

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

133. GOVERNMENT EMPLOYEES INSURANCE COMPANY V. JORDAN SANDERS, ET AL. [2016-SC-000546-DG](#) JEFFERSON
TO BE PUBLISHED
- OPINION OF THE COURT BY JUSTICE WRIGHT – AFFIRMING**
MINTON, C.J.; CUNNINGHAM, KELLER, VENTERS, JJ., CONCUR. HUGHES, J., CONCURS IN RESULT ONLY. VANMETER, J., NOT SITTING.
- Questions Presented:**
Insurance. MVRA. KRS 304.39-270-(1). A Kentucky motor vehicle reparations obligor may not terminate their insured’s basic reparations benefits premised purely upon “paper reviews” of medical records not tendered for court review.
134. FREDERICK DORSEY V. COMMONWEALTH OF KENTUCKY [2017-SC-000005-DG](#) JEFFERSON
TO BE PUBLISHED
- OPINION OF THE COURT BY JUSTICE HUGHES – AFFIRMING**
ALL SITTING. MINTON, C.J.; CUNNINGHAM, KELLER, AND VANMETER, JJ., CONCUR. WRIGHT, J., DISSENTS BY SEPARATE OPINION, WHICH VENTERS, J., JOINS.
- Questions Presented:**
Criminal Law. RCr 11.42. Denial of Counsel. Conflict of Interest. Movant was not denied his right to counsel when his counsel represented him on a motion to withdraw his guilty plea after representing him at the time of the guilty plea.
135. NICOLE PETERSON, ETC., ET AL. V. BETHANY FOLEY, ET AL. [2017-SC-000028-DG](#) RUSSELL
TO BE PUBLISHED
- OPINION OF THE COURT BY JUSTICE CUNNINGHAM – AFFIRMING**
MINTON, C.J.; CUNNINGHAM, HUGHES, KELLER, VENTERS, AND WRIGHT, JJ., SITTING. MINTON, C.J.; HUGHES, VENTERS, AND WRIGHT, JJ., CONCUR. KELLER, J., DISSENTS BY SEPARATE OPINION. VANMETER, J., NOT SITTING.
- Questions Presented:**
Torts. Qualified Official Immunity. Allegations of negligent performance of ministerial duties by intake and supervision by deputies at a county jail, in which a prisoner died in her detox cell after a hydrocodone overdose.

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

136. VERONICA BRADLEY V. KENTUCKY RETIREMENT SYSTEMS
OPINION OF THE COURT BY JUSTICE HUGHES – AFFIRMING
ALL SITTING. ALL CONCUR.
- [2017-SC-000275-DG](#) FRANKLIN
TO BE PUBLISHED

Questions Presented:
Administrative Law. State Disability Retirement. Viability and application of the “compelling evidence” standard for judicial review of denials of applications for state permanent disability retirement benefits.

137. WILLIAM E. MASON V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY CHIEF JUSTICE MINTON – AFFIRMING
ALL SITTING. MINTON, C.J.; CUNNINGHAM, HUGHES, KELLER, VANMETER AND WRIGHT, JJ., CONCUR. VENTERS, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION.
- [2017-SC-000569-MR](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
Two counts of murder, possession of a handgun by a convicted felon, tampering with physical evidence and being a PFO I – Life imprisonment. Admission of prior consistent statement hearsay evidence, KRE 801A(a)(2). Standard of review for trial court’s admission of purported hearsay evidence is for abuse of discretion. Admission of defendant’s interrogation permissible under KRE 801A(b)(1). Defense counsel opened the door to Commonwealth’s question regarding polygraph operator.

