

**KENTUCKY SUPREME COURT  
AUGUST 2024**

**EMPLOYMENT LAW:**

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

**2022-SC-0112-DG**

**August 22, 2024**

**AND**

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

**2022-SC-0369-DG**

**August 22, 2024**

Opinion of the Court by Justice Keller. VanMeter, C.J.; Bisig, Conley, Keller, Lambert, and Nickell, JJ., sitting. VanMeter, C.J.; Bisig and Lambert, JJ., concur. Conley, J., concurs in result only by separate opinion. Nickell, J., dissents by separate opinion. Thompson, J., not sitting.

Dezmon Moore was terminated from his employment with the Louisville Metro Police Department (LMPD) after the Chief of Police determined that Moore had committed multiple violations of police department Standard Operating Procedures (SOPs). Moore thereafter appealed his termination to the Louisville Metro Police Merit Board (Merit Board) which affirmed his termination. Moore sought judicial review of the agency’s decision and this Court granted discretionary review of his subsequent appeal. On appeal, Moore argued that the Merit Board had improperly relied on evidence from Moore’s internal employee file which contained expunged materials referencing his prior criminal charges. Moore also argued that the Merit Board violated his due process rights by improperly considering transcribed copies of witness statements without first requiring those witnesses to give live testimony.

The Kentucky Supreme Court held that any materials inside Moore’s internal employee file maintained by LMPD were not subject to the statutes regarding expungement of criminal records. Although Moore’s employee records referencing his prior criminal charges were in the possession of an agency subject to an expungement order, that employee file was not a “criminal record” or “law enforcement record” of the type contemplated by the expungement statutes. The Supreme Court also held that the statutes delineating the procedures of Merit Board proceedings did not guarantee Moore the right to confront witnesses against him. The Court further held that the Merit Board did not violate Moore’s constitutional due process rights by

considering transcribed statements from witnesses without requiring those witnesses to testify at Moore’s in-person hearing. Given the existing procedural due process afforded to Moore by the relevant statutes, there was little probable value in requiring live testimony by witnesses with cross-examination prior to the admission of the witness’s prior statements. The Supreme Court affirmed the decision of the Court of Appeals.

**JONATHAN HARDIN V. LOUISVILLE/JEFFERSON COUNTY  
METROPOLITAN GOVERNMENT, ET AL.**

**2022-SC-0197-DG**

**August 22, 2024**

Opinion of the Court by Justice Keller. VanMeter, C.J.; Conley, Keller, Lambert, Nickell, and Thompson, JJ., sitting. VanMeter, C.J.; Lambert and Nickell, JJ., concur. Conley and Thompson, JJ., concur in result only by separate opinion. Bisig, J., not sitting.

Jonathan Hardin was terminated from his employment with the Louisville Metro Police Department (LMPD) after the Chief of Police determined that Hardin had committed multiple violations of police department Standard Operating Procedures (SOPs). Hardin thereafter appealed his termination to the Louisville Metro Police Merit Board (Merit Board) which affirmed his termination. Hardin sought judicial review of the agency’s decision and this Court granted discretionary review of his subsequent appeal. On appeal, Hardin argued that the Merit Board had improperly relied on evidence from Hardin’s internal employee file which contained expunged materials referencing his prior criminal charges. Hardin also argued that the Merit Board violated his due process rights by improperly considering transcribed copies of witness statements without first requiring those witnesses to give live testimony.

The Kentucky Supreme Court held that any materials inside Hardin’s internal employee file maintained by LMPD were not subject to the statutes regarding expungement of criminal records. Although Hardin’s employee records referencing his prior criminal charges were in the possession of an agency subject to an expungement order, that employee file was not a “criminal record” or “law enforcement record” of the type contemplated by the expungement statutes. The Supreme Court also held that the statutes delineating the procedures of Merit Board proceedings did not guarantee Hardin the right to confront witnesses against him. The Court further held that the Merit Board did not violate Hardin’s constitutional due process rights by considering transcribed statements from witnesses without requiring those witnesses to testify at Hardin’s in-person hearing. Given the existing procedural due process afforded to Hardin by the relevant statutes, there was little probable value in requiring live testimony by witnesses with cross-examination prior to the admission of the witness’s prior statements. The Supreme Court affirmed the decision of the Court of Appeals.

