsel
at bench conferences, in lieu of appellant
himself or hybrid counsel, left appellant
unrepresented at those critical stages of
the trial proceeding, in violation of his Sixth
amendment rights.

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

148. JASON DUKES V. [2012-SC-000496-MR](#) MCLEAN
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
149. JAMES E. MUDD V. [2012-SC-000664-MR](#) GRAYSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
150. JOHN DAVID LEE V. [2013-SC-000186-MR](#) FROM COURT
HONORABLE A. BAILEY TAYLOR, **NOT TO BE PUBLISHED** OF APPEALS
SPECIAL JUDGE, JEFFERSON CIRCUIT
COURT, FAMILY DIVISION, ET AL.
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
MINTON, C.J., ABRAMSON,
CUNNINGHAM, NOBLE, SCOTT
AND VENTERS, JJ., CONCUR.
KELLER, J., NOT SITTING.
151. JOHN LESLIE MELTON V. [2011-SC-000488-MR](#) HART
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING IN PART,
AND REVERSING AND REMANDING,
IN PART
ALL SITTING. ALL CONCUR.
152. MICHAEL CALLOWAY V. [2012-SC-000334-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING, IN PART
AND VACATING IN PART
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

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| 153. | CENTRAL BANK V.
SUTEJ GILL, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>REVERSING</u>
MINTON, C.J., ABRAMSON,
CUNNINGHAM, KELLER, SCOTT
AND VENTERS, JJ., CONCUR.
NOBLE, J., NOT SITTING | <u>2011-SC-000442-DG</u>
NOT TO BE PUBLISHED | JEFFERSON |
| 154. | AMERIGAS PARTNERS, LP V.
FLOYD NIVISON, HONORABLE
JAMES L. KERR, ADMINISTRATIVE
LAW JUDGE; AND WORKERS'
COMPENSATION BOARD
MEMORANDUM OPINION OF
THE COURT – <u>REVERSING</u>
ALL SITTING. ALL CONCUR. | <u>2012-SC-000675-WC</u>
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

OPINIONS AND ORDERS – SEPTEMBER 26, 2013

- | | | |
|---|--|---------------------|
| KENTUCKY BAR ASSOCIATION V.
PHILIP M. KLEINSMITH
ORDER PUBLICLY REPRIMANDED
RESPONDENT.
ALL SITTING. ALL CONCUR. | <u>2013-SC-000262-KB</u>
TO BE PUBLISHED | IN SUPREME
COURT |
| KENTUCKY BAR ASSOCIATION V.
WILLIAM A. NISBET, IV
ORDER SUSPENDED RESPONDENT FROM
THE PRACTICE OF LAW FOR 30 DAYS WITH
CONDITIONS.
ALL SITTING. ALL CONCUR. | <u>2013-SC-000421-KB</u>
TO BE PUBLISHED | IN SUPREME
COURT |
| KENTUCKY BAR ASSOCIATION V.
LOUIS EDWARD REINHART, III
ORDER PERMANENTLY DISBARRED
RESPONDENT FROM THE PRACTICE OF
LAW.
ALL SITTING. ALL CONCUR. | <u>2013-SC-000422-KB</u>
TO BE PUBLISHED | IN SUPREME
COURT |