138. SALLY A. MAY V. DONNIE J. HARRISON
OPINION OF THE COURT BY JUSTICE CUNNINGHAM – AFFIRMING
ALL SITTING. MINTON, C.J.; HUGHES, VANMETER AND WRIGHT, JJ., CONCUR. KELLER, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION IN WHICH VENTERS, J., JOINS.
- [2018-SC-000011-DGE](#) JESSAMINE
TO BE PUBLISHED

Questions Presented:
Family Law. Visitation. Use of a KRS 403.290(1) *in camera* interview with a minor child to find facts supporting indefinite suspension of visitation with a mother’s minor children.

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

139. ALICIA RITCHIE, ET AL. V. [2017-SC-000157-DG](#) BREATHITT
ARCH TURNER, ET AL. **TO BE PUBLISHED**

**OPINION OF THE COURT BY
JUSTICE HUGHES –
AFFIRMING AND REMANDING**
ALL SITTING. MINTON, C.J.;
CUNNINGHAM, VANMETER,
VENTERS, AND WRIGHT, JJ.,
CONCUR. KELLER, J., CONCURS IN
PART AND DISSENTS IN PART BY
SEPARATE OPINION.

Questions Presented:
Qualified Immunity. School Administrators. Discretionary v. Ministerial Acts. Application of KRS 620.030. The issue is whether the acts or omissions to act on the part of school administrators in addressing accusations of sexual abuse against a student by a school teacher were discretionary, and thus, subject to qualified immunity. Even if the acts were discretionary, did the administrators act in bad faith, and thus abrogate any claim of qualified immunity. Whether the duty to report abuse of a child under KRS 620.030 is discretionary, and if not, then should the administrators be immune from liability under those circumstances when they have been convicted of violating the statute.

140. MICHAEL SCALISE, ET AL. V. [2016-SC-000246-DG](#) JEFFERSON
SUZETTE SEWELL-SCHEUERMANN **TO BE PUBLISHED**

**OPINION OF THE COURT BY
JUSTICE HUGHES –
AFFIRMING IN PART, REVERSING
IN PART AND REMANDING**
ALL SITTING. MINTON, C.J.;
CUNNINGHAM, VANMETER, AND
WRIGHT, JJ., CONCUR. VENTERS,
J., DISSENTS BY SEPARATE
OPINION, WHICH KELLER, J., JOINS.

Questions Presented:
Taxes. Mayor and City Council. KRS 92.340. Whether the city's mayor and council members are personally liable for spending excess funds raised under the city's sanitation tax on other legitimate city expenses.

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

141. SHAWN TIGUE V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
CHIEF JUSTICE MINTON –
AFFIRMING, IN PART, REVERSING,
IN PART, AND REMANDING**
ALL SITTING. MINTON, C.J.;
HUGHES, KELLER, VANMETER AND
VENTERS, JJ., CONCUR.
CUNNINGHAM, J., CONCURS
IN RESULT ONLY BY SEPARATE
OPINION, IN WHICH WRIGHT, J.,
JOINS.

[2017-SC-000156-MR](#)

BELL

TO BE PUBLISHED

Questions Presented:

First-degree murder, first-degree burglary, second-degree possession of a controlled substance, third-degree possession of a controlled substance, and possession of a controlled substance not in its original container-Life without parole. Murder conviction reversed. Trial errors include: the mischaracterization of missing evidence; the exclusion of expert testimony regarding the phenomenon of false confessions and the impact defendant's condition had on his confession; the exclusion of defendant's statement as to what Danny Smith directed him to do; and permitting the Commonwealth to knowingly elicit testimony from a witness as a guise to impeach the witness with otherwise inadmissible testimony.

142. BETH LEWIS MAZE, ET AL. V.
BOARD OF DIRECTORS FOR THE
COMMONWEALTH POSTSECONDARY
EDUCATION PREPAID TUITION
TRUST FUND, ET AL.
**OPINION OF THE COURT BY
JUSTICE VENTERS –
REVERSING**
MINTON, C.J.; HUGHES, KELLER,
VANMETER, AND WRIGHT, JJ.,
CONCUR. CUNNINGHAM, J., NOT
SITTING.

