

SUPREME COURT OF KENTUCKY

SEPTEMBER 28, 2023 RULINGS

RELEASED: 10:00 A.M.

98. NICHOLAS BEHRENS V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0060-MR](#)
TO BE PUBLISHED

CAMPBELL

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. Jury Instructions. Unanimous Verdict. Severance of Charges. Prosecutorial Misconduct. In this matter of right appeal, the Court considers whether jury instructions on tampering with physical evidence charge violated right to unanimous verdict. Other issues presented include whether trial court erred in refusing to sever child pornography charge from child sexual abuse and tampering with physical evidence charges.

99. FRANCISCO RODARTE V.
BLUELINX CORPORATION, ET AL.

[2022-SC-0423-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

AND

FRANCISCO RODARTE V.
BLUELINX CORPORATION, ET AL.

[2022-SC-0428-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Workers' Compensation. KRS 342.185. KRS 342.270. Accrual of Claim. Joinder of Claim. In this workers' compensation appeal, the Court considers when an employee's claim of injury can be deemed to have accrued under KRS 342.185. Other issues presented include when an employee must join a cause of action under KRS 342.270(1).

100. JOSEPH MEREDITH V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0442-MR](#)
TO BE PUBLISHED

HARDIN

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Criminal Law. KRE 403. Jury Instructions. Extreme Emotional Disturbance. In this matter of right appeal, the Court considers whether the trial court erred by permitting the Commonwealth to introduce video evidence depicting the defendant sexually abusing a corpse. Other issues include whether trial court erred by declining to instruct jury on extreme emotional disturbance.

101. S.I.A. LIMITED, INCORPORATED IN
GIBRALTAR UNDER THE CORPORATE ACT
OF THE LAWSON MAY 2, 2000, HAVING
VOLUNTARILY DISSOLVED AS A
COMPANY ON MARCH 16, 2022 V.
HONORABLE THOMAS D. WINGATE, ET
AL.

[2022-SC-0561-MR](#)
TO BE PUBLISHED

FRANKLIN

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Writ of Prohibition. Online Gambling. Foreign Entities. Dissolution. In this matter of right appeal, the Court considers whether the Court of Appeals erred in denying a writ of prohibition sought by dissolved foreign online gambling company seeking to avoid compliance with discovery obligations compelled by trial court.

102. TENNCO ENERGY, INC. V.
RICHARD LANE, ET AL.

[2023-SC-0028-WC](#)
TO BE PUBLISHED

COURT OF
APPEALS

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

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

Questions Presented:

Workers' Compensation. KRS 342.316. Notice to Employer. In this workers' compensation appeal, the Court considers whether employee complied with the KRS 342.316's requirements concerning notice to employer of impending coal worker's pneumoconiosis claim.

103. SCOTTY WATSON V. [2019-SC-0595-MR](#) LYON
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 BY SEPARATE OPINION.
104. WILLIAM KENNETH RIGGLE, JR. V. [2021-SC-0490-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
- MEMORANDUM OPINION OF THE COURT-AFFIRMING**
- ALL SITTING. ALL CONCUR.
105. ROBERT STONE V. [2022-SC-0104-MR](#) KENTON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
- MEMORANDUM OPINION OF THE COURT-AFFIRMING**
- ALL SITTING. ALL CONCUR.
106. THEODORE FRIENDLY V. [2022-SC-0116-MR](#) JEFFERSON
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.
107. EDDIE CARBON V. [2022-SC-0175-MR](#) HENDERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
- MEMORANDUM OPINION OF THE COURT-AFFIRMING**
- ALL SITTING. ALL CONCUR.

