

**SUPREME COURT OF KENTUCKY**

**DECEMBER 15, 2022 RULINGS**

**RELEASED: 10:00 A.M.**

111. HALEY BELT V.  
CINCINNATI INSURANCE COMPANY

[2019-SC-0426-DG](#)  
**TO BE PUBLISHED**

BULLITT

**AND**

CINCINNATI INSURANCE COMPANY V.  
HALEY BELT

[2020-SC-0310-DG](#)  
**TO BE PUBLISHED**

BULLITT

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

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

**Questions Presented:**

Torts. Insurance. Bad Faith. Issues include whether a catering company’s commercial general liability insurer legitimately contested its obligation to cover an injury that occurred when: the catering company’s members were hosting a party at their home; the members gave their teenage son permission to give rides around the yard in the company UTV to one passenger at a time; the teenage son drove the UTV to a neighboring subdivision with three teenage passengers; and while in the subdivision, the son hit a median and overturned the UTV.

112. LAWRENCE MILLER, JR. V.  
BRITTANY BUNCH, ADMINISTRATRIX OF  
THE ESTATE OF AUTUMN RAINE BUNCH,  
ET AL.

[2021-SC-0071-DG](#)  
**TO BE PUBLISHED**

LETCHER

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

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

**Questions Presented:**

Mandy Jo’s Law (KRS 391.033 and KRS 411.137). Issues involve whether the biological father of a stillborn child can be deemed to have “willfully abandoned the care and maintenance of his . . . child.”

113. COMMONWEALTH OF KENTUCKY  
(PERSONNEL CABINET) V.  
AIMEE TIMMONS, ET AL.

[2021-SC-0271-WC](#)  
**TO BE PUBLISHED**

COURT OF  
APPEALS

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

ALL SITTING. CONLEY, HUGHES, AND  
VANMETER, JJ. CONCUR. NICKELL  
DISSENTS BY SEPARATE OPINION IN  
WHICH KELLER AND LAMBERT, JJ., JOIN.

**Questions Presented:**

Workers' Compensation. "Coming-and-Going" rule. "Traveling Employee" Exception. Issues include whether an exception applies to the traditional "coming-and-going" rule for an employee who sustained injuries as a result of a fall from her front steps on her way to work event.

114. CENTURY ALUMINUM OF KENTUCKY, GP  
V.  
DEPARTMENT OF REVENUE, FINANCE  
AND ADMINISTRATION CABINET  
COMMONWEALTH OF KENTUCKY

[2021-SC-0300-DG](#)  
**TO BE PUBLISHED**

FRANKLIN

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

ALL SITTING. ALL CONCUR. KELLER, J.  
ALSO CONCURS BY SEPARATE OPINION.

**Questions Presented:**

Taxation. Sales Tax. Manufacturers. KRS 139.470(9). Supplies Exemption. Repair or Replacement Parts Exclusion. Issues include whether items that an aluminum manufacturer must regularly purchase because they wear out during the manufacturing process are tax-exempt supplies or taxable repair or replacement parts.

115. HASAN A. SAXTON V.  
COMMONWEALTH OF KENTUCKY

[2021-SC-0353-MR](#)  
**TO BE PUBLISHED**

GRAVES

**OPINION OF THE COURT BY JUSTICE  
CONLEY - AFFIRMING IN PART AND  
REVERSING IN PART**

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

**Questions Presented:**

Criminal Law. Marsy's Law. Concealment of evidence. In this matter of right appeal, issues include whether the defendant may invoke the rights afforded to a victim or inquire whether a victim's rights may have been violated as a basis for vacating a conviction. Issues also include whether evidence was sufficient to support a conviction for tampering with evidence where the defendant drops drugs in the presence and view of police in light of this Court's decision in *Commonwealth v. Bell*, \_\_\_ S.W.3d. \_\_\_ (Ky. 2022).

116. RICO L. CAVANAUGH V.  
COMMONWEALTH OF KENTUCKY

[2021-SC-0441-MR](#)  
**TO BE PUBLISHED**

TRIGG

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

ALL SITTING. ALL CONCUR.

**Questions Presented:**

Criminal Law. Marsy's Law. Issues include whether trial court properly applied Marsy's Law when, despite invocation of the rule of separation of witnesses and objections from defense counsel, the victim of defendant's alleged criminal conduct was allowed to remain in the courtroom during the testimony of other witnesses.

