

SUPREME COURT OF KENTUCKY

SEPTEMBER 22, 2022 RULINGS

RELEASED: 10:00 A.M.

84. TERESA HANEY V.
COMMONWEALTH OF KENTUCKY

[2020-SC-0534-MR](#)
TO BE PUBLISHED

MORGAN

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

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

Questions Presented:

Criminal Law. Driving Under the Influence.
Miranda Warning. In this matter of right appeal,
the Court considers whether defendant being alone
in a hospital room with an officer was a coercive
custodial environment meriting suppression of
statements obtained without a *Miranda* warning,
and whether a blood draw taken pursuant to the
statutory implied consent warning was voluntary.

85. RIVER CITY FRATERNAL ORDER OF
POLICE LODGE NO. 614, INC. V.
LOUISVILLE/JEFFERSON COUNTY METRO
GOVERNMENT, ET AL.

[2021-SC-0159-DG](#)
TO BE PUBLISHED

JEFFERSON

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Administrative Law. Labor Cabinet. KRS 67C.400
et seq. Unfair Labor Practices. Issues involve the
scope of confidentiality of communications
between a represented police officer and the
officer's union representative regarding matters
within the scope of collective bargaining.

86. COMMONWEALTH OF KENTUCKY V.
CHASITY SHIRLEY

[2021-SC-0254-DG](#)
TO BE PUBLISHED

PULASKI

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. First-Degree Unlawful Access to a
Computer. KRS 434.845. Issues involve whether
a retail customer's use of a self-checkout register
and scanner was "without the effective consent of
the owner" when the customer scanned the
barcode from a less expensive item instead of that
for the more expensive item taken from the store.

87. CURTIS GREEN, ET AL. V.
PHILLIP FRAZIER

[2021-SC-0293-DG](#)
TO BE PUBLISHED

POWELL

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Contracts. Damages. Arbitration Clauses. Enforceability. Fraud. Issues include: (1) whether an unconscionable damages provision in an arbitration agreement is severable or renders the entire agreement invalid and unenforceable; (2) whether the severability issue should be decided by the arbitrator or the court.

88. THOMAS SIMPSON V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0344-MR](#)
TO BE PUBLISHED

MUHLENBERG

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. Driving Under the Influence. *Miranda* Warning. Issues in this matter of right appeal include whether police questioning of driver following fatal accident required *Miranda* warnings, and whether police were required to have probable cause to request driver to consent to blood draw.

89. JUNE MCGAHA, ET AL. V.
SUZANNE MCGAHA, ET AL.

[2021-SC-0351-DG](#)
TO BE PUBLISHED

RUSSELL

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Wills. Probate. Jurisdiction. Verification of Petition. Statute of Limitations. Issues include: (1) whether the lack of verification of a petition to probate a will deprived the district court of jurisdiction; and (2) whether the statute of limitations ever began running since the probate petition was unverified.

90. LAKSHMI NARAYAN HOSPITALITY
GROUP LOUISVILLE V.
MARIA JIMENEZ, ET AL.

[2021-SC-0449-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Workers' Compensation. Temporary Disability Benefits. *Res Judicata*. The sole issue before the Court is whether a claimant can reopen a prior workers' compensation claim in which no permanent partial disability or future benefits are awarded.

91. LATRICE MARIE LESLIE-JOHNSON,
INDIVIDUALLY, ET AL. V.
HONORABLE AUDRA JEAN ECKERLE, ET
AL.

[2021-SC-0450-MR](#)
TO BE PUBLISHED

JEFFERSON

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Writs. Discovery Issues. In this matter of right appeal of the Court of Appeals' denial of a writ, the issue is whether permitting discovery of a social media information would cause irreparable harm sufficient to impose the "special circumstances" exception for writs of the second class.

92. DEBRA GOFF, INDIVIDUALLY AND AS
EXECUTRIX OF ESTATE OF ELBERT GOFF,
SR. V.
HONORABLE BRIAN C. EDWARDS, ET AL.

[2021-SC-0452-MR](#)
TO BE PUBLISHED

JEFFERSON

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Writs. Probate. Subject Matter Jurisdiction. Standing. In this matter of right appeal of the Court of Appeals' denial of a writ, issues include whether the trial court had subject matter jurisdiction in a probate action in circuit court contesting settlement of a decedent's estate pursuant to KRS 395.510, and whether standing should be addressed by writ.

