

SUPREME COURT OF KENTUCKY

DECEMBER 14, 2023 RULINGS

RELEASED: 10:00 A.M.

125. WILLIAM KENNETH RIGGLE, SR. V.
COMMONWEALTH OF KENTUCKY

[2021-SC-0510-MR](#)
TO BE PUBLISHED

JEFFERSON

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

ALL SITTING. VANMETER, C.J.; BISIG,
CONLEY, LAMBERT, AND THOMPSON, JJ.,
CONCUR. NICKELL, J., CONCURS IN PART,
CONCURS IN RESULT ONLY IN PART, AND
DISSENTS IN PART BY SEPARATE
OPINION.

Questions Presented:

KRE 404(b). Prior Bad Acts. Bolstering.
Unanimous Verdict. In this matter of right appeal,
the Court reviews whether testimony about
uncharged acts of sexual abuse committed by
defendant violated KRE 404(b); whether
testimony from victim's school counselor was
improper bolstering testimony; whether certain
jury instructions denied the defendant of his right
to a unanimous verdict; and whether sufficient
evidence of a threat was introduced to survive
directed verdict.

126. ERIC BERRY V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0181-MR](#)
TO BE PUBLISHED

JEFFERSON

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

VANMETER, C.J.; CONLEY, KELLER,
LAMBERT, NICKELL, AND THOMPSON, JJ.,
SITTING. VANMETER, C.J.; CONLEY,
KELLER, AND LAMBERT, JJ., CONCUR.
THOMPSON, J., CONCURS IN RESULT
ONLY. NICKELL, J., CONCURS IN PART
AND DISSENTS IN PART BY SEPARATE
OPINION. BISIG, J., NOT SITTING.

Questions Presented:

Speedy Trial. COVID-19 Delay. Voluntary
Intoxication. Severance of Charges. In this matter
of right appeal, the Court reviews whether
defendant was deprived of his right to a speedy
trial due to delays caused by the COVID-19
pandemic; whether the trial court erred in failing
to instruct the jury on voluntary intoxication; and
whether charges arising from two incidents
approximately eight months apart should have
been severed for purposes of trial.

127. RUBEN JOHNSON, IV V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0185-MR](#)
TO BE PUBLISHED

JEFFERSON

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

ALL SITTING. VANMETER, C.J.; BISIG,
KELLER, LAMBERT, AND NICKELL, JJ.,
CONCUR. THOMPSON, J., CONCURS IN
RESULT ONLY.

Questions Presented:

Prior Misdemeanor Convictions. Confrontation Clause. Directed Verdict. In this matter of right appeal, the Court reviews whether the trial court erred by allowing evidence of defendant's prior misdemeanor convictions to rebut defendant's testimony that he was kindhearted. Other issues include whether introduction of law enforcement body camera video of victim's statements violated the Confrontation Clause of the U.S. Constitution; and whether defendant was entitled to directed verdict on first-degree robbery charge.

128. JAIKORIAN J. JOHNSON V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0236-MR](#)
TO BE PUBLISHED

DAVISS

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Victim Impact Statement. Palpable Error. Self-Defense. KRE 404(b). Wanton Endangerment. In this matter of right appeal, the Court reviews whether impact statement of victim's mother during sentencing phase constituted palpable error. Other issues include whether trial court properly excluded witness testimony that victim was on his way to rob another individual when defendant shot him; and whether trial court erred by denying defendant's motion for directed verdict on wanton endangerment charges.

129. GREGORY STEPHENS V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0244-MR](#)
TO BE PUBLISHED

HARLAN

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Palpable Error. Bolstering. Hearsay. Vouching. Cumulative Error. In this matter of right appeal, the Court reviews whether testimony of numerous witnesses vouching for and bolstering the victim's hearsay statements constituted palpable error; and whether numerous unpreserved errors at trial amounted to cumulative error.