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – SEPTEMBER 26, 2013

KENTUCKY BAR ASSOCIATION V. STEVEN F. CLAYPOOLE ORDER SUSPENDED RESPONDENT FROM THE PRACTICE OF LAW FOR SIX MONTHS WITH CONDITIONS. ALL SITTING. ALL CONCUR.	2013-SC-000469-KB TO BE PUBLISHED	IN SUPREME COURT
RICHARD D. NULL V. KENTUCKY BAR ASSOCIATION ORDER SUSPENDED MOVANT FROM THE PRACTICE OF LAW FOR 61 DAYS WITH CONDITIONS. MINTON, C.J., ABRAMSON, KELLER, NOBLE, SCOTT AND VENTERS, JJ., CONCUR. CUNNINGHAM, J., NOT SITTING.	2013-SC-000507-KB TO BE PUBLISHED	IN SUPREME COURT
PAUL S. GORDINIER V. KENTUCKY BAR ASSOCIATION ORDER SUSPENDED MOVANT FROM THE PRACTICE OF LAW FOR FOUR YEARS. ALL SITTING. ALL CONCUR.	2013-SC-000508-KB TO BE PUBLISHED	IN SUPREME COURT
WILLIAM R. WILSON V. KENTUCKY BAR ASSOCIATION ORDER PERMANENTLY DISBARRED MOVANT FROM THE PRACTICE OF LAW. ALL SITTING. ALL CONCUR.	2013-SC-000546-KB TO BE PUBLISHED	IN SUPREME COURT
CHARLES J. MCENROE V. KENTUCKY BAR ASSOCIATION ORDER SUSPENDED MOVANT FROM THE PRACTICE OF LAW FOR FIVE YEARS. MINTON, C.J., ABRAMSON, CUNNINGHAM, KELLER, NOBLE, AND SCOTT, JJ., CONCUR. VENTERS, J., NOT SITTING	2013-SC-000547-KB TO BE PUBLISHED	IN SUPREME COURT

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – SEPTEMBER 26, 2013

ANDREW L. HOLTON V.
KENTUCKY BAR ASSOCIATION
**ORDER SUSPENDED MOVANT FROM
THE PRACTICE OF LAW FOR 61 DAYS
WITH CONDITIONS.**
ALL SITTING. ALL CONCUR.

[2013-SC-000551-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 18, 2013**

AMBREEN FRASER, M.D. V.
MATTHEW MILLER

2012-SC-000829-DG

WARREN

COMMONWEALTH OF KENTUCKY V.
JOSEPH ANDREWS

2013-SC-000004-DG

PULASKI

PENNYRILE ALLIED COMMUNITY SERVICES,
INC. V.
KATRICIA ROGERS

2013-SC-000012-DG

PERRY

JOHN J. SCOTT AND WHITLOW & SCOTT V.
TIM DAVIS AND TIM DAVIS & ASSOCIATES,
INC.

2013-SC-000228-DG

HARDIN

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 18, 2013**

JOHN LARRY DANIELS, A/K/A DAVID W.
WILLIAMS V.
JAMES SWEATT, WARDEN, RCC
KELLER, J., NOT SITTING.

2012-SC-000646-D

OLDHAM

PHILLIP BRATCHER V.
COMMONWEALTH OF KENTUCKY
KELLER, J., NOT SITTING.

2012-SC-000757-D

JEFFERSON

HENRY B. LIVINGSTON V.
CLARK TAYLOR, WARDEN

2012-SC-000788-D

OLDHAM

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 18, 2013**

CARON LEONHARDT V. CELESA GAIL SIMMONS, IN HER CAPACITY AS EXECUTRIX AND NEXT FRIEND OF THE ESTATE OF CELESA M. STONE, DECEASED, ET AL.	2012-SC-000797-D	JEFFERSON
DANNY CHAMBERS V. COMMONWEALTH OF KENTUCKY KELLER, J., NOT SITTING.	2012-SC-000807-D	LEE
WILLIAM E. TAYLOR V. UNITED PARCEL SERVICE, INC. AND JACK ARNOLD KELLER, J., NOT SITTING.	2012-SC-000816-D	JEFFERSON
STEVE BROOKS, ET AL. V. OLDHAM COUNTY PLANNING AND ZONING COMMISSION, ET AL.	2012-SC-000819-D	OLDHAM
COMMONWEALTH OF KENTUCKY, FINANCE AND ADMINISTRATION CABINET, DEPARTMENT OF REVENUE V. COMMONWEALTH AGRI-ENERGY, LLC THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2012-SC-000822-D	FRANKLIN
MICHAEL REYNOLDS V. COMMONWEALTH OF KENTUCKY	2012-SC-000836-D	BARREN
SIDI MOCTAR V. YELLOW CAB OF LOUISVILLE, LLC, LOUISVILLE TRANSPORTATION COMPANY AND PROCARENT, INC. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2013-SC-000003-D	JEFFERSON
BRANDON MCWAIN V. COMMONWEALTH OF KENTUCKY	2013-SC-000005-D	ROWAN