93. COMMONWEALTH OF KENTUCKY V.
KENNETH LAMONT BOONE, JR.

[2021-SC-0494-DG](#)
TO BE PUBLISHED

FAYETTE

**OPINION OF THE COURT BY JUSTICE
NICKELL – REVERSING AND
REMANDING**

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. Jury Instructions. Lesser-Included Offenses. Identity Theft. Issues include whether the defendant was entitled to a jury instruction on giving a peace officer false identifying information, a misdemeanor, as a lesser-included offense to the charged crime of identity theft, a felony, when the evidence suggested that the investigating officer warned the defendant that giving false identifying information was unlawful.

94. BRANDIS BRADLEY, INDIVIDUALLY, ET
AL. V.
COMMONWEALTH OF KENTUCKY, EX
REL, DANIEL CAMERON, ATTORNEY
GENERAL, ET AL.

[2022-SC-0076-TG](#)
TO BE PUBLISHED

FRANKLIN

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Constitutional Challenge. Standing. In this appeal of a circuit court ruling regarding 2018 House Bill 348 amending judicial districts, issues include whether the plaintiff had standing to challenge legislation based upon her status a citizen, taxpayer, or representative of the local bar association.

95. GREGORY DEAN ROE V.
COMMONWEALTH OF KENTUCKY

[2020-SC-0150-MR](#)
NOT TO BE PUBLISHED

FAYETTE

**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**

ALL SITTING. ALL CONCUR.

96. LARRY HERALD V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0256-MR](#)
NOT TO BE PUBLISHED

BOONE

**MEMORANDUM OPINION OF THE
COURT - AFFIRMING IN PART AND
REVERSING IN PART**

ALL SITTING. ALL CONCUR.

97. BYRON SEYMOUR V. [2021-SC-0339-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**

ALL SITTING. ALL CONCUR.

98. TRANE CO. V. [2021-SC-0410-WC](#) COURT OF
TOMMY HAFLEY, ET AL. **NOT TO BE PUBLISHED** APPEALS

**MEMORANDUM OPINION OF THE
COURT - AFFIRMING**

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

OPINION AND ORDERS - September 22, 2022

CHRISTOPHER D. JEFFERSON V. [2022-SC-0298-KB](#) IN SUPREME
KENTUCKY OFFICE OF BAR ADMISSIONS **TO BE PUBLISHED** COURT

**OPINION AND ORDER DENYING MOTION
TO VACATE CHARACTER AND FITNESS
COMMITTEE'S DECISION**

ALL SITTING. ALL CONCUR.

OPINION AND ORDERS - September 22, 2022

INQUIRY COMMISSION V. [2022-SC-0105-KB](#) IN SUPREME
BETHANY L. STANZIANO-SPARKS **TO BE PUBLISHED** COURT

**OPINION AND ORDER MEMORIALIZING
AUTOMATIC SUSPENSION**

ALL SITTING. ALL CONCUR.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - September 14, 2022

COMMONWEALTH OF KENTUCKY V. [2022-SC-0245-DG](#) CLINTON
DANIEL MORELAND

ORDER DENYING DISCRETIONARY REVIEW - September 14, 2022

COMMONWEALTH OF KENTUCKY V. [2022-SC-0074-D](#) WARREN
TRAVIS LOCK

KAYLA LEWIS V. [2022-SC-0088-DE](#) JEFFERSON
PATRICK LEWIS

AM&W, INC., ET AL. V. [2022-SC-0100-D](#) WARREN
THIRTEEN STREET DEVELOPMENT, LLC,
ET AL.

C. WILLIAM HELM, MB.BCHIR V. [2022-SC-0110-D](#) JEFFERSON
ALLISON RATTERMAN, PH.D., ET AL.

ANGELA V. [2022-SC-0111-D](#) JEFFERSON
GOODALL V.
MARK THOMAS, ET AL.

G.A.A., SR., ET AL. V. [2022-SC-0148-DE](#) FAYETTE
COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES, ET AL.