**ADMINISTRATIVE LAW:**

**BOONE DEVELOPMENT, LLC, ET AL. V. NICHOLASVILLE BOARD OF ADJUSTMENT, ET AL.**

**2022-SC-0476-DG**

**August 22, 2024**

**AND**

**BOONE DEVELOPMENT, LLC, ET AL. V. COMMONWEALTH OF KENTUCKY EX REL. RUSSELL COLEMAN, ATTORNEY GENERAL, ET AL.**

**2022-SC-0477-DG**

**August 22, 2024**

Opinion of the Court by Justice Nickell. All sitting. VanMeter, C.J., concurs in part and dissents in part by separate opinion in which Bisig and Keller, JJ., join. Conley, J., concurs in part and dissents in part by separate opinion in which Lambert and Thompson, JJ., join.

Boone Development filed a declaratory judgment action seeking a declaration of rights that it did not have to build a road extension and bridge as was being required by the letter of credit demands of the Nicholasville Planning Commission (NPC), arguing such improvements would be located almost entirely on land it did not own. The NPC asserted Boone had not exhausted its administrative remedies which Boone countered by arguing the NPC had decided nothing. The trial court agreed with Boone and instructed the NPC to make a decision. The NPC complied and issued an order affirming its prior development requirements including construction of the road extension and bridge. The Board of Adjustment affirmed, and, on appeal, the Jessamine Circuit Court affirmed the Board. Boone appealed and the Court of Appeals concluded it lacked jurisdiction to hear the case because Boone failed to post the statutorily required appeal bond. The Supreme Court granted discretionary review.

Initially, the Court noted in the contemporaneously rendered decision in *Bluegrass Trust v. Lexington-Fayette Urban County Gov't*, \_\_\_ S.W.3d \_\_\_, 2024 WL 3929726 (Ky. 2024), the appeal bond provisions of KRS 100.3471 were held to impose an unconstitutional burden on the right to appeal and therefore concluded the Court of Appeals erred in determining it lacked jurisdiction to hear the matter.

On the merits, the Court first concluded the Board acted within its legislatively granted powers as KRS 100.257 and 100.261 provide a clear grant of power to the Board to hear appeals from decisions of the NPC. Next, Boone's assertion it was denied due process was rejected as the Board gave it a hearing, took and weighed evidence, made a finding based on that evidence, and issued an order

supported by the evidence. Nothing more was required to satisfy procedural due process and the Board did not act arbitrarily. The Court also rejected Boone's assertion it presented such strong evidence to the Board that the record compelled a conclusion the Board's decision was unreasonable and arbitrary. After thoroughly reviewing the evidence presented, the Court concluded Boone's proof was not so overwhelming that no reasonable person could reach the same conclusion as the Board. Thus, the trial court's decision was affirmed in all respects.

**BLUEGRASS TRUST FOR HISTORIC PRESERVATION V. LEXINGTON  
FAYETTE URBAN COUNTY GOVERNMENT PLANNING COMMISSION, ET  
AL.**

**2022-SC-0480-DG**

**August 22, 2024**

Opinion of the Court by Justice Conley. All sitting. Lambert, Nickell, and Thompson, JJ., concur. VanMeter, C.J., concurs in part and dissents in part by separate opinion in which Bisig and Keller, JJ., join.

In this case, the constitutionality of KRS 100.3471(1) was at issue. That statute imposed an appeal bond on all appeals from KRS Chapter 100 cases seeking review in the Court of Appeals. The statute allowed the judge of the circuit court to impose a bond up to \$100,000 if the appeal was thought to be taken in good faith, and up to \$250,000 if the appeal was thought to be taken in bad faith. The Court of Appeals had ruled the statute constitutional on the basis of Ky. Const. § 111(2) and *Commonwealth v. Farmer*, 423 S.W.3d 690, 692 (Ky. 2014).

The Court concluded that Ky. Const. § 115 guaranteeing one matter of right appeal in all cases civil and criminal negated the authority of the General Assembly to impose appeal bonds. Prior to the passage of that section in 1974, there was no guaranteed right of appeal from a court judgment in any case. Therefore, all appeal bonds were within the General Assembly's authority to bestow a right of appeal under whatever conditions it determined to be appropriate. With the passage of Section 115, the Court concluded that is simply not true any longer. The Court further distinguished *Farmer* as inapplicable because that case was construing the General Assembly's authority to grant a right of interlocutory appeal in certain circumstances to the Commonwealth in criminal cases. Because this case was neither criminal nor concerned an interlocutory order, *Farmer* was inapplicable.

The issue then became interpreting Sections 115 and 111(2) together. The Court ruled these provisions do not truly conflict. Section 115 is a specific right granted to all Kentuckians, while the language of Section 111(2) is a general clause that authorizes the General Assembly to create a right of appeal in those situations where a right of appeal would not exist by virtue of the

Constitution. Finally, the Court rejected the application of comity because there was no grey area difficult to define between the Court’s authority to regulate practice and procedure of the Court of Justice and the General Assembly’s authority. The Court made clear that under its Rules of Appellate Procedure the Court of Appeals had sufficient authority to address and punish frivolous appeals.