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 18, 2013**

PEGGY FAULKNER V. KENTUCKY RETIREMENT SYSTEMS AND BOARD OF TRUSTEES OF THE KENTUCKY RETIREMENT SYSTEMS	2013-SC-000006-D	FRANKLIN
BRADFORD QUATKEMEYER V. KENTUCKY BOARD OF MEDICAL LICENSURE	2013-SC-000009-D	JEFFERSON
MICHAEL E. COOKE V. CSX TRANSPORATATION, INC.	2013-SC-000011-D	JEFFERSON
RICKY COLLINS AND BEVERLY COLLINS V. APPALACHIAN RESEARCH AND DEFENSE FUND OF KENTUCKY, INC.	2013-SC-000018-D	ADAIR
THE GETTY LAW GROUP, PLLC, F/K/A GETTY, KEYSER & MAYO, LLP V. BOWLES, RICE, MCDAVID, GRAFF & LOVE, PLLC. SCOTT, J., NOT SITTING.	2013-SC-000019-D	PIKE
LV VENTURES, LLC, FOR ITSELF AND AS ASSIGNEE OF KURT ROSE CONSTRUCTION, INC. V. TREY SCHOTT, ET AL.	2013-SC-000039-D	FAYETTE
AND TREY SCHOTT, ET AL. V. LV VENTURES, LLC, FOR ITSELF AND AS ASSIGNEE OF KURT ROSE CONSTRUCTION, INC.	2013-SC-000041-D	FAYETTE
EVAN ROBERTS V. LANIGAN AUTO SALES	2013-SC-000079-D	KENTON
JAMES KENT CONN V. COMMONWEALTH OF KENTUCKY	2013-SC-000083-D	ROWAN

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 18, 2013**

KAYLA BANDY V. NATIONWIDE MUTUAL INSURANCE COMPANY	2013-SC-000090-D	PIKE
RANDALL TILFORD MILLER V. COMMONWEALTH OF KENTUCKY	2013-SC-000110-D	WARREN
TYRONE MARSHALL V. COMMONWEALTH OF KENTUCKY	2013-SC-000138-D	OLDHAM
STEPHEN F. ZINK V. TERRI H. ZINK SCOTT AND VENTERS, JJ., WOULD GRANT. KELLER, J., NOT SITTING.	2013-SC-000232-D	JEFFERSON
GEOFFREY EDWARDS V. COMMONWEALTH OF KENTUCKY	2013-SC-000239-D	CHRISTIAN
DAVID BELL V. MEADE COUNTY FISCAL COURT; MEADE COUNTY PLANNING AND ZONING COMMISSION; JAMES P. COLLINS; AND MEADE COUNTY QUARRY. LLC KELLER, J., NOT SITTING.	2013-SC-000248-D	MEADE
OHIO COUNTY INDUSTRIAL FOUNDATION, INC. AND OHIO COUNTY, KENTUCKY V. JERUSALEM RIDGE BLUEGRASS MUSIC FOUNDATION OF KENTUCKY, INC., F/K/A THE BILL MONROE BLUEGRASS MUSIC FOUNDATION OF KENTUCKY, INC. (“JRF”)	2013-SC-000268-D	OHIO
GARY L. DILLARD V. CLARK TAYLOR, WARDEN	2013-SC-000295-D	ADAIR

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 18, 2013**

J.J., MOTHER OF K.J., A CHILD, AND
A.J., SR., FATHER OF K.J. A CHILD V.
CABINET FOR HEALTH AND FAMILY
SERVICES, COMMONWEALTH OF KENTUCKY,
K.J., A CHILD AND K.J., PRESENTLY 18
YEARS OF AGE

2013-SC-000409-DE

HARDIN

RACHEL DUNN, NOW ROE V.
BRANT A. DUNN

2013-SC-000461-DE

UNION

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 26, 2013**

EDWARD FLINT V.
COACH HOUSE, INC., ET AL.
**CUNNINGHAM, KELLER, NOBLE, SCOTT
AND VENTERS, JJ., AND BRADLEY P.
RHOADS AND JOHN S. REED, SPECIAL
JUSTICES, SITTING.**