[2017-SC-000233-DG](#)

FRANKLIN

TO BE PUBLISHED

Questions Presented:

Contracts. Statutory Amendments. Retroactive Application. Whether the language of the Kentucky Affordable Prepaid Tuition (KAPT) Master Agreement, by which the movant's children were to receive future tuition benefits permits amendments to the Agreement which may be retroactively applied to limit the use of the benefits provided by the original contract, as well as to limit the growth of the available funds.

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

143. KENTUCKY RETIREMENT SYSTEMS V. [2017-SC-000345-DG](#) FRANKLIN
RONALD ASHCRAFT
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE HUGHES –
REVERSING
ALL SITTING. ALL CONCUR.

Questions Presented:
Administrative Law. State Disability Retirement. Viability and application of the “compelling evidence” standard for judicial review of denials of applications for state permanent disability retirement benefits.

144. LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT V. [2017-SC-000555-DG](#) FAYETTE
JUSTIN T. MOORE
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE VENTERS –
REVERSING
ALL SITTING. ALL CONCUR.

Questions Presented:
Real property. Condemnation. The right of the urban county government to take one-tenth of an acre for a drainage culvert by permanent easement rather than by fee simple.

145. LAUREL HARPER, ET AL. V. UNIVERSITY OF LOUISVILLE [2016-SC-000632-DG](#) JEFFERSON
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE VENTERS –
REVERSING AND REMANDING
ALL SITTING. ALL CONCUR.

Questions Presented:
Whistleblower Act. Evidentiary sufficiency to support a jury verdict for violation of the Kentucky Whistleblower Act.

146. WILLIAM ROBERT HAGAN, ET AL. V. COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET [2018-SC-000084-DG](#) HARDIN
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE VENTERS –
REVERSING AND REMANDING
MINTON, C.J.; CUNNINGHAM, HUGHES, KELLER, AND VANMETER, JJ., CONCUR. WRIGHT, J., NOT SITTING.

Questions Presented:
Appeals. Indispensable Party. Condemnation. Dower. Whether a party with only a dower interest in property which is sought to be condemned, was properly deemed to be an indispensable party to an appeal from a final order and judgment awarding compensation to several property owners.

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

147. THE TRAVELERS INDEMNITY COMPANY V. CHARLES ARMSTRONG, ETC. [2017-SC-000041-DG](#) WARREN
[2017-SC-000042-DG](#)
TO BE PUBLISHED

AND
MARTIN CADILLAC, INC. D/B/A/
MARTIN DODGE JEEP CHRYSLER V.
CHARLES ARMSTRONG, ETC.
OPINION OF THE COURT BY
JUSTICE KELLER –
REVERSING AND REINSTATING
MINTON, C.J.; CUNNINGHAM,
KELLER, VENTERS, WRIGHT, JJ.,
AND CLARK AND ROYSE, SJ.,
SITTING. ALL CONCUR. HUGHES
AND VANMETER, JJ., NOT SITTING.

Questions Presented:
KRS 186.010(7)(c) and KRS 186A.220.
Requirements to Transfer an Automobile.
Whether a car dealer complied with the
statutory transfer requirement of obtaining
proof of insurance prior to actual transfer of
the vehicle, so as not to be deemed the owner
of the vehicle at the time of a subsequent
accident. Additional issues include: (1)
whether there is a bona fide sale where the
dealer has not received a valid title to transfer
the vehicle; (2) whether the dealer complied
with the statute requiring transfer paperwork
be promptly completed, so as to be protected
from liability for a subsequent accident, and
(3) whether compliance by a subsequent
dealer with the statutory requirement
regarding proof of insurance absolves from
liability prior dealer who failed to promptly
comply with the statute.

148. ERIC T. NOE V. COMMONWEALTH OF KENTUCKY [2017-SC-000326-MR](#) MADISON
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. MINTON, C.J.;
CUNNINGHAM, HUGHES, VANMETER,
AND WRIGHT, JJ., CONCUR. KELLER.,
J., CONCURS IN PART AND DISSENTS
IN PART IN WHICH VENTERS, J., JOINS.