130. COMMONWEALTH OF KENTUCKY V.
PARADISE BURKHEAD

[2022-SC-0304-DG](#)
TO BE PUBLISHED

JEFFERSON

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Interlocutory Appeal. KRS 22A.020(4).
Retroactive Application of Statute. KRS 635.020.
In this interlocutory criminal appeal, the Court reviews whether circuit court erred in remanding juvenile case to district court for a second juvenile transfer hearing in light of statutory amendment eliminating requirement of mandatory transfer of certain juvenile cases from district court to circuit court.

131. JOSE SANCHEZ V.
COMMONWEALTH OF KENTUCKY

[2022-SC-0385-MR](#)
TO BE PUBLISHED

WAYNE

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Bolstering. Hearsay. Authentication. Imposition of Public Defender Fees. In this matter of right appeal, the Court reviews whether admission of treating nurse's notes containing the victim's identification of defendant was reversible error. Other issues include whether trial court erred in assessing public defender fees to defendant.

132. VALETTA BROWNE V.
TIMOTHY POOLE

[2022-SC-0412-DG](#)
TO BE PUBLISHED

FAYETTE

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

ALL SITTING. ALL CONCUR.

Questions Presented:

Immunity. Jurisdiction. Bar Admissions. In this discretionary review appeal, the Court reviews whether Executive Director of Bar Admission was entitled to immunity from negligence claims brought by candidate for admission to the bar.

133. CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY V. D.W., ET AL.

[2022-SC-0521-DGE](#)
TO BE PUBLISHED

JEFFERSON

OPINION OF THE COURT BY JUSTICE CONLEY-REVERSING

ALL SITTING. VANMETER, C.J.; BISIG AND NICKELL, JJ., CONCUR. KELLER, J., CONCURS IN PART AND DISSENTS IN PART BY SEPERATE OPINION. THOMPSON, J., DISSENTS BY SEPERATE OPINION IN WHICH LAMBERT, J., JOINS.

Questions Presented:
Termination of Parental Rights. Notice of Appeal. E-Filing. Sealed Cases. KRS 625.108. In this discretionary appeal, the Court considers the timeliness of father's notice of appeal which was e-filed in a separate case as a result of not being able to e-file in the sealed termination of parental rights case from which the appeal was being taken

134. DERRICK GRAHAM, ET AL. V. SECRETARY OF STATE MICHAEL ADAMS, ET AL.

[2022-SC-0522-TG](#)
TO BE PUBLISHED

FRANKLIN

AND

COMMONWEALTH OF KENTUCKY V. DERRICK GRAHAM, ET AL.

[2023-SC-0139-TG](#)
TO BE PUBLISHED

OPINION OF THE COURT BY JUSTICE BISIG-AFFIRMING

ALL SITTING. MAJORITY OPINION OF THE COURT AFFIRMING. NICKELL, J., CONCURS IN PART, DISSENTS IN PART BY SEPARATE OPINION. KELLER, J., CONCURS IN PART, DISSENTS IN PART BY SEPARATE OPINION. CONLEY, J., DISSENTS BY SEPARATE OPINION, IN WHICH LAMBERT, J., JOINS.

Questions Presented:
Legislative Redistricting. Gerrymandering. Kentucky Constitution, Section 33. In this transferred appeal, the Court reviews whether the General Assembly's redistricting legislation amounts to unconstitutional partisan gerrymandering. Other issues include whether the appellants have standing to pursue their claims.

135. JUSTIN RADCLIFF V. COMMONWEALTH OF KENTUCKY

[2022-SC-0242-MR](#)
NOT TO BE PUBLISHED

BOONE

MEMORANDUM OPINION OF THE COURT AFFIRMING

ALL SITTING. ALL CONCUR.

136. ROBERT L. JOHNSON V. [2022-SC-0285-MR](#) BRECKINRIDGE
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT AFFIRMING**

ALL SITTING. VANMETER, C.J.; BISIG,
KELLER, LAMBERT, NICKELL, AND
THOMPSON, JJ., CONCUR. CONLEY
CONCURS IN RESULT ONLY.