108. JONATHAN RICHARDS V.
COMMONWEALTH OF KENTUCKY
- [2022-SC-0262-MR](#)
NOT TO BE PUBLISHED
- BOURBON
- AND**
- JONATHAN RICHARDS V.
COMMONWEALTH OF KENTUCKY
- [2022-SC-0490-TG](#)
NOT TO BE PUBLISHED
- BOURBON
- MEMORANDUM OPINION OF THE
COURT-AFFIRMING**
- ALL SITTING. ALL CONCUR.
109. TIMOTHY HINKLE V.
COMMONWEALTH OF KENTUCKY
- [2022-SC-0348-MR](#)
NOT TO BE PUBLISHED
- JEFFERSON
- 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.
110. DARIUS JAMAL ALLEN V.
COMMONWEALTH OF KENTUCKY
- [2022-SC-0351-MR](#)
NOT TO BE PUBLISHED
- LAUREL
- MEMORANDUM OPINION OF THE
COURT-AFFIRMING**
- ALL SITTING. ALL CONCUR.
111. PAYTON CHASE GARRISON V.
COMMONWEALTH OF KENTUCKY
- [2022-SC-0500-MR](#)
NOT TO BE PUBLISHED
- KNOX
- MEMORANDUM OPINION OF THE
COURT-REVERSING AND REMANDING**
- ALL SITTING. VANMETER, C.J.; BISIG,
CONLEY, LAMBERT, NICKELL, AND
THOMPSON, JJ., CONCUR. KELLER, J.,
CONCURS IN RESULT ONLY.

OPINION AND ORDERS (KBA)- September 28, 2023

RODERICK ANIBAL TEJEDA V.
KENTUCKY BAR ASSOCIATION

[2022-SC-0470-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER GRANTING
REINSTATEMENT WITH CONDITIONS**

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

KENTUCKY BAR ASSOCIATION V.
MICHAEL TODD HOGAN

[2023-SC-0202-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER PERMANENTLY
DISBARRING**

ALL SITTING. ALL CONCUR.

PHILIP R. PRICE V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0327-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER IMPOSING 30-DAY
SUSPENSION (PROBATED)**

ALL SITTING. ALL CONCUR.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - September 20, 2023

IOLA CAPITAL, LLC V.
LOUISVILLE GAS AND ELECTRIC
COMPANY

[2023-SC-0216-DG](#)

BULLITT

THOMPSON, J., NOT SITTING.

ALIXANDRIA D. SHARPE V.
FELIX H. SHARPE, II

[2023-SC-0217-DG](#)

JEFFERSON

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - September 20, 2023

MARILYN RUMMAGE MUERDTER, ET AL. [2023-SC-0234-DG](#) BULLITT
V.
LOUISVILLE GAS AND ELECTRIC
COMPANY

THOMPSON, J., NOT SITTING.

MOTORISTS MUTUAL INSURANCE [2023-SC-0239-DG](#) JEFFERSON
COMPANY V.
FIRST SPECIALTY INSURANCE CORP.

JAIME MORALES V. [2023-SC-0248-DG](#) SCOTT
CITY OF GEORGETOWN, KENTUCKY, ET
AL.

LIEUTENANT JAMES WAGONER, [2023-SC-0265-DG](#) SCOTT
INDIVIDUALLY AND IN HIS CAPACITY AS
A LIEUTENANT WITH THE GEORGETOWN
POLICE DEPARTMENT V.
JAIME MORALES, ET AL.

ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - September 20, 2023

DARRIE RUSHIN V. [2023-SC-0194-DG](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

ORDER GRANTING CROSS MOTION FOR DISCRETIONARY REVIEW - September 20, 2023

CYNTHIA HAYES, AS EXECUTRIX OF THE [2021-SC-0352-DG](#) JEFFERSON
ESTATE OF DONNA ANN HAYES V.
JOHNSON & JOHNSON, ET AL.

BISIG, J., NOT SITTING.

ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - September 20, 2023

**OPINION AND ORDER GRANTING DISCRETIONARY REVIEW AND REMANDING-
September 20, 2023**

ANTWOIN WILLIAMS V. [2023-SC-0041-DG](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

BISIG, J., NOT SITTING.

KELLI GWENDOLYN WRIGHT V. [2023-SC-0175-DG](#) FLEMING
JEFFREY JAMES WRIGHT

ORDER DENYING DISCRETIONARY REVIEW - September 20, 2023

ECTON FARM, LLC, ET AL. V. [2023-SC-0174-D](#) FAYETTE
LISA GANNOE, ET AL.

LISA GANNOE V. [2023-SC-0241-D](#) FAYETTE
LEXINGTON FAYETTE URBAN COUNTY
GOVERNMENT BOARD OF ADJUSTMENT,
ET AL.

