

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

149. WILLIAM MCLEMORE V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY JUSTICE WRIGHT –
AFFIRMING
MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR.
NICKELL, J. NOT SITTING.
- [2017-SC-000293-MR](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
Murder, First-Degree Assault, and First-Degree Wanton Endangerment-35 years. Admission of evidence that one of the co-defendants had been shot in the months leading up to the murder was proper. Impeachment witness had a Fifth Amendment right not to testify. Right to speedy trial was not violated.

150. CHRISTOPHER CULVER V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY JUSTICE HUGHES –
AFFIRMING
MINTON, C.J., HUGHES, KELLER, NICKELL, VANMETER AND WRIGHT, JJ., CONCUR.
LAMBERT, J., NOT SITTING.
- [2017-SC-000568-DG](#) NELSON
TO BE PUBLISHED

Questions Presented:
First-Degree Wanton Endangerment, and First-Degree Fleeing or Evading Police. Defendant who sped during a nighttime police chase, but did not otherwise drive erratically, created a substantial risk of death or serious physical injury sufficient for a first-degree wanton endangerment charge and a fleeing or evading charge.

151. RONALD BULLITT, JR. V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY JUSTICE HUGHES –
AFFIRMING
MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR.
NICKELL, J. NOT SITTING.
- [2018-SC-000190-MR](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
First Degree Rape, and PFO 1 – 20 years. Sufficient evidence was presented to find defendant guilty of being a first-degree persistent felony offender (PFO 1), based on an out-of-state statutory rape conviction. Trial court did not err in denying the motion to suppress defendant's statements to the police.

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

152. PRESTON WRIGHT V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE LAMBERT– AFFIRMING**
MINTON, C.J., HUGHES, KELLER,
LAMBERT, VANMETER AND
WRIGHT, JJ., CONCUR.
NICKELL, J. NOT SITTING.

[2018-SC-000237-MR](#)
TO BE PUBLISHED

BARREN

Questions Presented:
First Degree Sodomy, victim under twelve years old, - 45 years. Jury. Verdict. Issue of juror's failure to disclose that she went to school with defendant's sister-in-law during *voir dire* was not properly preserved for appellate review. Trial court did not abuse its discretion by dismissing a juror as an alternate instead of declaring a mistrial. Trial court did not coerce the jury into reaching a verdict by issuing two *Allen* charges.

153. GENARO HERRERA HERNANDEZ V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE VANMEER – AFFIRMING**
MINTON, C.J., HUGHES, KELLER,
LAMBERT, VANMETER AND
WRIGHT, JJ., CONCUR.
NICKELL, J. NOT SITTING.

[2018-SC-000492-DG](#)
TO BE PUBLISHED

JEFFERSON

Questions Presented:
Court Interpreter. Fees. KRS 30A.415. In cases where an interpreter is providing services out of court, the agency requiring the service of the interpreter shall be responsible for payment.

154. RICHARD D. FLOYD, IV, M.D., ET AL.
V. CHARLOTTE A. NEAL, ETC.
**OPINION OF THE COURT BY
JUSTICE LAMBERT –
REVERSING**
MINTON, C.J.; HUGHES, KELLER,
LAMBERT, VANMETER, AND
WRIGHT, J.J.; SITTING. MINTON,
C.J., HUGHES, KELLER, LAMBERT,
AND VANMETER, J.J., CONCUR.
WRIGHT, J., DISSENTS BY
SEPARATE OPINION.
NICKELL, J., NOT SITTING.

[2018-SC-000277-DG](#)
TO BE PUBLISHED

FAYETTE

Questions Presented:
Jury Selection. Preservation of Error. Litigant did not properly preserve for appellate review the alleged error that a trial court failed to strike a juror for cause. A one-to-one ratio of for cause strikes to would-be peremptory strikes is required to preserve a for cause strike error for review. *Sluss v. Commonwealth* overruled.