As to the underlying merits, Appellant had challenged a certificate of appropriateness to demolish a building located within the South Hill Historic District in Lexington. The Court’s review is confined to whether that action is arbitrary under Ky. Const. § 2. The specific argument of Appellant was that several experts had testified that the building in question did contribute to the historic character of South Hill and Lexington overall, and was, with some renovations, economically viable. The Court held substantial evidence supported the certificate of appropriateness because “the Commonwealth Building is not an historical landmark in the federal Register; it was not included in the original nominating form for the South Hill neighborhood as an Historic District; Ms. Yan’s testimony that the Kentucky Heritage Council did not consider the structure a contributing building; and multiple near-contemporaneous documents—the Design Review Guidelines and Downtown Lexington Building Inventory—from Lexington that also did not list the Commonwealth Building.”

**RAZ, INC., ET AL. V. MERCER COUNTY FISCAL COURT, ET AL.**

**2022-SC-0526-DG**

**August 22, 2024**

Opinion of the Court by Justice Nickell. All sitting. VanMeter, C.J., concurs in part and dissents in part by separate opinion in which Bisig and Keller, JJ., join. Conley, J., concurs in part and dissents in part by separate opinion in which Lambert and Thompson, JJ., join.

Landowners owned several parcels of land near Herrington Lake in Mercer County which were subject to deed restrictions prohibiting commercial use. Nevertheless, Landowners constructed self-storage buildings on two parcels and obtained rezoning for them. Several years later, Landowners sold an option to purchase an adjoining parcel to an entity wishing to construct a Dollar General store and subsequently obtained rezoning approval for that parcel. RAZ, Inc., a non-profit corporation formed to protect the scenic and recreational value of the Herrington Lake area, filed suit challenging the rezoning and seeking enforcement of the deed restrictions. Landowners moved to dismiss based on RAZ’s failure to previously assert the right to enforce the restrictions which operated as a waiver. RAZ moved for summary judgment, contending no material factual disputes existed relative to whether the deed restriction was waived. The trial court dismissed, finding the commercial storage business was a clear violation of the deed restrictions and RAZ had

waived enforcement of the restriction. RAZ appealed and the Court of Appeals concluded it lacked jurisdiction to hear the case because RAZ failed to file the statutorily required appeal bond. The Supreme Court granted discretionary review.

Initially, the Court noted in the contemporaneously rendered decision in *Bluegrass Trust v. Lexington-Fayette Urban County Gov't*, \_\_\_ S.W.3d \_\_\_, 2024 WL 3929726 (Ky. 2024), the appeal bond provisions of KRS 100.3471 were held to impose an unconstitutional burden on the right to appeal and therefore concluded the Court of Appeals erred in determining it lacked jurisdiction to hear the matter.

On the merits, the Court concluded RAZ was bound by its representation to the trial court that no genuine issues of fact existed regarding the waiver issue and thus the issue was purely one of law. The Court rejected RAZ's assertion the commercial storage business did not violate the deed restriction, noting the restriction prohibited any use of the land for any purpose other than farming. Further, because no objection had been lodged to the storage business and no attempt had been made to enforce the deed restriction, the trial court did not err in holding the restriction had been waived. Finally, the Court concluded the Mercer Fiscal Court's grant of rezoning was not arbitrary because its finding the physical and economic character of the area had significantly changed was supported by substantial evidence.

## **JUDICIAL CONDUCT COMMISSION:**

### **JAMES T. JAMESON V. JUDICIAL CONDUCT COMMISSION**

**2022-SC-0496-RR**

**August 22, 2024**

Opinion of the Court by Justice Lambert. VanMeter, C.J.; Bisig, Conley, Keller, Lambert, and Thompson, JJ., sitting. Conley and Keller, JJ., concur. Thompson, J., concurs by separate opinion. VanMeter, C.J., concurs in part and dissents in part by separate opinion in which Bisig, J., joins. Bisig, J., concurs in part and dissents in part by separate opinion. Nickell, J., not sitting.

James Jameson appealed the Judicial Conduct Commission's order and supplemental order finding that he committed seven counts of misconduct and ordering his permanent removal from office. The Kentucky Supreme Court affirmed in part and reversed in part. The Court held that SCR 4.020(2) precluded the Commission from bringing misconduct charges against a judge from an alleged abuse of his or her contempt powers absent an appellate court holding the judge had abused those powers or an allegation that the abuse was gross and persistent. The Court held that the inclusion of laypersons on the Commission did not violate the Due Process Clauses of the Kentucky and U.S.