KENNETH CRAIG, ET AL. V. [2023-SC-0204-D](#) TRIMBLE
SYLVIA SCHNEIDER

MICHAEL KENEALY V. [2023-SC-0215-D](#) SCOTT
SOPHIA KENEALY

**BISIG, J., WOULD GRANT
DISCRETIONARY REVIEW.**

CITY OF LONDON, KENTUCKY V. [2023-SC-0222-D](#) LAUREL
CITY OF CORBIN, KENTUCKY, ET AL.

STEVE WILSON V. [2023-SC-0230-D](#) OLDHAM
OLDHAM COUNTY FISCAL COURT, ET AL.

LAURA HUFFMAN, EXECUTRIX OF THE [2023-SC-0247-D](#) WHITLEY
ESTATE OF SIMON M. VANDERPOOL, ET
AL. V.
K. PETROLEUM, INC.

ORDER DENYING DISCRETIONARY REVIEW - September 20, 2023

GREGORY BOYD, ET AL. V.
ROBERT BRUCE OWENS

[2023-SC-0269-D](#)

JEFFERSON

TERESA M. HARMON V.
BRADLEY R. HARMON

[2023-SC-0303-D](#)

JEFFERSON

PETITION FOR REHEARING DENIED AND MODIFYING OPINION ON COURT'S OWN MOTION- September 28, 2023

KENTUCKY STATE UNIVERSITY V.
DARWIN NATIONAL ASSURANCE
COMPANY N/K/A ALLIED WORLD
SPECIALTY INSURANCE COMPANY

[2021-SC-0130-DG](#)

FRANKLIN

**ORDER DENYING PETITION FOR
REHEARING AND MODIFYING OPINION
ON THE COURT'S OWN MOTION**

ALL SITTING. VANMETER, C.J.; BISIG,
CONLEY, KELLER, NICKELL, AND
THOMPSON, JJ., CONCUR. LAMBERT, J.,
WOULD GRANT PETITION FOR
REHEARING.

PETITION FOR REHEARING DENIED - September 28, 2023

ANTHONY BEASLEY V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0446-MR](#)

JEFFERSON

**ORDER DENYING PETITION FOR
REHEARING.**

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

MARK JOHNSON V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0541-MR](#)

MUHLENBERG

**ORDER DENYING PETITION FOR
REHEARING.**

ALL SITTING. ALL CONCUR.

ORDER DISMISSING - September 13, 2023

CAMPBELL COUNTY BOARD OF
EDUCATION V. CITY OF COLD SPRING

[2023-SC-0027-DG](#)

CAMPBELL

**ORDER GRANTING JOINT MOTION TO
DISMISS.**

KELLER, LAMBERT, NICKELL, THOMPSON,
JJ., SITTING. ALL CONCUR.

DOUG ARNOLD, ET AL. V.
THE CITY OF VERSAILLES, KENTUCKY, ET
AL.

[2023-SC-0195-D](#)

WOODFORD

**ORDER GRANTING JOINT MOTION OF
THE PARTIES TO REMAND AS SETTLED
AND DISMISSING.**

KELLER, LAMBERT, NICKELL, THOMPSON,
JJ., SITTING. ALL CONCUR.

ORDER DISMISSING - September 13, 2023 (CONTINUED)

PISGAH COMMUNITY HISTORICAL
ASSOCIATION, INC., ET AL. V.
BRIAN TRAUGOTT, IN HIS CAPACITY AS
MAYOR OF VERSAILLES, KENTUCKY, ET
AL.

[2023-SC-0199-D](#)

WOODFORD

**ORDER GRANTING JOINT MOTION OF
THE PARTIES TO REMAND AS SETTLED
AND DISMISSING.**

KELLER, LAMBERT, NICKELL, THOMPSON,
JJ., SITTING. ALL CONCUR.

STEVE HACKWORTH V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0213-D](#)

BOYD

**ORDER DENYING MOTION FOR
ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW
AND DISMISSING.**

KELLER, LAMBERT, NICKELL, THOMPSON,
JJ., SITTING. ALL CONCUR.

CHARLES J. CHILDERS, ET AL. V.
HON. HOWARD KEITH HALL, ET AL.

[2023-SC-0252-MR](#)

PIKE

ORDER GRANTING MOTION TO DISMISS.

KELLER, LAMBERT, NICKELL, THOMPSON,
JJ., SITTING. ALL CONCUR.