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

155. PNC BANK, NATIONAL ASSOCIATION V. HONORABLE BRIAN C. EDWARDS, JUDGE JEFFERSON CIRCUIT COURT AND HOPE BOYD, ETC., ET AL. **OPINION OF THE COURT BY JUSTICE VANMETER – REVERSING** ALL SITTING. ALL CONCUR.
- [2019-SC-000183-MR](#) JEFFERSON
TO BE PUBLISHED
- Questions Presented:**
Writ of Prohibition. Trusts. Subject Matter Jurisdiction over Breach of Trust Claims. District court has exclusive jurisdiction of all breach of trust claims arising out of a KRS 386B8-180 proceeding.

156. STATE OF OHIO AND JOSEPH W. TESTA, TAX COMMISSIONER OF OHIO V. GREAT LAKES MINERALS, LLC **OPINION OF THE COURT BY JUSTICE KELLER – REVERSING AND REMANDING** MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, J. NOT SITTING.
- [2018-SC-000161-TG](#) GREENUP
TO BE PUBLISHED
- Questions Presented:**
Assessment of Ohio Commercial Activity Tax. Claims raised in Kentucky. State of Ohio and its Tax Commissioner, in his official capacity, are protected by sovereign immunity. Relying on the principle of comity, Tax Commissioner is also dismissed in his personal capacity.

157. MICHAEL DESPAIN V. COMMONWEALTH OF KENTUCKY **MEMORANDUM OPINION OF THE COURT – AFFIRMING** MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, J. NOT SITTING.
- [2018-SC-000198-MR](#) JEFFERSON
NOT TO BE PUBLISHED

158. LLOYD W. HAMMOND V. COMMONWEALTH OF KENTUCKY **MEMORANDUM OPINION OF THE COURT – AFFIRMING** MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, J. NOT SITTING.
- [2018-SC-000236-MR](#) JEFFERSON
NOT TO BE PUBLISHED

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

159. PAUL EVERETT TAYLOR V. [2018-SC-000343-MR](#) FAYETTE
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
MINTON, C.J., HUGHES, KELLER,
LAMBERT, VANMETER AND
WRIGHT, JJ., CONCUR.
NICKELL, J. NOT SITTING.
160. JUDY CONSTRUCTION V. [2018-SC-000460-WC](#) FROM COURT
SHAWN SMITH, ET AL. **NOT TO BE PUBLISHED** OF APPEALS
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
MINTON, C.J., HUGHES, KELLER,
LAMBERT AND WRIGHT, JJ., CONCUR.
VANMETER, J., CONCURS IN RESULT
ONLY WITHOUT SEPARATE OPINION.
NICKELL, J. NOT SITTING.
161. COMMONWEALTH OF KENTUCKY, [2018-SC-000550-DG](#) PIKE
CABINET FOR HEALTH AND FAMILY **NOT TO BE PUBLISHED**
SERVICES V.
HONORABLE KELSEY E. FRIEND, JR.,
PIKE DISTRICT JUDGE AND ANGELA
BENTLEY AND PATRICK CASEY
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
MINTON, C.J., HUGHES, KELLER,
NICKELL, VANMETER AND
WRIGHT, JJ., CONCUR.
LAMBERT, J., NOT SITTING.
162. MICHAEL DAVIDSON V. [2018-SC-000659-MR](#) SCOTT
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
MINTON, C.J., HUGHES, KELLER,
LAMBERT, VANMETER AND
WRIGHT, JJ., CONCUR.
NICKELL, J. NOT SITTING.

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

163. PHILLIP WAYNE MATTINGLY V. COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – AFFIRMING
MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, J. NOT SITTING. [2019-SC-000107-MR](#) ADAIR
NOT TO BE PUBLISHED
164. ARTHUR MONKS V. JACK COOPER TRANSPORT, ET AL.
MEMORANDUM OPINION OF THE COURT – AFFIRMING
MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, J. NOT SITTING. [2019-SC-000160-WC](#) FROM COURT OF APPEALS
NOT TO BE PUBLISHED
165. KROGER V. BETTY JO ROBINSON, ET AL.
MEMORANDUM OPINION OF THE COURT – REVERSING AND REINSTATING
MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, J. NOT SITTING. [2019-SC-000264-WC](#) FROM COURT OF APPEALS
NOT TO BE PUBLISHED
166. JEFFREY ROWLAND V. COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE COURT – DISMISSING
MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, JJ., NOT SITTING. [2018-SC-000631-MR](#) CLARK
NOT TO BE PUBLISHED