137. TYLER M. JORDAN V. [2022-SC-0288-MR](#) LEWIS
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT AFFIRMING**

VANMETER, C.J.; BISIG, KELLER,
LAMBERT, NICKELL, THOMPSON, JJ.,
SITTING. VANMETER, C.J.; BISIG, KELLER,
LAMBERT, JJ., CONCUR. THOMPSON, J.,
CONCURS IN RESULT ONLY. NICKELL, J.,
DISSENTS BY SEPARATE OPINION.
CONLEY, J., NOT SITTING.

138. ALLEN WAYNE HATCHER V. [2022-SC-0336-MR](#) EDMONSON
HONORABLE PHILLIP PATTON, ET AL. **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT AFFIRMING**

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

139. CHASE ALLEN SIMMONS V. [2022-SC-0411-MR](#) DAVIESS
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT AFFIRMING**

ALL SITTING. ALL CONCUR.

140. NATHANIEL AARON HARPER V. [2022-SC-0497-MR](#) FAYETTE
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**

**MEMORANDUM OPINION OF THE
COURT AFFIRMING**

ALL SITTING. ALL CONCUR.

141. MS COMPANIES V. [2023-SC-0040-WC](#) COURT OF
JONATHAN HAWK, ET AL. **NOT TO BE PUBLISHED** APPEALS

**MEMORANDUM OPINION OF THE
COURT REVERSING AND REMANDING**

ALL SITTING. ALL CONCUR.

142. KELLY PORTER V. [2023-SC-0232-WC](#) COURT OF
AXELON, INC, ET AL. **NOT TO BE PUBLISHED** APPEALS

**MEMORANDUM OPINION OF THE
COURT AFFIRMING**

ALL SITTING. VANMETER, C.J.; BISIG,
CONLEY, LAMBERT, NICKELL, AND
THOMPSON, JJ., CONCUR. KELLER, J.,
CONCURS IN RESULT ONLY.

OPINION AND ORDERS - December 14, 2023

RICHARD BOLING V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0444-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER GRANTING
MOTION FOR NEGOTIATED SANCTION
AND IMPOSING ONE-YEAR SUSPENSION
TO BE CONSECUTIVELY SERVED WITH
PRIOR SUSPENSION**

ALL SITTING. VANMETER, C.J.; BISIG,
CONLEY, KELLER, LAMBERT, AND
NICKELL, JJ., CONCUR. THOMPSON, J.,
CONCURS IN RESULT ONLY.

OPINION AND ORDERS - December 14, 2023

INQUIRY COMMISSION V.
GARY ALAN TABLER

[2023-SC-0461-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER TEMPORARILY
SUSPENDING**

ALL SITTING. ALL CONCUR.

ANDREW NICHOLAS CLOONEY V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0478-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER GRANTING
MOTION TO RESIGN UNDER TERMS OF
DISBARMENT**

ALL SITTING. ALL CONCUR.

MARY ANN MIRANDA V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0480-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**OPINION AND ORDER GRANTING
MOTION FOR NEGOTIATED SANCTION
AND IMPOSING 181-DAY SUSPENSION
PROBATED FOR TWO YEARS**

ALL SITTING. ALL CONCUR.

ORDER GRANTING DISCRETIONARY REVIEW (ORAL ARGUMENT) - December 06, 2023

DOUGLAS HODGE V.
KENTUCKY PAROLE BOARD

[2023-SC-0091-DG](#)

KENTON

BRANDON BLAIR V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0296-DG](#)

JOHNSON

KENTUCKY PAROLE BOARD V.
TIMOTHY SHANE

[2023-SC-0364-DG](#)

FRANKLIN

OPINION AND ORDER GRANTING DISCRETIONARY REVIEW AND REMANDING - December 06, 2023

PAUL M. TAYLOR V.
DAVE DERRICK, ET AL.

[2023-SC-0298-DG](#)

KENTON

ORDER GRANTING DISCRETIONARY REVIEW (NO ORAL ARGUMENT) - December 06, 2023

DAVID VINCENT V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0311-DG](#)

METCALFE

ORDER DENYING DISCRETIONARY REVIEW - December 06, 2023

ROYDALE HOLT V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0118-D](#)

LOGAN

MICHAEL MOORE V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0227-D](#)

BOONE

RYAN MCCOY, ET AL. V.
THE TEN TEN GROUP, LLC, D/B/A
WILSON'S GROCERY, ET AL.