2013-SC-000311-D

JEFFERSON

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – SEPTEMBER 18, 2013**

LEQUON D. GREER V.
COMMONWEALTH OF KENTUCKY
**ABRAMSON, NOBLE, SCOTT AND
VENTERS, JJ., SITTING, ALL CONCUR.**

2013-SC-000458-D

FAYETTE

LEROY HAMPTON V.
COMMONWEALTH OF KENTUCKY
**ABRAMSON, NOBLE, SCOTT AND
VENTERS, JJ., SITTING, ALL CONCUR.**

2013-SC-000468-D

WARREN

ROBERT DIETZ, ET AL. V.
MARK BOLTON, ET AL.
**ABRAMSON, NOBLE, SCOTT AND
VENTERS, JJ., SITTING, ALL CONCUR.**

2013-SC-000537-D

JEFFERSON

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS GRANTING MOTION TO TRANSFER – SEPTEMBER 26, 2013

ADMINISTRATIVE OFFICE OF THE COURTS V.
BEVERLY MILLER
**CUNNINGHAM, NOBLE , KELLER, SCOTT
AND VENTERS, JJ., AND SPECIAL
JUSTICES CHARLES E. ENGLISH AND JOHN
S. REED CONCUR. MINTON, C.J., AND
ABRAMSON, J., NOT SITTING.**

2013-SC-000373-TG JEFFERSON

COURT ORDERS DENYING MOTION TO TRANSFER – SEPTEMBER 26, 2013

CHARLES L. SIMPSON V.
RODNEY BALLARD
ALL SITTING. ALL CONCUR.

2013-SC-000319-T FAYETTE

CARRIE ABRUZZINI V.
GEICO INSURANCE AGENCY, INC.
ALL SITTING. ALL CONCUR.

2013-SC-000453-T WARREN

COURT ORDERS DENYING PETITION FOR REHEARING – SEPTEMBER 26, 2013

DARBY ASHLEY BARNES V.
COMMONWEALTH OF KENTUCKY
**ORDER MODIFIED THE OPINION OF THE
COURT RENDERED FEBRUARY 21, 2013 BY
SUBSTITUTION OF THE ORIGINAL OPINION.**
ALL SITTING. ALL CONCUR.

[2011-SC-000325-DG](#)
TO BE PUBLISHED

FAYETTE

RYAN KRISTOFF V.
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.

2011-SC-000680-MR CHRISTIAN

JOHN BELDEN V.
COMMONWEALTH OF KENTUCKY
SCOTT, J., WOULD GRANT

2011-SC-000699-MR JEFFERSON

GARRETT THOMAS DYE V.
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.

2012-SC-000003-MR TODD

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – SEPTEMBER 26, 2013

JEFFREY D. MCGAHA V. [2012-SC-000155-MR](#) ADAIR
COMMONWEALTH OF KENTUCKY TO BE PUBLISHED
**ORDER MODIFIED THE OPINION OF THE
COURT RENDERED JUNE 20, 2013, BY
SUBSTITUTION OF THE ATTACHED OPINION
IN LIEU OF THE ORIGINAL OPINION.**
ALL SITTING. ALL CONCUR.

COURT ORDERS DISMISSING

NORTON HOSPITALS, INC. (D/B/A NORTON HOSPITAL) V. [2012-SC-000604-MR](#) FROM COURT
OF APPEALS
HONORABLE CHARLES L. CUNNINGHAM, JR.,
(JUDGE, JEFFERSON CIRCUIT COURT,
DIVISION FOUR), ET AL.

AND

ESTATE OF JACOB HILL, BY AND [2012-SC-000628-MR](#) FROM COURT
THROUGH THE PERSONAL REPRESENTATIVE, OF APPEALS
KAYLA HILL, REAL PARTY IN INTEREST,
ET AL. V.
HONORABLE CHARLES L. CUNNINGHAM, JR.,
(JUDGE, JEFFERSON CIRCUIT COURT,
DIVISION FOUR), ET AL.
**MINTON, C.J., ABRAMSON, CUNNINGHAM,
NOBLE, SCOTT, AND VENTERS, JJ., CONCUR.
KELLER, J., NOT SITTING.**
ENTERED: SEPTEMBER 26, 2013

DANIEL KEITH NEWMAN V. [2013-SC-000227-MR](#) GRANT
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.
ENTERED: SEPTEMBER 20, 2013