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

OPINION AND ORDER – DECEMBER 19, 2019

KENTUCKY BAR ASSOCIATION V. MAUREEN ANN SULLIVAN ORDER DENYING IMMEDIATE SUSPENSION WITH DIRECTIONS. MINTON, C.J., HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., CONCUR. NICKELL, JJ., NOT SITTING.	2019-SC-000525-KB	IN SUPREME COURT
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OPINION AND ORDER – DECEMBER 12, 2019

GARY HOUCHEMS, ET AL. V. ANDY BESHEAR, ETC., ET AL. ORDER DENYING INTERLOCUTORY RELIEF PURSUANT TO CR 65.09(3). ALL SITTING. ALL CONCUR.	2019-SC-000715-I	IN SUPREME COURT
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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2019**

COMMONWEALTH OF KENTUCKY V. LEECOLE MITCHELL	2019-SC-000087-DG	FAYETTE
COMMONWEALTH OF KENTUCKY V. BOBBIE COLLINSWORTH	2019-SC-000132-DG	KENTON
PERRY PUCKETT V. CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	2019-SC-000282-DG	FRANKLIN
JEFFERSON COUNTY SHERIFF'S OFFICE V. KENTUCKY RETIREMENT SYSTEMS NICKELL, J., NOT SITTING	2019-SC-000315-DG	FRANKLIN
COMMONWEALTH OF KENTUCKY V. JARED MCCARTHY	2019-SC-000380-DG	DAVIESS
CITY OF VILLA HILLS, KENTUCKY V. KENTUCKY RETIREMENT SYSTEMS NICKELL, J., NOT SITTING.	2019-SC-000434-DG	FRANKLIN

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

LINDSEY WILSON V. COMMONWEALTH OF KENTUCKY	2019-SC-000454-DG	FAYETTE
UNIVERSITY OF KENTUCKY V. KERNEL PRESS, INC. D/B/A THE KENTUCKY KERNEL	2019-SC-000468-DG	FAYETTE
KAY SHELTON, ET AL. V. AMY HOLTKAMP LAMBERT, J., NOT SITTING.	2019-SC-000501-D	ROCKCASTLE
UPPER POND CREEK VOLUNTEER FIRE DEPARTMENT, INC. V. RONNIE KINSER, ET AL. NICKELL, J., NOT SITTING.	2019-SC-000563-DG	PIKE

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
DECEMBER 13, 2019**

CHRISTOPHER KOTERAS V. COMMONWEALTH OF KENTUCKY NICKELL, J., NOT SITTING.	2019-SC-000035-D	JESSAMINE
GEORGE CARPENTER V. WAL-MART STORES EAST, L.P. D/B/A WALMART NICKELL, J., NOT SITTING.	2019-SC-000117-D	JEFFERSON
ASHLAND HOSPITAL CORPORATION D/B/A KING'S DAUGHTERS MEDICAL CENTER V. CALEB KNIPP, BY AND THROUGH HIS NEXT FRIEND ANGELA KNIPP KELLER, J., WOULD GRANT.	2019-SC-000123-D	BOYD
SCOTT L. WIDNER V. COMMONWEALTH OF KENTUCKY	2019-SC-000144-D	HARDIN
JEREMY S. WELCH V. COMMONWEALTH OF KENTUCKY	2019-SC-000145-D	MEADE