CHRISTOPHER RYAN CUNNINGHAM V. [2022-SC-0150-D](#) BOYLE
KROGER LIMITED PARTNERSHIP I

ROBERT A. BAGWELL, JR. V. [2022-SC-0160-D](#) WARREN
COMMONWEALTH OF KENTUCKY

ORDER DENYING DISCRETIONARY REVIEW - September 14, 2022

JOEL TECHAU, AS CO-EXECUTOR OF THE ESTATE OF KENNETH C. TECHAU, ET AL. V. TRILOGY HEALTHCARE OF FAYETTE I, LLC D/B/A THE WILLOWS AT HAMBURG, ET AL.	2022-SC-0164-D	FAYETTE
DARRYL ISAACS, ET AL. V. FIREMAN'S FUND INSURANCE COMPANY, ET AL.	2022-SC-0191-D	JEFFERSON
ROBERT CASTLE V. COMMONWEALTH OF KENTUCKY	2022-SC-0194-D	JOHNSON
WADE B. LEWIS V. LAURA R. FULKERSON	2022-SC-0201-D	OLDHAM
ROY STUCKY V. LOUISVILLE JEFFERSON COUNTY METRO GOVERNMENT A/K/A LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT	2022-SC-0204-D	JEFFERSON
BOBBY JOE BURGESS V. COMMONWEALTH OF KENTUCKY	2022-SC-0207-D	CARLISLE
THE FIRST NATIONAL BANK OF MANCHESTER V. MAURICE K. SMITH, ET AL. NICKELL AND VANMETER, JJ., WOULD GRANT DISCRETIONARY REVIEW.	2022-SC-0208-D	CLAY
ANTHONY WAYNE FAGAN V. COMMONWEALTH OF KENTUCKY	2022-SC-0213-D	MCCRACKEN

ORDER DENYING DISCRETIONARY REVIEW - September 14, 2022

RADCLIFF AUTOMOTIVE, LLC D/B/A BUDGET CAR SALES & RENTALS, ET AL. V. LARRY JOE MORGAN	2022-SC-0217-D	HARDIN
JENEVE SCHEPER, ET AL. V. WHITNEY WILSON, ET AL.	2022-SC-0219-D	JEFFERSON
D.T., ET AL. V. G.W., ET AL. LAMBERT, J., NOT SITTING.	2022-SC-0223-DE	ROCKCASTLE
D.T., ET AL. V. G.W., ET AL. LAMBERT, J., NOT SITTING.	2022-SC-0224-DE	ROCKCASTLE
JAMIE E. THOMAS V. BRIAN ALLEN, ET AL.	2022-SC-0235-D	JEFFERSON
BENNCHE, INC. V. SILVER CREEK TRANSPORT, LLC	2022-SC-0241-D	HENDERSON
CURTIS REECE V. KENTUCKY PAROLE BOARD	2022-SC-0260-D	FRANKLIN

ORDER DENYING DISCRETIONARY REVIEW - September 15, 2022

DAVID FISCHER, ET AL. V. BRIAN PAINTER, ET AL. KELLER, J., NOT SITTING.	2022-SC-0366-D	CAMPBELL
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ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - September 14, 2022

BUFFALO CONSTRUCTION, INC. V. [2022-SC-0216-D](#) JEFFERSON
TRACY WINDUS

COMMONWEALTH OF KENTUCKY V. [2022-SC-0222-D](#) LOGAN
RICKY G. HUNT

KENTUCKY RETIREMENT SYSTEMS V. [2022-SC-0239-D](#) FRANKLIN
VICKIE WAGNER

VANMETER, J., WOULD GRANT
DISCRETIONARY REVIEW.

ORDER DENYING DISCRETIONARY REVIEW AND PUBLISHING OPINION OF THE COURT OF APPEALS - September 16, 2022

TERRY GREGORY V. [2022-SC-0275-D](#) MCCLEAN
COMMONWEALTH OF KENTUCKY

ORDER DENYING TRANSFER - September 22, 2022

DANIEL CAMERON, IN HIS OFFICIAL [2022-SC-0291-T](#) JEFFERSON
CAPACITY AS ATTORNEY GENERAL OF
THE COMMONWEALTH OF KENTUCKY, ET
AL. V.
ANDY BESHEAR, IN HIS OFFICIAL
CAPACITY AS GOVERNOR OF THE
COMMONWEALTH OF KENTUCKY, ET AL.

PETITION FOR REHEARING DENIED - September 22, 2022

DAVID M. WARD, ET AL. V. [2020-SC-0520-I](#) FRANKLIN
SECRETARY OF STATE, EX REL. MICHAEL
G. ADAMS IN HIS OFFICIAL CAPACITY, ET
AL.

AND

SENATOR WHITNEY WESTERFIELD, IN [2020-SC-0544-I](#) FRANKLIN
BOTH HIS OFFICIAL AND PERSONAL
CAPACITIES, ET AL. V.
DAVID WARD, ET AL.