AMERICAN MINING INSURANCE COMPANY, [2013-SC-000570-MR](#) FROM COURT
ET AL. V. OF APPEALS
HON. KIMBERLY C. CHILDERS, JUDGE,
KNOTT CIRCUIT COURT, ET AL.
**ABRAMSON, NOBLE, SCOTT, AND VENTERS,
JJ., SITTING. ALL CONCUR.**
ENTERED: SEPTEMBER 18, 2013

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS

RUSSELL W. BURGIN V. 2011-SC-000778-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT
**ORDER GRANTED RESPONDENT'S
MOTION TO RECONSIDER AND MODIFIED
THE ORDER OF THE COURT ENTERED ON
MAY 23, 2013 BY SUBSTITUTION OF THE
ORIGINAL ORDER IN LIEU OF THE ORDER
AS ORIGINALLY ENTERED.
ALL SITTING. ALL CONCUR.
ENTERED: SEPTEMBER 26, 2013**

CLINTON LORENZO BREWER V. 2013-SC-000356-MR MCCRACKEN
COMMONWEALTH OF KENTUCKY
**ORDER DENIED APPELLANT'S MOTION
FOR BELATED APPEAL.
ENTERED: SEPTEMBER 18, 2013**

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

DIANE GILLIAM LEROY V. 2013-SC-000606-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT
ENTERED: SEPTEMBER 4, 2013

HENRY VERNON SANDERS V. 2013-SC-000607-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT
ENTERED: SEPTEMBER 4, 2013

MAURICE ROSE MCCLURE V. 2013-SC-000611-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT
ENTERED: SEPTEMBER 4, 2013

DIANE GILLIAM LEROY V. 2013-SC-000606-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT
ENTERED: SEPTEMBER 4, 2013

MONIQUE HUNT MCWILLIAMS V. 2013-SC-000612-KB IN SUPREME
KENTUCKY BAR ASSOCIATION COURT
ENTERED: SEPTEMBER 6, 2013

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

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

JILL NUTTER FUCHS V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 6, 2013	2013-SC-000613-KB	IN SUPREME COURT
ROBERT JAMES TOY V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 6, 2013	2013-SC-000613-KB	IN SUPREME COURT
MALLORY RYAN SANDER V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000630-KB	IN SUPREME COURT
KARA DAILEY SPRAGUE V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000631-KB	IN SUPREME COURT
GEORGE BROWNING YOUNGER III V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000632-KB	IN SUPREME COURT
JOSEPH W. SHARP V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000633-KB	IN SUPREME COURT
BRIDGET ANNE BAKER-WHITE V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000634-KB	IN SUPREME COURT
NICHOLAS WOODWARD CHANDLER V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000635-KB	IN SUPREME COURT
AMANDA BYASSEE GOTT V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000636-KB	IN SUPREME COURT
GREGORY A. TRACHSEL V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000637-KB	IN SUPREME COURT

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

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

ROBERT ANDREW BAKER-WHITE V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000638-KB	IN SUPREME COURT
NYREMMA CHIVON SHIELDS V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000639-KB	IN SUPREME COURT
MICHAEL F. JORDAN V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000640-KB	IN SUPREME COURT
JOSHUA EASTON V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000641-KB	IN SUPREME COURT
JAMES POPE BERRY V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000642-KB	IN SUPREME COURT
DOUGLAS CRAIG HOLLAND V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000643-KB	IN SUPREME COURT
LAWRENCE B. CRAIG III V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000644-KB	IN SUPREME COURT
THOMAS M. PLACE V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 13, 2013	2013-SC-000645-KB	IN SUPREME COURT
ALAN ROBERT MCDONALD V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 19, 2013	2013-SC-000660-KB	IN SUPREME COURT
WALTER W. BARDENWERPER V. KENTUCKY BAR ASSOCIATION ENTERED: SEPTEMBER 19, 2013	2013-SC-000661-KB	IN SUPREME COURT

SUPREME COURT OF KENTUCKY

SEPTEMBER 26, 2013 MINUTES

RELEASED: 10:00 A.M.

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

**JOYCE HURD CHRISTIAN V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 19, 2013**

2013-SC-000662-KB

**IN SUPREME
COURT**