[2023-SC-0250-D](#)

FAYETTE

VANMETER, C.J., NOT SITTING.

GLENN CAMPBELL DRURY, ET AL. V.
DEBORAH CALLAHAN, ET AL.

[2023-SC-0258-D](#)

SCOTT

**CONLEY AND LAMBERT, JJ., WOULD
GRANT DISCRETIONARY REVIEW.**

RENA BILBRO V.
EDUCATION PROFESSIONAL STANDARDS
BOARD

[2023-SC-0259-D](#)

FRANKLIN

THE ESTATE OF MARK L. HALL, ET AL. V.
THE ESTATE OF ANDREA LAVETTE
KEEHN, ET AL.

[2023-SC-0271-D](#)

JEFFERSON

ORDER DENYING DISCRETIONARY REVIEW - December 06, 2023

WILLIE SETTLE V. [2023-SC-0272-D](#) JEFFERSON
JIMMY FRANCONIA, ET AL.

CHARLES G. MIDDLETON, III, [2023-SC-0282-D](#) JEFFERSON
INDIVIDUALLY AND IN HIS CAPACITY AS
CO-EXECUTOR OF THE ESTATE OF
LAWRENCE J. MIDDLETON, SR., ET AL. V.
COMMONWEALTH BANK AND TRUST
COMPANY, IN ITS CAPACITY AS
SUCCESSOR TRUSTEE FOR THE
LAWRENCE L. JONES, SR. TRUST UNDER
AGREEMENT DATED DECEMBER 28, 1933,
ET AL.

KENNETH BROWN V. [2023-SC-0285-D](#) OLDHAM
COMMONWEALTH OF KENTUCKY

S.C. V. [2023-SC-0289-DE](#) MERCER,
CABINET FOR HEALTH AND FAMILY
SERVICES, ET AL.

WILMA STEPP V. [2023-SC-0309-D](#) CLAY
MEMORIAL HOSPITAL, INC. D/B/A
WILLOWBROOK WOMEN'S CENTER AND
FAMILY PRACTICE, INC. D/B/A
ADVENTHEALTH

MARSHA SWAN V. [2023-SC-0310-D](#) FAYETTE
GEORGE GATEWOOD, ET AL.

CITY OF HOPKINSVILLE V. [2023-SC-0330-D](#) CHRISTIAN
RONNIE B. FIELDS, JR.

GERALD DICK V. [2023-SC-0334-D](#) PULASKI
LAKE CUMBERLAND RESORT
COMMUNITY ASSOCIATION, INC., ET AL.

ORDER DENYING DISCRETIONARY REVIEW - December 06, 2023

P.J. V. [2023-SC-0340-DE](#) GREENUP
COMMONWEALTH OF KENTUCKY,
CABINET FOR HEALTH AND FAMILY
SERVICES, ET AL.

JACKIE LAMONT NEAL V. [2023-SC-0351-D](#) JEFFERSON
COMMONWEALTH OF KENTUCKY

GUY JOSEPH TURCOTTE V. [2023-SC-0362-DE](#) BARREN
BRITTANY ELYZABETH DEMARS

**NICKELL AND THOMPSON, JJ., WOULD
GRANT DISCRETIONARY REVIEW.**

BRIAN MADDEN V. [2023-SC-0399-D](#) HARDIN
COMMONWEALTH OF KENTUCKY

TIMOTHY LAZAR V. [2023-SC-0449-DE](#) FLOYD
LINDA LAZAR (NOW OUSLEY)

ORDER DENYING DISCRETIONARY REVIEW AND DEPUBLISHING - December 06, 2023

PADUCAH CENTER FOR HEALTH AND [2023-SC-0276-D](#) MCCrackEN
REHABILITATION, LLC D/B/A
STONECREEK HEALTH AND
REHABILITATION, ET AL. V.
TERRY LANCE PENIX, AS EXECUTOR OF
THE ESTATE OF TERRY LYNN PENIX,
DECEASED, ET AL.