117. COMMONWEALTH OF KENTUCKY V.  
ANTHONY WOODS

[2021-SC-0460-DG](#)  
**TO BE PUBLISHED**

JESSAMINE

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

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

**Questions Presented:**

Appellate Procedure. Criminal Law. DUI. Issues involve the absence of the recording of the trial from the certified record and application of *Wells v. Commonwealth*, 709 S.W.2d 847 (Ky. App. 1986).

118. COMMONWEALTH OF KENTUCKY EX REL. [2021-SC-0518-TG](#) FRANKLIN  
ATTORNEY GENERAL DANIEL CAMERON **TO BE PUBLISHED**  
**V.**  
HOLLY JOHNSON, IN HER OFFICIAL  
CAPACITY AS SECRETARY OF THE  
FINANCE AND ADMINISTRATION  
CABINET, ET AL.

**AND**

COUNCIL FOR BETTER EDUCATION, INC. [2021-SC-0519-TG](#) FRANKLIN  
ET AL. **V.** **TO BE PUBLISHED**  
HOLLY JOHNSON, IN HER OFFICIAL  
CAPACITY AS SECRETARY OF THE  
FINANCE AND ADMINISTRATION  
CABINET, ET AL.

**AND**

MICHELLE GRIMES JONES, ON BEHALF OF [2021-SC-0520-TG](#) FRANKLIN  
HERSELF AND HER MINOR CHILDREN ET. **TO BE PUBLISHED**  
AL. **V.**  
HOLLY M. JOHNSON, IN HER OFFICIAL  
CAPACITY AS SECRETARY OF THE  
FINANCE AND ADMINISTRATION  
CABINET, ET AL.

**AND**

AKIA MCNEARY, ET AL. **V.** [2021-SC-0522-TG](#) FRANKLIN  
COUNCIL FOR BETTER EDUCATION, INC., **TO BE PUBLISHED**  
ET AL.

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

ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Constitutional Law. Education Law. Tax. Special  
Legislation. Issues addressed include the  
constitutionality of certain provisions of House  
Bill 563, which created entities called “Account  
Granting Organizations,” which are permitted to  
fund certain education expenses, such as private  
school tuition and fees, for eligible students using  
a taxpayer credit program.

119. LISA THIELMEIER V.  
KENNETH THIELMEIER

[2021-SC-0532-DG](#)  
**TO BE PUBLISHED**

JEFFERSON

**OPINION OF THE COURT BY JUSTICE  
LAMBERT - AFFIRMING IN PART,  
REVERSING IN PART, AND REMANDING**

ALL SITTING. ALL CONCUR

**Questions Presented:**

Family Law. Divorce. Property  
Division. Unequal Division of Marital  
Assets. Issues include whether the family court  
abused its discretion by awarding the husband 100  
percent of the amount by which two marital assets  
increased in value during the two-and-a-half-year  
period between the parties' separation and the date  
of the decree of dissolution.

120. YAHAGI AMERICA MOLDING, INC. V.  
JULIE A. CRAINE, PH.D., ET AL.

[2021-SC-0262-WC](#)  
**NOT TO BE PUBLISHED**

COURT OF  
APPEALS

**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**

ALL SITTING. ALL CONCUR.

121. BRANDON HAMBRICK V.  
COMMONWEALTH OF KENTUCKY

[2021-SC-0401-MR](#)  
**NOT TO BE PUBLISHED**

KENTON

**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**

ALL SITTING. ALL CONCUR.

122. ELLIS POPCORN CO. C/O MATRIX  
COMPANIES, TPA V.  
ROBERT STOGNER, ET AL.

[2022-SC-0016-WC](#)  
**NOT TO BE PUBLISHED**

COURT OF  
APPEALS

**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**

ALL SITTING. ALL CONCUR.

123. HARLAN EDDIE MCINTOSH V.  
COMMONWEALTH OF KENTUCKY

[2021-SC-0465-MR](#)  
**NOT TO BE PUBLISHED**

POWELL

**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**

ALL SITTING. ALL CONCUR.