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

STEPHEN SCOTT KINCER V. COMMONWEALTH OF KENTUCKY WRIGHT, J., NOT SITTING.	2019-SC-000151-D	LETCHER
HELLIER MANOR APARTMENTS, LTD. V. CITY OF PIKEVILLE, KY LAMBERT, J., NOT SITTING.	2019-SC-000167-D	PIKE
LAW-WAL, L.L.C., ET AL. V. ROBERT R. WALLACE	2019-SC-000176-D	GALLATIN
RAMON A. GONZALEZ V. COMMONWEALTH OF KENTUCKY	2019-SC-000179-D	GALLATIN
ROBERT SHELTON V. COMMONWEALTH OF KENTUCKY	2019-SC-000210-D	GREENUP
MARCUS BRITT V. COMMONWEALTH OF KENTUCKY	2019-SC-000230-D	BARREN
RICHARD CLAY, ET AL. V. WESBANCO BANK, INC. F/K/A FARMERS BANK AND CAPITAL TRUST, CO., ET AL.	2019-SC-000251-D	BOYLE
ROMOCCO LAW WARREN MALONE V. COMMONWEALTH OF KENTUCKY	2019-SC-000328-D	FAYETTE
MIKAEL HUGENBERG V. COMMONWEALTH OF KENTUCKY AND MIKAEL JACKSON HUGENBERG V. COMMONWEALTH OF KENTUCKY	2019-SC-000342-D 2019-SC-000424-D	CAMPBELL CAMPBELL
GOLDEN GATE NATIONAL SENIOR CARE, LLC, ET AL. V. BARBARA RUCKER, AS EXECUTRIX OF THE ESTATE OF LORAIN BROWN	2019-SC-000354-D	FRANKLIN

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

THE ESTATE OF RALPH LAIRD, DECEASED, ET AL. V. MILLS HEALTH & REHAB CENTER, INC. LAMBERT, J., NOT SITTING.	2019-SC-000378-D	GRAVES
TROY BENNETT V. GLENN BENNETT, ET AL.	2019-SC-000383-D	MEADE
BELL HELICOPTER TEXTRON, INC. V. EMILEE DOBBS, ADMINISTRATRIX OF THE ESTATE OF HERMAN LEE DOBBS, ET AL. AND EMILEE DOBBS, AS ADMINISTRATRIX OF THE ESTATE OF HERMAN LEE DOBBS, JR. ET AL. V. BELL HELICOPTER TEXTRON, INC.	2019-SC-000387-D	CLAY
JANET A. DAVIS, ADMINISTRATRIX OF THE ESTATE OF ANTHONY DWAYNE DAVIS, DECEASED V. RONALD L. BISHOP	2019-SC-000390-D	FAYETTE
MARIN SMITH, ET AL. V. KATHERINE JORDAN, ET AL.	2019-SC-000396-D	BOONE
BILLY ADDISON V. COMMONWEALTH OF KENTUCKY NICKELL, J., NOT SITTING.	2019-SC-000398-D	TRIGG
LELAND COX, ET AL. V. JASON H. CROSS, ET AL. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. MINTON, C.J., NOT SITTING.	2019-SC-000400-D	BARREN
DANNY SWIFT V. COMMONWEALTH OF KENTUCKY	2019-SC-000446-D	GRAYSON
EDGAR ROBERT MAYHAM V. BETTY L. SPENCER	2019-SC-000447-D	JEFFERSON

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

CARL E. SMITH, M.D., F.A.A.P., PLLC, ET AL. V. JULIE LEWIS THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2019-SC-000448-D	HARLAN
RICKY MARSHALL, ET AL. V. PETRO-WRIGHT PRODUCTIONS, LLC NICKELL, J., NOT SITTING.	2019-SC-000478-D	MAGOFFIN
JIM HAMM, ET AL. V. BRITTNEY KRUGER THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2019-SC-000479-DE	MONTGOMERY
JOSHUA FOWLER V. COMMONWEALTH OF KENTUCKY	2019-SC-000488-D	JEFFERSON
SYLVESTER CLAY V. COMMONWEALTH OF KENTUCKY	2019-SC-000499-D	FRANKLIN
L.F. V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	2019-SC-000521-DE	JEFFERSON
JOE ANTHONY NOEL V. COMMONWEALTH OF KENTUCKY	2019-SC-000531-D	TRIGG
COMMONWEALTH OF KENTUCKY V. JACOB ROBERT WALKER	2019-SC-000536-D	UNION
ANN BICKETT, INDIVIDUALLY, ET AL. V. KIMMIE WILSON, ET AL.	2019-SC-000556-D	WEBSTER
SCOTT A. NELSON V. JENNIFER M. ECKLAR	2019-SC-000588-DE	KENTON

