

SUPREME COURT OF KENTUCKY

OCTOBER 20, 2022 RULINGS

RELEASED: 10:00 A.M.

99. ASHLAND HOSPITAL CORPORATION D/B/A KING'S DAUGHTERS MEDICAL CENTER, ET AL. V. [2020-SC-0260-DG](#) BOYD  
**TO BE PUBLISHED**  
DARWIN SELECT INSURANCE CO. N/K/A ALLIED WORLD SURPLUS LINES INSURANCE CO., ET AL.

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

MINTON, C.J.; CONLEY, HUGHES, KELLER, NICKELL, AND VANMETER, JJ., SITTING. HUGHES, KELLER, NICKELL, AND VANMETER, JJ., CONCUR. MINTON, C.J., CONCURS IN PART AND DISSENTS IN PART BY SEPARATE OPINION. LAMBERT, J., NOT SITTING.

**Questions Presented:**

Insurance. Exclusions. Prior Notice of Claims. Issues include whether notice of receipt of a subpoena to a D&O carrier triggers an exclusion of coverage for later claims of medical negligence under a separate professional liability policy.

100. JOHN BRUNER, ET AL. V. [2020-SC-0426-DG](#) PULASKI  
DON COOPER, ET AL. **TO BE PUBLISHED**

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

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

**Questions Presented:**

Civil Rule 60.02(e). Law of the Case Doctrine. The issue in this case is whether the Court of Appeals erred in reversing the trial court's decision to grant relief to the Movants under CR 60.02(e) or whether the court should have been bound by the "law of the case" doctrine.

101. COMMONWEALTH OF KENTUCKY V.  
JAMES NEAL HENSLEY

[2020-SC-0527-DG](#)  
**TO BE PUBLISHED**

BOONE

**AND**

JAMES NEAL HENSLEY V.  
COMMONWEALTH OF KENTUCKY

[2021-SC-0223-DG](#)  
**TO BE PUBLISHED**

BOONE

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

ALL SITTING. ALL CONCUR.

**Questions Presented:**

Criminal Law. Speedy Trial. Issues involve the propriety of a dismissal with prejudice for violation of the defendant's asserted right to a speedy trial.

102. COMMONWEALTH OF KENTUCKY V.  
PERRY BELL

[2021-SC-0252-DG](#)  
**TO BE PUBLISHED**

MARION

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

ALL SITTING. MINTON, C.J.; HUGHES,  
LAMBERT, AND NICKELL, JJ., CONCUR.  
KELLER AND VANMETER, JJ., DISSENT BY  
SEPARATE OPINIONS.

**Questions Presented:**

Criminal Law. Tampering with Physical Evidence. KRS 524.100(1). This case involves a vehicle passenger's "furtive but futile" attempt to hide contraband in the vehicle after a traffic stop.

103. MARK E. KELLY V.  
COMMONWEALTH OF KENTUCKY

[2021-SC-0334-MR](#)  
**TO BE PUBLISHED**

MARION

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

ALL SITTING. ALL CONCUR.

**Questions Presented:**

Criminal Law. Directed Verdict. In this matter of right appeal, the Court considers whether the trial court erred in declining to direct a verdict of acquittal on charges of first-degree wanton endangerment and first-degree unlawful imprisonment as it related to some of the victims.

104. THE CITY OF BARBOURVILLE,  
KENTUCKY, ET AL. V.  
EVELYN HOSKINS, ET AL.

[2021-SC-0435-DG](#)  
**TO BE PUBLISHED**

KNOX

**OPINION OF THE COURT BY CHIEF  
JUSTICE MINTON – AFFIRMING IN PART  
AND REVERSING IN PART**

ALL SITTING. ALL CONCUR.

**Questions Presented:**

Torts. Premises Liability. Open and Obvious Conditions. Issues involve the propriety of summary judgment for the defense against a plaintiff who suffers from diabetic neuropathy and sustained injury while walking for ten minutes on a summer day (with a high of 82°) on concrete at a city-owned waterpark.