NICKELL, J., NOT SITTING.

PHOEBE ADKINS V. [2023-SC-0342-D](#) BOYD
LORA CONLEY

ORDER DISMISSING - November 07, 2023

DENNIS RAY PAYTON V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0233-D](#)

CALLOWAY

ORDER DISMISSING.

BISIG, CONLEY, NICKELL, AND
THOMPSON, JJ., SITTING. ALL CONCUR.

GORDON K. PERRY V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0292-D](#)

FAYETTE

ORDER DISMISSING

BISIG, CONLEY, NICKELL, AND
THOMPSON, JJ., SITTING. ALL CONCUR.

CLIFFORD VICK V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0324-D](#)

MUHLENBERG

ORDER DISMISSING

BISIG, CONLEY, NICKELL, AND
THOMPSON, JJ., SITTING. ALL CONCUR.

TERRY JONES V.
COMMONWEALTH OF KENTUCKY

[2023-SC-0335-D](#)

KENTON

ORDER DISMISSING

BISIG, CONLEY, NICKELL, AND
THOMPSON, JJ., SITTING. ALL CONCUR.

WILLIAM ROYAL PETREY V.
HON. MARY K. MOLLOY, ET AL.

[2023-SC-0421-D](#)

KENTON

ORDER DISMISSING

BISIG, CONLEY, NICKELL, AND
THOMPSON, JJ., SITTING. ALL CONCUR.

DUSTIN MORRIS, ET AL. V.
ASBURY, LP
**ORDER GRANTING JOINT MOTION
TO DISMISS**

BISIG, LAMBERT, NICKELL, AND
THOMPSON, JJ. SITTING. ALL CONCUR.

[2023-SC-0435-D](#)

GALLATIN

ORDER DENYING - December 14, 2023

JOSEPH F. SMITH V.
COMMONWEALTH OF KENTUCKY

**ORDER DENYING PETITION FOR
REHEARING**
ALL SITTING. ALL CONCUR.

[2021-SC-0539-MR](#)

MARION

JOYCE TURNER V.
NORTON HEALTHCARE, INC.

**ORDER DENYING PETITION FOR
REHEARING**
ALL SITTING. ALL CONCUR.

[2022-SC-0004-DG](#)

JEFFERSON,

SHAN WOLFE V.
JOE KIMMEL, ET AL.

**ORDER DENYING PETITION FOR
REHEARING**
VANMETER, C.J.; BISIG, CONLEY, KELLER,
LAMBERT, AND THOMPSON, JJ., SITTING.
ALL CONCUR. NICKELL, J., NOT SITTING.

[2022-SC-0070-DG](#)

MCCRACKEN

ALEX RYAN PAYNE V.
COMMONWEALTH OF KENTUCKY

**ORDER DENYING PETITION FOR
REHEARING AND MODIFICATION**
ALL SITTING. ALL CONCUR.

[2022-SC-0120-MR](#)

DAVISS

ORDER DENYING - December 14, 2023

COMMONWEALTH OF KENTUCKY EX REL.
ATTORNEY GENERAL DANIEL CAMERON
V.
KENTUCKY EDUCATION ASSOCIATION,
ET AL.

[2023-SC-0418-T](#)

FRANKLIN

**ORDER DENYING MOTION TO
TRANSFER**

ALL SITTING. VANMETER, C.J.; BISIG,
LAMBERT, NICKELL, THOMPSON,
JJ., CONCUR.

CONLEY AND KELLER, JJ., WOULD GRANT
TRANSFER.

ORDER WITHDRAWING - November 02, 2023

JUSTUS WAYNE THOMAS V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0487-KB](#)

IN SUPREME
COURT

GABRIELLA CELLAROSI DANIEL V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0488-KB](#)

IN SUPREME
COURT

MICHAEL KENNETH FERRIS V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0489-KB](#)

IN SUPREME
COURT

ORDER WITHDRAWING - November 09, 2023

JASON MATTHEW KITTREDGE V.
KENTUCKY BAR ASSOCIATION

[2023-SC-0508-KB](#)

IN SUPREME
COURT