JEFFREY L. ROHRBACK V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0260-D](#)

MASON

**ORDER DENYING MOTION FOR
ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW
AND DISMISSING.**

KELLER, LAMBERT, NICKELL, THOMPSON,
JJ., SITTING. ALL CONCUR.

ORDER AFFIRMING EQUALLY DIVIDED COURT - September 14, 2023

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES V.
M.Q.M., ET AL.

[2022-SC-0383-DGE](#)

JEFFERSON

**ORDER AFFIRMING EQUALLY DIVIDED
COURT.**

VANMETER, C.J.; BISIG, CONLEY,
NICKELL, KELLER, LAMBERT, JJ., SITTING.
NICKELL, KELLER, LAMBERT, JJ., WOULD
AFFIRM THE OPINION OF THE COURT OF
APPEALS. VANMETER, C.J.; BISIG,
CONLEY, JJ., WOULD REVERSE THE
OPINION OF THE COURT OF APPEALS AND
REINSTATE THE JUDGMENT OF THE
TRIAL COURT. THOMPSON, J., NOT
SITTING.

ORDER WITHDRAWING - August 28, 2023

JUNIS L BALDON V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0379-KB](#)

IN SUPREME
COURT

RACHAEL FLORENCE ROLFSEN V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0380-KB](#)

IN SUPREME
COURT

ALFRED JOSEPH HEINZ V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0387-KB](#)

IN SUPREME
COURT

DOUGLAS HARRY SANDERS V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0388-KB](#)

IN SUPREME
COURT

JANIS LEE WALTER V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0389-KB](#)

IN SUPREME
COURT

ANN LOUISE CHEUVRONT V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0390-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - August 29, 2023

THOMAS VINCENT KENNEDY V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0391-KB](#)

IN SUPREME
COURT

ERIC WINN CHESLEY V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0392-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - August 30, 2023

NATHANAEL TENORIO MILLER V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0386-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 06, 2023

JOHN FREDERICK LEITZINGER, III V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0401-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 08, 2023

LINDSAY MARIE NICHOLS V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0405-KB](#)

IN SUPREME
COURT

MARY HORVAY HICKS V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0406-KB](#)

IN SUPREME
COURT

MELISSA JANE LONG V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0407-KB](#)

IN SUPREME
COURT

DEBORAH JO SELLING ZIMMERMAN V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0408-KB](#)

IN SUPREME
COURT

ELENA LOPEZ ESCAMILLA V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0409-KB](#)

IN SUPREME
COURT

MICHELE MCREYNOLDS BRADLEY V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0410-KB](#)

IN SUPREME
COURT

SONYA ANGELA WALKER V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0411-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 08, 2023

AMY LYNN CARR V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0412-KB](#)

IN SUPREME
COURT

DAVID THURMAN MILLER V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0413-KB](#)

IN SUPREME
COURT

TRENT RAMSAY TAYLOR V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0414-KB](#)

IN SUPREME
COURT

MARK WILLIAM BLAYNEY V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0415-KB](#)

IN SUPREME
COURT

DAVID A GOLDSTEIN V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0416-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 15, 2023

JOHN DAVID HOLSCHUH, JR. V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0422-KB](#)

IN SUPREME
COURT

JOSEPH M. NOVAK V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0423-KB](#)

IN SUPREME
COURT

JOHN ANDREW KOLANZ V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0424-KB](#)

IN SUPREME
COURT

RICKY LEE JOHNSON, JR. V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0425-KB](#)

IN SUPREME
COURT

RYAN D BOWER V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0426-KB](#)

IN SUPREME
COURT

GARY MARTIN GLASS V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0427-KB](#)

IN SUPREME
COURT

STEPHEN PERRY DURHAM V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0428-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 15, 2023 (CONTINUED)

MARK ALLAN MELVIN V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0432-KB](#)

IN SUPREME
COURT

REBECCA MARIE BABARSKY V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0429-KB](#)

IN SUPREME
COURT

CASSANDRA ANN BURDYSHAW V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0430-KB](#)

IN SUPREME
COURT

MELINDA CHRISTINE HARHAI V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0431-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - September 19, 2023

KIMBERLY EVELYN COLLEY V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0437-KB](#)

IN SUPREME
COURT