124. MICHAEL P. MOORE V. [2021-SC-0502-MR](#) GREENUP  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE  
COURT - AFFIRMING**

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

**OPINION AND ORDERS - December 15, 2022**

RICHARD DAVIS NULL V. [2022-SC-0422-KB](#) IN SUPREME  
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT

**OPINION AND ORDER SUSPENDING FOR  
1 YEAR**

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

**ORDER GRANTING CROSS MOTION FOR DISCRETIONARY REVIEW (ORAL  
ARGUMENT) - December 07, 2022**

DANIEL MORELAND V. [2022-SC-0414-DG](#) CLINTON  
COMMONWEALTH OF KENTUCKY

**ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - December 07, 2022**

LANCE CONN, ET AL. V. [2022-SC-0198-DG](#) FRANKLIN  
KENTUCKY PAROLE BOARD

COMMONWEALTH OF KENTUCKY V. [2022-SC-0304-DG](#) JEFFERSON  
PARADISE BURKHEAD

HUGH KEITH MCWHORTER, ET AL. V. [2022-SC-0354-DG](#) FAYETTE  
BAPTIST HEALTHCARE SYSTEM, INC.  
D/B/A BAPTIST HEALTH LEXINGTON

**ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - December 07, 2022**

LINDA THOMPSON, ET AL. V. [2022-SC-0308-DG](#) JEFFERSON  
SAMANTHA KILLARY

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

SAINT ELIZABETH MEDICAL CENTER, [2022-SC-0302-DG](#) BOONE  
INC., D/B/A ST. ELIZABETH FLORENCE V.  
RONALD N. ARNSPERGER, JR.

**ORDER DENYING DISCRETIONARY REVIEW - December 07, 2022**

BARBARA NOONER V. [2022-SC-0214-D](#) FRANKLIN  
KENTUCKY RETIREMENT SYSTEMS, ET  
AL.

FLORENCE BAKER, ET AL. V. [2022-SC-0226-D](#) JEFFERSON  
RACHEL KUFFNER, ET AL.

MARK CRANMER V. [2022-SC-0249-D](#) SHELBY  
COMMONWEALTH OF KENTUCKY

JEFFREY EUGENE JACKSON, JR. V. [2022-SC-0261-D](#) FAYETTE  
COMMONWEALTH OF KENTUCKY, ET AL.  
VANMETER, J., NOT SITTING.

ROYAL AUTO SALES, LLC V. [2022-SC-0267-D](#) JEFFERSON  
JUMANDA PRICE

R.L.M. V. [2022-SC-0279-DE](#) MCCracken  
D.L.N., ET AL.

**ORDER DENYING DISCRETIONARY REVIEW - December 07, 2022**

J.E. TAYLOR V. COMMONWEALTH OF KENTUCKY	<a href="#">2022-SC-0287-D</a>	GREEN
SARIN M. SHAH V. BHAJANA SARIN SHAH	<a href="#">2022-SC-0290-D</a>	FAYETTE
CURTIS LEE MAYES V. AMY ROBEY, WARDEN, ET AL.	<a href="#">2022-SC-0296-DE</a>	OLDHAM
STEPHON NEWCOMB V. COMMONWEALTH OF KENTUCKY	<a href="#">2022-SC-0300-D</a>	SCOTT
KIMBERLY JANE HIGDON V. GLENN EDWARD HIGDON	<a href="#">2022-SC-0311-D</a>	HARDIN
MEREDITH L. LAWRENCE, P.S.C., CREDITOR, ET AL. V. THE ESTATE OF ROBERT R. WALLACE, ET AL.  KELLER, J., NOT SITTING.	<a href="#">2022-SC-0315-D</a>	GRANT
JULIE LOCKE V. MATTHEW SALLEE, ET AL.	<a href="#">2022-SC-0319-D</a>	JEFFERSON
DAISY OLIVO V. LEGISLATIVE RESEARCH COMMISSION  MINTON, C.J.; AND KELLER, J., WOULD GRANT DISCRETIONARY REVIEW.	<a href="#">2022-SC-0320-D</a>	FRANKLIN
CORVELL CONLEY V. COMMONWEALTH OF KENTUCKY	<a href="#">2022-SC-0322-D</a>	HARDIN
CHARLES MUCKER, II V. KENTUCKY STATE UNIVERSITY, ET AL.	<a href="#">2022-SC-0325-D</a>	FRANKLIN