105. G. P. V.  
HONORABLE ANGELA MCCORMICK BISIG,  
ET AL.

[2022-SC-0011-MR](#)  
**TO BE PUBLISHED**

JEFFERSON

**AND**

C. M. V.  
HONORABLE ANNIE O'CONNELL, ET AL.

[2022-SC-0125-MR](#)  
**TO BE PUBLISHED**

JEFFERSON

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

ALL SITTING. ALL CONCUR.

**Questions Presented:**

Writ of Prohibition. KRS 202C. Involuntary Commitment for Incompetent Criminal Defendants. In this appeal from the Court of Appeals, the Court considers whether the writ standard was met in constitutional challenge to new involuntary commitment statute.

106. JULIA H. GORDON V.  
JUDICIAL CONDUCT COMMISSION

[2022-SC-0171-RR](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

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

ALL SITTING. ALL CONCUR.

**Questions Presented:**

Judicial Discipline. Removal. In this matter of right appeal, the Court considers whether a judge was properly removed from office by the Judicial Conduct Commission.

107. CARLOS DEANDRE JENKINS V.  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2021-SC-0029-MR](#)  
**NOT TO BE PUBLISHED**
- FAYETTE
108. ANDRE TOMPKINS V.  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2021-SC-0076-MR](#)  
**NOT TO BE PUBLISHED**
- MCCRACKEN
109. ISAIAH M. NELSON V.  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2021-SC-0431-MR](#)  
**NOT TO BE PUBLISHED**
- JEFFERSON
110. JALEN WILLIAMS V.  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING IN PART AND  
VACATING IN PART**  
ALL SITTING. ALL CONCUR.
- [2021-SC-0493-MR](#)  
**NOT TO BE PUBLISHED**
- HARDIN

**OPINION AND ORDERS - October 20, 2022**

EX PARTE LEO G. SMITH, CHIEF PUBLIC DEFENDER, LOUISVILLE & JEFFERSON COUNTY PUBLIC DEFENDER CORPORATION; AND, ELIZABETH B. MCMAHON, DEPUTY CHIEF PUBLIC DEFENDER, LOUISVILLE & JEFFERSON COUNTY PUBLIC DEFENDER CORPORATION

[2022-SC-0243-OA](#)  
**TO BE PUBLISHED**

IN SUPREME COURT

**OPINION AND ORDER DENYING WRIT**

ALL SITTING. ALL CONCUR.

KENTUCKY BAR ASSOCIATION V. CHARLES EDWIN JOHNSON

[2022-SC-0269-KB](#)  
**TO BE PUBLISHED**

IN SUPREME COURT

**OPINION AND ORDER ADOPTING DECISION OF KBA BOARD OF GOVERNORS AND SUSPENDING FOR 1 YEAR**

ALL SITTING. ALL CONCUR.

OFFICE OF BAR COUNSEL V. KENTUCKY BAR ASSOCIATION BOARD OF GOVERNORS, ET AL.

[2022-SC-0273-OA](#)  
**NOT TO BE PUBLISHED**

IN SUPREME COURT

**OPINION AND ORDER DENYING WRIT**

ALL SITTING. ALL CONCUR.

KENTUCKY BAR ASSOCIATION V. BRIAN J. KLOPFENSTEIN

[2022-SC-0335-KB](#)  
**TO BE PUBLISHED**

IN SUPREME COURT

**OPINION AND ORDER PUBLIC REPRIMAND**

ALL SITTING. ALL CONCUR.

WILLIAM C. ADAMS, III V. KENTUCKY BAR ASSOCIATION

[2022-SC-0392-KB](#)  
**TO BE PUBLISHED**

IN SUPREME COURT

**OPINION AND ORDER SUSPENDING**

ALL SITTING. ALL CONCUR.

**ORDER SUSPENDING - October 20, 2022**

KENTUCKY BAR ASSOCIATION V.  
CHARLES EDWIN JOHNSON

[2021-SC-0099-KB](#)

IN SUPREME  
COURT

**ORDER SUSPENDING**

ALL SITTING. ALL CONCUR.