149. P.B. AND T.B. V. COMMONWEALTH OF KENTUCKY, [2017-SC-000360-DGE](#) CLARK
CABINET FOR HEALTH AND FAMILY
SERVICES
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

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| 150. | GREGORY CAMPBELL V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2017-SC-000547-MR
NOT TO BE PUBLISHED | KNOTT |
| 151. | GERRY E. LAWSON V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ALL SITTING. MINTON, C.J.;
HUGHES, KELLER, VANMETER AND
VENTERS, JJ., CONCUR.
CUNNINGHAM, J., CONCURS
IN RESULT ONLY BY SEPARATE
OPINION, IN WHICH WRIGHT, J.,
JOINS. | 2017-SC-000621-MR
NOT TO BE PUBLISHED | JEFFERSON |
| 152. | FRANCIS PAYNE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2018-SC-000185-MR
NOT TO BE PUBLISHED | HANCOCK |
| 153. | JERRY D. LOTZ V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING, IN PART,
REVERSING, IN PART, AND
REMANDING</u>
ALL SITTING. ALL CONCUR. | 2017-SC-000594-MR
NOT TO BE PUBLISHED | JEFFERSON |

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

OPINION AND ORDERS – OCTOBER 25, 2018

GGNSC FRANKFORT, LLC D/B/A GOLDEN LIVING CENTER-FRANKFORT, ET AL. V. JAMES RICHARDSON, ET AL. 2016-SC-000564-DG FRANKLIN

ORDER GRANTED DISCRETIONARY REVIEW. THE COURT OF APPEALS DECISION IS VACATED AND THE CASE IS REMANDED TO THE COURT OF APPEALS FOR FURTHER CONSIDERATION IN LIGHT OF THE U.S. SUPREME COURT’S DECISION IN KINDRED NURSING CENTERS V. CLARK, 137 S. CT. 1421 (2017) AND THIS COURT’S DECISION IN KINDRED NURSING CENTERS V. WELLNER, 533 S.W.3D 189 (KY. 2017), CERT. DENIED, 17-1318, 2018 WL 1400361 (U.S. OCT 9, 2018). ALL SITTING. ALL CONCUR.

NEW HERITAGE HALL HEALTH & REHABILITATION CENTER, LLC, ET AL. V. DANNY COFFMAN, ETC. 2016-SC-000698-DG ANDERSON

ORDER GRANTED DISCRETIONARY REVIEW. THE COURT OF APPEALS DECISION IS VACATED AND THE CASE IS REMANDED TO THE COURT OF APPEALS FOR FURTHER CONSIDERATION IN LIGHT OF THE U.S. SUPREME COURT’S DECISION IN KINDRED NURSING CENTERS LIMITED PARTNERSHIP V. CLARK, 137 S. CT. 1421 (2017) AND THIS COURT’S DECISION IN KINDRED NURSING CENTERS LIMITED PARTNERSHIP V. WELLNER, 533 S.W.3D 189 (KY. 2017), (CERT. DENIED, OCTOBER 9, 2018). MINTON, C.J.; CUNNINGHAM, HUGHES, KELLER, VENTERS, AND WRIGHT, JJ., CONCUR. VANMETER, J., NOT SITTING.

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

OPINION AND ORDERS – NOVEMBER 1, 2018

KENTUCKY BAR ASSOCIATION V.
CHARLES EDWARD DANIEL
**ORDER OF SUSPENSION FROM THE
PRACTICE OF LAW FOR 3 YEARS
WITH 1 YEAR TO BE SERVED ON ACTIVE
SUSPENSION AND THE REMAINING 2 YEARS
ON PROBATION.**
ALL SITTING. ALL CONCUR.