ORDER DISMISSING - September 01, 2022

ASHOKKUMAR PATEL, M.D., ET AL. V. [2022-SC-0117-MR](#) PERRY
THE RADIOLOGY GROUP, INC., ET AL.

ORDER GRANTING MOTION TO DISMISS

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

LASHAWN JOHNSON V. [2022-SC-0159-D](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

**ORDER DISMISSING DUE TO
DEFICIENCIES**

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

CEDRIC MCNEIL V. [2022-SC-0218-D](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

**ORDER DISMISSING DUE TO
DEFICIENCIES**

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

ORDER DENYING - September 01, 2022

KENTUCKY BAR ASSOCIATION V.
JENNIFER CORNELL SMITH

[2022-SC-0176-KB](#)

IN SUPREME
COURT

ORDER DISMISSING AS MOOT

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

OPINION AND ORDER DENYING - September 07, 2022

KEVON LAWLESS V.
JUDGE MCKAY CHAUVIN AND
COMMONWEALTH OF KENTUCKY

[2022-SC-0343-OA](#)

JEFFERSON

**ORDER DENYING WRIT OF
PROHIBITION/MANDAMUS AND MOTION
FOR INTERMEDIATE RELIEF**

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

ORDER TEMPORARILY SUSPENDING - September 16, 2022

INQUIRY COMMISSION V.
RONNIE LEE GOLDY, JR.

[2022-SC-0289-KB](#)

IN SUPREME
COURT

**ORDER ADOPTING COMMISSIONER
REPORT AND TEMPORARILY
SUSPENDING**

ALL SITTING. ALL CONCUR.

ORDER WITHDRAWING - September 01, 2022

MARK ALAN MORENZ-HARBINGER V. [2022-SC-0371-KB](#) IN SUPREME COURT
KENTUCKY BAR ASSOCIATION

DONNA SCHMIDT NIENABER V. [2022-SC-0372-KB](#) IN SUPREME COURT
KENTUCKY BAR ASSOCIATION

MARGARET WORSTER BURROWES SPEED [2022-SC-0373-KB](#) IN SUPREME COURT
V.
KENTUCKY BAR ASSOCIATION

JACK JAY MCCRACKEN V. [2022-SC-0374-KB](#) IN SUPREME COURT
KENTUCKY BAR ASSOCIATION

HARVIE BANKS WILKINSON V. [2022-SC-0375-KB](#) IN SUPREME COURT
KENTUCKY BAR ASSOCIATION

DEVORAH KAY CRAFT V. [2022-SC-0376-KB](#) IN SUPREME COURT
KENTUCKY BAR ASSOCIATION

FELICIA BURDA V. [2022-SC-0377-KB](#) IN SUPREME COURT
KENTUCKY BAR ASSOCIATION

ORDER WITHDRAWING - September 07, 2022

CHERYL A ROBINSON V. [2022-SC-0387-KB](#) IN SUPREME COURT
KENTUCKY BAR ASSOCIATION

ORDER WITHDRAWING - September 07, 2022

ANDREW ROBERT PENMAN V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0388-KB](#)

IN SUPREME
COURT

ALEX RUSSELL MEYERS V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0389-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 13, 2022

RYAN DOUGLAS BREITENBACH V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0394-KB](#)

IN SUPREME
COURT

DAVID SCOTT SPRAWLS V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0395-KB](#)

IN SUPREME
COURT

MARK WILLIAM BROWNING V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0396-KB](#)

IN SUPREME
COURT

KENNETH EUGENE KNOPF V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0398-KB](#)

IN SUPREME
COURT

JESSICA ELIZABETH BAUML V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0399-KB](#)

IN SUPREME
COURT

KELLY ERIN MCMURDO RAMSEY V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0400-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 13, 2022

TAMARA EILEEN SCULL V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0402-KB](#)

IN SUPREME
COURT

DAENAYIA HARRIS V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0403-KB](#)

IN SUPREME
COURT

ANNA ZANGARI V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0404-KB](#)

IN SUPREME
COURT

NANCY ELIZABETH MCELWAIN V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0405-KB](#)

IN SUPREME
COURT

LAURA JEAN PATTERSON V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0406-KB](#)

IN SUPREME
COURT

AMY PEARCE DISHMAN V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0407-KB](#)

IN SUPREME
COURT

ALISON CLAIRE BECKER V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0408-KB](#)

IN SUPREME
COURT

ANGELA NEWELL GARDINER V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0409-KB](#)

IN SUPREME
COURT