**ORDER GRANTING CROSS MOTION FOR DISCRETIONARY REVIEW (ORAL ARGUMENT) - October 12, 2022**

DEZMON MOORE V.  
LOUISVILLE/JEFFERSON COUNTY  
METROPOLITAN GOVERNMENT, ET AL.

[2022-SC-0369-DG](#)

JEFFERSON

**ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - October 12, 2022**

NEW ALBANY MAIN STREET PROPERTIES,  
LLC D/B/A PORT OF LOUISVILLE, ET AL. V.  
R. WAYNE STRATTON, CPA, ET AL.

[2022-SC-0254-DG](#)

JEFFERSON

RODNEY MCMILLIN, M.D. V.  
MARIO SANCHEZ, ET AL.

[2022-SC-0272-DG](#)

JEFFERSON

MARIO SANCHEZ V.  
RODNEY MCMILLIN, M.D., ET AL.

[2022-SC-0274-DG](#)

JEFFERSON

**ORDER DENYING DISCRETIONARY REVIEW - October 12, 2022**

HARLAN NURSING HOME, INC. D/B/A  
HARLAN HEALTH & REHABILITATION  
CENTER V.  
DAVID HOWARD, AS ADMINISTRATOR OF  
THE ESTATE OF REED HOWARD

[2022-SC-0128-D](#)

HARLAN

JORGE L. TAMAYO-MORA, #173793 V.  
ANNA VALENTINE, WARDEN, KENTUCKY  
STATE REFORMATORY

[2022-SC-0180-D](#)

FRANKLIN

**ORDER DENYING DISCRETIONARY REVIEW - October 12, 2022**

PERKINS SCALE CORPORATION V. LINDSEY ANN YADEN PERKINS, ET AL.	<a href="#">2022-SC-0189-D</a>	JEFFERSON
ALAN HUMMEL V. COMMONWEALTH OF KENTUCKY	<a href="#">2022-SC-0190-D</a>	KENTON
JORGE L. RODRIGUEZ, M.D., ET AL. V. ELIZABETH HARAC, INDIVIDUALLY  LAMBERT, J., NOT SITTING.	<a href="#">2022-SC-0193-D</a>	JEFFERSON
NORTON HOSPITALS INC., D/B/A NORTON HOSPITAL ET AL. V. ELIZABETH HARAC, INDIVIDUALLY ET AL.  LAMBERT, J., NOT SITTING.	<a href="#">2022-SC-0202-D</a>	JEFFERSON
JEROME RENDER, ET AL. V. CRYSTAL MARLOWE	<a href="#">2022-SC-0238-D</a>	JEFFERSON
TIFFANY WASHINGTON V. CRYSTAL MARLOWE	<a href="#">2022-SC-0240-D</a>	JEFFERSON
DARIAN R. CLAY V. MARICARMEN RIVERA	<a href="#">2022-SC-0246-DE</a>	OLDHAM
MARY LAWSON V. DAVID SMITH	<a href="#">2022-SC-0248-D</a>	CARROLL
SIERRA CLUB AND ITS INDIVIDUAL MEMBERS V. PUBLIC SERVICE COMMISSION OF KENTUCKY, AN INDEPENDENT AGENCY OF THE COMMONWEALTH, ET AL.	<a href="#">2022-SC-0250-D</a>	FRANKLIN