[2018-SC-000348-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

KENTUCKY BAR ASSOCIATION V.
KENNETH JOSPEH BADER
**ORDER OF SUSPENSION FROM THE
PRACTICE OF LAW FOR 2 YEARS.**
ALL SITTING. ALL CONCUR.

[2018-SC-000376-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

COMMONWEALTH OF KENTUCKY V.
HON. JOHN R. GRISE, CHIEF CIRCUIT JUDGE,
WARREN CIRCUIT COURT AND WILLIAM H.
MEECE
**OPINION AND ORDER BY CHIEF JUSTICE
MINTON DENYING PETITION FOR WRIT OF
PROHIBITION**
ALL SITTING. ALL CONCUR.

[2018-SC-000472-OA](#)
TO BE PUBLISHED

IN SUPREME
COURT

CHRISTOPHER DAVID WIEST V.
KENTUCKY BAR ASSOCIATION
ORDER TO GRANT REINSTATEMENT.
ALL SITTING. ALL CONCUR

[2018-SC-000537-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 25, 2018**

HAROLD MERRITT, ET AL. V.
CATHOLIC HEALTH INITIATIVES, INC., ET AL.

2018-SC-000155-DG

FAYETTE

ASHLAND HOSPITAL CORPORTION, ETC. V.
PAUL WESLEY LEWIS, M.D., ET AL
AND

2018-SC-000276-DG

BOYD

PAUL WESLEY LEWIS, M.D V.
DAVID SHACKELFORD, ET AL.

2018-SC-000279-DG

BOYD

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 25, 2018**

SEAN M. MAGUIRE, M.D. V. 2018-SC-000290-DG HOPKINS
JAMES WILLIAM CROOK

KNOX HILLS LLC V. 2018-SC-000370-DG HARDIN
AMBAC ASSURANCE CORPORATION

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 25, 2018**

COMMONWEALTH OF KENTUCKY V. 2018-SC-000147-D OLDHAM
HON. DIANA E. WHEELER, JUDGE, OLDHAM
DISTRICT COURT, ET AL.

BRITTENY ANDREWS V. 2018-SC-000177-D JEFFERSON
TRAVELERS INDEMNITY
**THE OPINION OF THE COURT OF APPEALS
IS ORDERED NOT TO BE PUBLISHED.**

BYRON KEMP HOWARD V. 2018-SC-000180-D KNOX
COMMONWEALTH OF KENTUCKY
**THE OPINION OF THE COURT OF APPEALS
IS ORDERED NOT TO BE PUBLISHED.**

DENISE FRAKES, ET AL. V. 2018-SC-000187-D BOONE
SPECIALIZED LOAN SERVICING LLC, ET AL.

ALICIA RITCHIE, ET AL. V. 2018-SC-000196-D FRANKLIN
KENTUCKY SCHOOL BOARD INSURANCE
TRUST

FOURSOME PROPERTIES, LLC, ET AL. V. 2018-SC-000201-D ROWAN
RITE AID OF KENTUCKY, INC.
**THE OPINION OF THE COURT OF APPEALS
IS ORDERED NOT TO BE PUBLISHED.
VANMETER, VENTERS AND WRIGHT, JJ.,
WOULD GRANT.**