**ORDER DENYING DISCRETIONARY REVIEW - December 07, 2022**

KENNETH LONGSTREATH V. AMERICAN FAMILY INSURANCE COMPANY	<a href="#">2022-SC-0332-D</a>	KENTON
JORDAN WISE V. COMMONWEALTH OF KENTUCKY	<a href="#">2022-SC-0333-D</a>	FRANKLIN
COMMONWEALTH OF KENTUCKY V. JHAH RIZEN	<a href="#">2022-SC-0334-D</a>	MCCRACKEN
KRISTIAN COLLINS V. MIAMI VALLEY PAPER TUBE CO.  KELLER, J., WOULD GRANT DISCRETIONARY REVIEW.	<a href="#">2022-SC-0338-D</a>	GRANT
ADRIENNE HOWELL V. FATHER MALONEY'S BOYS' HAVEN, INC. D/B/A/ FATHER MALONEY'S BOYS AND GIRLS HAVEN, ET AL.	<a href="#">2022-SC-0339-D</a>	JEFFERSON
PARKING AUTHORITY OF RIVER CITY, INC. V. TODD K. BOLUS, ET AL.	<a href="#">2022-SC-0352-D</a>	JEFFERSON
B.G. V. K.G.	<a href="#">2022-SC-0420-DE</a>	JEFFERSON

**ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - December 07, 2022**

KENTUCKY ENTERPRISES, LLC V. EARLEY M. JOHNSON, II	<a href="#">2022-SC-0200-D</a>	BOURBON
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**ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - December 07, 2022**

STATE FARM AUTOMOBILE INSURANCE      [2022-SC-0234-D](#)      BOONE  
COMPANY V.  
BOBBY G. FISH, JR.

CHARLOTTE A. HOWARD, ET AL. V.      [2022-SC-0327-D](#)      HARDIN  
THE CITY OF ELIZABETHTOWN  
KENTUCKY, ET AL.

WILLIAM N. TIPTON, ET AL. V.      [2022-SC-0331-D](#)      FAYETTE  
ST. JOSEPH HEALTH SYSTEMS, INC., ET  
AL.

**ORDER DISMISSING - October 26, 2022**

ERIC L. GIBSON V.      [2022-SC-0221-D](#)      LYON  
KENTUCKY DEPARTMENT OF  
CORRECTION, ET AL.  
  
CONLEY, LAMBERT, NICKELL, AND  
VANMETER, JJ., SITTING. ALL CONCUR.

**ORDER DISMISSING - October 28, 2022**

JAMES T. JAMESON V.      [2022-SC-0370-RR](#)      IN SUPREME  
JUDICIAL CONDUCT COMMISSION      COURT  
  
MINTON, C.J.; CONLEY, HUGHES, KELLER,  
LAMBERT, AND VANMETER, JJ., SITTING.  
ALL CONCUR. NICKELL, J., NOT SITTING.

**ORDER DISMISSING – November 29, 2022**

FRANK ALEXANDER, ET AL. V.      [2022-SC-0419-D](#)      JEFFERSON  
OWNERS INSURANCE COMPANY  
  
CONLEY, HUGHES, NICKELL, AND  
VANMETER SITTING. ALL CONCUR.

MALACHI JACKSON V. COMMONWEALTH      [2022-SC-153-MR](#)      FAYETTE  
OF KENTUCKY  
  
CONLEY, HUGHES, NICKELL, AND  
VANMETER SITTING. ALL CONCUR.

**PETITION FOR REHEARING DENIED - December 15, 2022**

HENRY GRAY V.  
FRANK STEWART, ET AL.

[2020-SC-0395-DG](#)

BELL

LAMBERT, J., NOT SITTING.

TRACY SCOTT TOLER V.  
OLDHAM COUNTY FISCAL COURT, ET AL.

[2021-SC-0356-WC](#)

COURT OF  
APPEALS

**ORDER MODIFYING OPINION**

ALL SITTING. ALL CONCUR.

**ORDER WITHDRAWING - December 05, 2022**

MICHAEL BLAKE BRUMM V.  
KENTUCKY BAR ASSOCIATION

[2022-SC-0525-KB](#)

IN SUPREME  
COURT

**ORDER WITHDRAWING - December 12, 2022**

DEVIN BRANIGAN SCHENK V.  
KENTUCKY BAR ASSOCIATION

[2022-SC-0535-KB](#)

IN SUPREME  
COURT