**ORDER DENYING DISCRETIONARY REVIEW - October 12, 2022**

GARY SANDERS V. BOARD OF EDUCATION OF JEFFERSON COUNTY, ET AL.	<a href="#">2022-SC-0251-D</a>	JEFFERSON
GREGORY ALLEN WILLIS V. LAURA ELLEN RANKIN	<a href="#">2022-SC-0253-D</a>	PENDLETON
ASSOCIATION OF COMMUNITY MINISTRIES V. PUBLIC SERVICE COMMISSION OF KENTUCKY, AN INDEPENDENT AGENCY OF THE COMMONWEALTH, ET AL.	<a href="#">2022-SC-0257-D</a>	FRANKLIN
METROPOLITAN HOUSING COALITION V. PUBLIC SERVICE COMMISSION OF KENTUCKY, AN INDEPENDENT AGENCY OF THE COMMONWEALTH, ET AL.	<a href="#">2022-SC-0259-D</a>	FRANKLIN
GARY R. PLACEK V. JOHN ELMORE, ET AL.	<a href="#">2022-SC-0264-D</a>	HART
S.G. V. CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	<a href="#">2022-SC-0276-DE</a>	WARREN
BARRY CORNETT V. TIMOTHY SEXTON	<a href="#">2022-SC-0280-D</a>	PERRY
CHANCE BREWER V. COMMONWEALTH OF KENTUCKY	<a href="#">2022-SC-0292-D</a>	PULASKI
DAVID C. WALKER, ET AL. V. BROWN & BROWN OF KENTUCKY, INC.	<a href="#">2022-SC-0310-D</a>	JEFFERSON



**ORDER DENYING DISCRETIONARY REVIEW - October 12, 2022**

WILLIAM SUMMERLIN V. [2022-SC-0321-DE](#) CARROLL  
JOHN PROCTOR, IN HIS OFFICIAL  
CAPACITY AS THE CARROLL COUNTY  
JAILER, ET AL.

KELLER, J., NOT SITTING.

D.P., ET AL. V. [2022-SC-0328-DE](#) HARDIN  
CABINET FOR HEALTH AND FAMILY  
SERVICES, COMMONWEALTH OF  
KENTUCKY, ET AL.

**ORDER DENYING DISCRETIONARY REVIEW - October 13, 2022**

LISA COLEMAN V. [2022-SC-0258-DE](#) KENTON  
SUMMIT MEDICAL GROUP, INC. D/B/A ST.  
ELIZABETH PHYSICIANS

KELLER, J., NOT SITTING.

**ORDER DENYING DISCRETIONARY REVIEW AND ORDERING PUBLICATION -  
October 12, 2022**

DEPARTMENT OF REVENUE, FINANCE [2022-SC-0233-D](#) FRANKLIN  
AND ADMINISTRATION CABINET,  
COMMONWEALTH OF KENTUCKY V.  
MARATHON PIPE LINE, LLC

**ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - October 12, 2022**

ROBERT G. HICKS, ET AL. V. [2022-SC-0225-D](#) CHRISTIAN  
CITY OF HOPKINSVILLE, SEWERAGE AND  
WATER WORKS COMMISSION, D/B/A  
HOPKINSVILLE WATER ENVIROMENT  
AUTHORITY

DANIEL MEKURIA V. [2022-SC-0252-D](#) JEFFERSON  
JAMES MARTIN, ET AL.

**ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - October 12, 2022**

COMMONWEALTH OF KENTUCKY, EX  
REL. MICHAEL J. O'CONNELL IN HIS  
OFFICIAL CAPACITY AS JEFFERSON  
COUNTY ATTORNEY V.  
ANDREW TODD

[2022-SC-0297-D](#)

JEFFERSON

**ORDER DISMISSING – September 28, 2022**

TIMOTHY ROBINSON V.  
COMMONWEALTH OF KENTUCKY

[2022-SC-0337-D](#)

LINCOLN

MINTON, C.J.; CONLEY, LAMBERT,  
NICKELL, JJ., SITTING. ALL CONCUR.

ANN NICOLE HENSON V. WILLIAM  
ROBERT TUDOR

[2022-SC-0378-D](#)

CLARK

CONLEY, LAMBERT, NICKELL, AND  
VANMETER, JJ., SITTING. ALL CONCUR.

**ORDER WITHDRAWING FROM KENTUCKY BAR ASSOCIATION - October 07, 2022**

STEPHANIE ISAACS MULLINS V.  
KENTUCKY BAR ASSOCIATION

[2022-SC-0444-KB](#)

IN SUPREME  
COURT