JAMES JOHNSON V. 2018-SC-000235-D CHRISTIAN
COMMONWEALTH OF KENTUCKY

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 25, 2018**

KENYON MESSIAH POLLOCK V. COMMONWEALTH OF KENTUCKY	2018-SC-000256-D	JEFFERSON
VAUGHN BOONE V. COMMONWEALTH OF KENTUCKY	2018-SC-000264-D	JEFFERSON
CHARLES MOSS V. COMMONWEALTH OF KENTUCKY	2018-SC-000273-D	BALLARD
JACKIE LYNN THOMPSON, ADMINISTRATRIX OF THE ESTATE OF EDNA LOUISE BROWN DECEASED V. JEWISH HOSPITAL, ET AL.	2018-SC-000283-D	JEFFERSON
COMMONWEALTH OF KENTUCKY, REAL PARTY IN INTEREST, ET AL. V. KEVIN ROWE	2018-SC-000286-D	LYON
CEDRICK LEE POLLARD V. COMMONWEALTH OF KENTUCKY	2018-SC-000300-D	DAVISS
DIANE RECTOR, EXECUTOR OF THE ESTATE OF JAMES A. CALVERT V. LINDA SUE CALVERT, EXECUTRIX OF THE ESTATE OF DANNY J. CALVERT, ET AL.	2018-SC-000302-D	HENDERSON
ESTATE OF ERIC YOUNG, BY AND THROUGH KRISTY YOUNG, AS ADMINISTRATRIX , ET AL. V. ISP CHEMICALS, LLC, ET AL.	2018-SC-000305-D	MARSHALL
COMMONWEALTH OF KENTUCKY V. DENZIL BURTON CUNNINGHAM AND VANMETER, JJ., WOULD GRANT.	2018-SC-000306-D	ALLEN

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 25, 2018**

SCENIC KENTUCKY, INC., ET AL. V. COMMONWEALTH OF KENTUCKY, KENTUCKY TRANSPORTATION CABINET, ETC., ET AL. WRIGHT, J., NOT SITTING.	2018-SC-000307-D	FRANKLIN
THE FACTORY LANE DEVELOPMENT AWARENESS GROUP, LLC. V. METRO LOUISVILLE/JEFFERSON COUNTY PLANNING COMMISSION, ET AL.	2018-SC-000314-D	JEFFERSON
BECKHAM BARNES V. COMMONWEALTH OF KENTUCKY VENTERS J., NOT SITTING.	2018-SC-000315-D	WAYNE
HON. SEAN DELAHANTY, IN HIS OFFICAL CAPACITY AS JEFFERSON DISTRICT COURT JUDGE, ET AL. V. COMMONWEALTH OF KENTUCKY	2018-SC-000316-D	JEFFERSON
KEVIN HENDERSON V. COMMONWEALTH OF KENTUCKY	2018-SC-000318-D	JEFFERSON
THOMAS B. GIVHAN, ADMINISTRATOR OF THE ESTATE OF GLENN LAPOINTE, DECEASED, ET AL. V. GARY MCGRUDER, ET AL.	2018-SC-000340-D	BULLITT
NEWELL STACY V. KENTUCKY PAROLE BOARD, ET AL.	2018-SC-000342-D	FRANKLIN
KENTUCKY RETIREMENT SYSTEMS V. BRET CHAMBERLAIN	2018-SC-000345-D	FRANKLIN
ARDIS E. GREENAMYER, II V. LAKELAND WEST CAPITAL IV, LLC	2018-SC-000352-D	JEFFERSON
ROGER NEASE V. CAROL NEASE, ET AL. WRIGHT, J., NOT SITTING.	2018-SC-000361-D	LETCHER

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 25, 2018**

SANDY RICE V. COMMONWEALTH OF KENTUCKY	2018-SC-000382-D	KNOX
MILDRED D. MITCHELL V. JEFFREY W. MITCHELL	2018-SC-000386-D	MARION
MARGARET DRIVER V. COMMONWEALTH OF KENTUCKY	2018-SC-000406-D	CALDWELL
COMMONWEALTH OF KENTUCKY V. HON. JERRY CROSBY, JUDGE, OLDHAM DISTRICT COURT, ET AL. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. KELLER, J., WOULD LEAVE THE COURT OF APPEALS OPINION PUBLISHED.	2018-SC-000408-D	OLDHAM
SANDY RICE V. COMMONWEALTH OF KENTUCKY	2018-SC-000412-D	KNOX
STEVEN F. BREWSTER V. AMERICAN MENSA LTD.	2018-SC-000416-D	WASHINGTON
D. M. M. V. CABINET FOR HEALTH AND FAMILY SERVICES	2018-SC-000459-DE	KENTON