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

COURT ORDER GRANTING MOTION TO TRANSFER – NOVEMBER 5, 2019

TRAVIS DURRUM V. 2019-SC-000591-T FRANKLIN
COMMONWEALTH OF KENTUCKY
ENTERED: NOVEMBER 5, 2019

COURT ORDER DENYING MOTION TO TRANSFER – NOVEMBER 1, 2019

G.R. V. 2019-SC-000602-T WARREN
CABINET FOR HEALTH AND 2019-SC-000603-T
FAMILY SERVICES, ET AL.
ENTERED: NOVEMBER 1, 2019

COURT ORDER GRANTING MOTION TO TRANSFER – DECEMBER 19, 2019

KENTUCKY RETIREMENT SYSTEMS V. 2019-SC-000476-TG FRANKLIN
JEFFERSON COUNTY SHERIFF
MINTON, C.J.; HUGHES, KELLER,
LAMBERT, VANMETER AND WRIGHT,
J.J., CONCUR. NICKELL, J., NOT SITTING.

COURT ORDER DENYING PETITION FOR MODIFICATION - DECEMBER 19, 2019

MEREDITH L. LAWRENCE AND 2018-SC-000344-TG GALLATIN
CUT-N-SHOOT, L.L.C. V.
BINGHAM GREENBAUM DOLL, L.L.P.
ORDER CORRECTED THE OPINION OF
THE COURT RENDERED AUGUST 29, 2019,
BY SUBSTITUTION OF THIS OPINION IN
LIEU OF THE ORIGINAL OPINION.
MINTON, C.J.; HUGHES, KELLER,
LAMBERT, VANMETER AND WRIGHT,
J.J., CONCUR. NICKELL, J., NOT SITTING.

COURT ORDER DENYING PETITION FOR REHEARING - DECEMBER 19, 2019

SUPREME COURT OF KENTUCKY

DECEMBER 19, 2019 MINUTES

RELEASED: 10:00 A.M.

ORMSCO, INC. V. [2018-SC-000543-WC](#) FROM COURT
GARY BLACKBURN, ET AL. OF APPEALS
**ORDER CORRECTED THE OPINION OF
THE COURT RENDERED AUGUST 29, 2019,
BY SUBSTITUTION OF THIS OPINION IN
LIEU OF THE ORIGINAL OPINION.**
MINTON, C.J.; HUGHES, KELLER,
NICKELL, VANMETER, AND WRIGHT, JJ.,
CONCUR. LAMBERT, J., NOT SITTING.

COURT ORDERS

JAMES CHAPPELL V. 2019-SC-000627-D CAMPBELL
COMMONWEALTH OF KENTUCKY
ORDER DISMISSING
ENTERED: NOVEMBER 21, 2019

KYLE HORNBACK, ET AL. V. 2019-SC-000656-D JEFFERSON
KATINA POWELL, ET AL.
ORDER DISMISSING
ENTERED: NOVEMBER 27, 2019

CITY OF FULTON, KENTUCKY V. 2019-SC-000339-D FULTON
BUCK'S ENTERPRISES, INC., ETC.
**MOTION TO WITHDRAW THE MOTION
FOR DISCRETIONARY REVIEW IS
GRANTED.**
VANMETER, WRIGHT, HUGHES AND
KELLER, JJ., SITTING. ALL CONCUR.
ENTERED: DECEMBER 19, 2019

NATALIE NOFFSINGER V. 2019-SC-000674-D LOGAN
NAT J. NOFFSINGER, ET AL.
**MOTION FOR AN ENLARGEMENT
OF TIME IS DENIED.**
VANMETER, WRIGHT, HUGHES AND
KELLER, JJ., SITTING. ALL CONCUR.
ENTERED: DECEMBER 19, 2019