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – OCTOBER 26, 2018**

WALTER SACCHET V. COMMONWEALTH OF KENTUCKY VANMETER, VENTERS, WRIGHT AND CUNNINGHAM, JJ., SITTING. ALL CONCUR. ENTERED: OCTOBER 26, 2018	2018-SC-000477-D	FAYETTE
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SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – OCTOBER 26, 2018**

DONALD E. BUCKMAN V. 2018-SC-000497-D JEFFERSON
RANDY L. WHITE, WARDEN (NOW DEEDRA
A. HART, WARDEN)
**VANMETER, VENTERS, WRIGHT AND
CUNNINGHAM, JJ., SITTING. ALL CONCUR.**
ENTERED: OCTOBER 26, 2018

COURT ORDERS DENYING PETITION FOR REHEARING – NOVEMBER 1, 2018

AMERICAN MINING INSURANCE COMPANY V. 2017-SC-000066-DG OWSLEY
PETER FARMS, LLC.
**MINTON, C.J.; CUNNINGHAM, HUGHES,
KELLER, VENTERS, AND WRIGHT, JJ.,
SITTING. VANMETER, J., NOT SITTING.
MINTON, C.J.; CUNNINGHAM, HUGHES,
KELLER, AND VENTERS, JJ., CONCUR.
WRIGHT, J., WOULD GRANT.**

MICHAEL R. PLUMLEY V. 2017-SC-000083-WC FROM COURT
KROGER, INC., ET AL. APPEALS
ALL SITTING. ALL CONCUR.

KENTUCKY BOARD OF MEDICAL 2017-SC-000260-DG JEFFERSON
LICENSURE V.
JON M. STRAUSS, M.D.
ALL SITTING. ALL CONCUR.

COURT ORDERS DISMISSING

KINDRED NURSING CENTERS LIMITED 2017-SC-000050-D HARDIN
PARTNERSHIP, ETC., ET AL. V.
DEPHINE WITHERS, ETC.
**MINTON, CJ.; CUNNINGHAM, HUGHES,
KELLER, VENTERS, AND WRIGHT, JJ.,
CONCUR. VANMETER, J., NOT SITTING.**
ENTERED: OCTOBER 25, 2018

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS DISMISSING

MICHAEL RAY DUNGAN V. COMMONWEALTH OF KENTUCKY VANMETER, VENTERS, WRIGHT AND CUNNINGHAM, JJ., SITTING. ALL CONCUR. ENTERED: OCTOBER 26, 2018	2018-SC-000220-MR	PULASKI
JOHN ROBINSON V. COMMONWEALTH OF KENTUCKY VANMETER, VENTERS, WRIGHT AND CUNNINGHAM, JJ., SITTING. ALL CONCUR. ENTERED: OCTOBER 26, 2018	2018-SC-000234-DG	JEFFERSON
CHARLES E. HUTSELL V. COMMONWEALTH OF KENTUCKY VANMETER, VENTERS, WRIGHT AND CUNNINGHAM, JJ., SITTING. ALL CONCUR. ENTERED: OCTOBER 26, 2018	2018-SC-000404-D	FRANKLIN
SANDRA HARDY V. ROBERT E. HARDY ENTERED: OCTOBER 2, 2018	2018-SC-000418-D	BRACKEN
HEATHER LAZZARI V. NORTON HEALTHCARE, INC., ET AL. VANMETER, VENTERS, WRIGHT AND CUNNINGHAM, JJ., SITTING. ALL CONCUR. ENTERED: OCTOBER 26, 2018	2018-SC-000539-D	JEFFERSON
TIMONTE HARRIS V. COMMONWEALTH OF KENTUCKY ENTERED: OCTOBER 15, 2018	2018-SC-000554-D	OLDHAM
SHAWN TIGUE V. HON. ROBERT V. COSTANZO, JUDGE, BELL CIRCUIT COURT, ET AL. ENTERED: SEPTEMBER 28, 2018	2018-SC-000447-MR	FROM COURT OF APPEALS

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS

COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND
FAMILY SERVICES, ETC. V.
LETTIE SEXTON, ETC., ET AL.

[2016-SC-000529-DG](#)
TO BE PUBLISHED

HARLA

AND

COVENTRY HEALTH AND LIFE
INSURANCE, ETC. V.
LETTIE SEXTON, ETC., ET AL.

[2016-SC-000534-DG](#)
TO BE PUBLISHED

HARLAN

AND

LETTIE SEXTON, ETC. V.
COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND
FAMILY SERVICES, ETC.

[2016-SC-000540-DG](#)
TO BE PUBLISHED

HARLAN

AND

COVENTRY HEALTH AND LIFE
INSURANCE V.
LETTIE SEXTON, ETC., ET AL.

[2017-SC-000095-DG](#)
TO BE PUBLISHED

HARLAN

**ORDER CORRECTED THE OPINION OF
THE COURT RENDERED SEPTEMBER 27,
2018, BY SUBSTITUTION OF THIS OPINION
IN LIEU OF THE ORIGINAL OPINION.**

ENTERED: SEPTEMBER 27, 2018

DEPARTMENT OF REVENUE, FINANCE
AND ADMINISTRATION CABINET V.
MARK F. SOMMER, ET AL.
**THE VOTE OF THE SIX MEMBERS OF THIS
COURT PARTICIPATING IN THE
DETERMINATION OF THIS APPEAL BEING
EQUALLY DIVIDED, PURSUANT TO SCR 1.020,
THE OPINION OF THE COURT OF APPEALS
HEREBY STANDS AFFIRMED.**

2017-SC-000071-DG

FRANKLIN

MINTON, C.J., KELLER AND WRIGHT, JJ.,
WOULD AFFIRM THE OPINION OF THE COURT
OF APPEALS. CUNNINGHAM, HUGHES AND
VENTERS, JJ., WOULD REVERSE THE OPINION
OF THE COURT OF APPEALS. VANMETER, J.,
NOT SITTING.

ENTERED: NOVEMBER 1, 2018

SUPREME COURT OF KENTUCKY

NOVEMBER 1, 2018 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS

D & L MINING COMPANY V. JIMMY HENSELY, ET AL. ORDER TO REMAND THIS ACTION TO AN ADMINISTRATIVE LAW JUDGE FOR APPROVAL OF THE SETTLEMENT. VANMETER, VENTERS, WRIGHT AND CUNNINGHAM, JJ., SITTING. ALL CONCUR. ENTERED: OCTOBER 26, 2018	2018-SC-000221-WC	FROM COURT OF APPEALS
CIRCUIT COURT JUDGE V. KENTUCKY JUDICIAL CONDUCT COMMISSION ORDER DENIED MOTION TO RECONSIDER. MINTON, C.J.; HUGHES, KELLER, VANMETER, VENTERS, AND WRIGHT, JJ., CONCUR. CUNNINGHAM, J., NOT SITTING. ENTERED: NOVEMBER 1, 2018	2018-SC-000268-RR	IN SUPREME COURT
KENTUCKY EMPLOYEES RETIREMENT SYSTEM, ET AL. V. SEVEN COUNTIES SERVICES, INC. ORDER GRANTED CERTIFICATION OF THE LAW. ALL SITTING. ALL CONCUR. ENTERED: NOVEMBER 1, 2018	2018-SC-000461-CL	FEDERAL
COMMONWEALTH OF KENTUCKY, CABINET FOR ECONOMIC DEVELOPMENT V. THE COURIER-JOURNAL, INC. ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR EMERGENCY INTERLOCUTORY RELIEF. ALL SITTING. ALL CONCUR. ENTERED: NOVEMBER 1, 2018	2018-SC-000572-I	FRANKLIN