Constitutions. Finally, while the Court held the Commission did not prove all its allegations, it proved misconduct sufficient to warrant Jameson's removal from office. However, it held that the Commission lacked the power to permanently remove a judge from office, as Section 109 of the Kentucky Constitution grants the power of impeachment solely to the General Assembly.

**EQUINE SALES COMMISSION:**

**NORMANDY FARM, LLC V. KENNETH MCPEEK RACING STABLE, INC.**

**2022-SC-0552-DG**

**August 22 2024**

Opinion of the Court by Justice Conley. Bisig, Conley, Keller, Lambert, Nickell, and Thompson, JJ., sitting. Lambert, Nickell, and Thompson, JJ., concur. Bisig, J., dissents by separate opinion in which Keller, J., joins. VanMeter, C.J., not sitting.

This case concerns whether Kenneth McPeek was owed 5% of the sales price of a horse, Daddy's Lil' Darling, sold at auction in November 2018. McPeek had brought a claim of breach of contract, breach of contract implied in fact, and quantum meruit. McPeek conceded that his contract to receive 5% commission from the horse sale was oral and not evidenced by any signed writing chargeable to Nancy Polk, the now-deceased owner of Normandy Farm, with whom the oral contract was allegedly made.

KRS 230.357(11)(a), however, provides that "No contract or agreement for payment of a commission, fee, gratuity, or any other form of compensation in connection with any sale, purchase, or transfer of an equine shall be enforceable by way of an action or defense unless: (a) The contract or agreement is in writing and is signed by the party against whom enforcement is sought[.]" The Court concluded the 5% commission was in connection with the sale of Daddy's Lil' Darling because it was causally related to the sale. If the horse was never sold, then McPeek would never be entitled to the 5% commission. Thus, the sale was a condition precedent to the oral contract. Because there was no signed writing chargeable to Normandy Farm, KRS 230.357(11) barred enforcement of the oral contract and negated McPeek's breach of contract and breach of contract implied in fact claims.

**CRIMINAL LAW:**

**DENNIS KEITH SIMS V. COMMONWEALTH OF KENTUCKY**

**2023-SC-0119-MR**

**August 22, 2024**

Opinion of the Court by Justice Keller. All sitting. VanMeter, C.J.; Bisig, Nickell, and Thompson, JJ., concur. Lambert, J., concurs in result only by separate opinion in which Conley, J., joins.

Dennis Keith Sims was charged with two counts of sexual abuse in the first degree stemming from his alleged inappropriate touching of his two minor granddaughters. Sims was ultimately convicted of both crimes, and later challenged the validity of his convictions on appeal to the Supreme Court of Kentucky. Sims alleged that (1) the trial court erred in failing to administer an oath of truthfulness to the venire panel of prospective jurors before the jury was seated; (2) that the trial court had violated his Sixth Amendment right to confrontation when it allowed the minor victims to testify in chambers, outside of Sims’s presence; (3) that the trial court erred in failing to make arrangements so that Sims and his attorney could remain in “constant audio contact” during the cross-examination of those minor witnesses; (4) that the Commonwealth had committed a discovery violation by failing to timely offer evidence of Sims’s own text messages he had sent to family while incarcerated; (5) that the trial court improperly excluded testimony from a Kentucky State Police Trooper regarding a Child Protective Services investigation into Sims’s alleged abuse; and (6) that the trial court erred in failing to grant his motion for directed verdict as to one count of sexual abuse.

The Kentucky Supreme Court affirmed the judgment of the trial court. First, the Supreme Court held that the no provision of Kentucky law required an oath of truthfulness to be administered to prospective jurors. Second, the Court held that the trial court did not abuse its discretion in permitting the child victim witnesses to testify outside of Sims’s presence, and Sims’s limited separation from his counsel during this time did not result in a complete denial of his right to the effective assistance of counsel. Third, the Court held that even if the Commonwealth had violated the discovery rules, the trial court did not abuse its discretion in admitting the evidence that was untimely shared with Sims. Fourth, the Court held that Sims had failed to properly preserve his arguments regarding the exclusion of the Kentucky State Police Trooper’s testimony. Fifth, and finally, the Court held that the Commonwealth had offered more than the mere scintilla of evidence of Sims’s sexual abuse necessary to overcome his motion for directed verdict.

## **DARRIE RUSHIN V. COMMONWEALTH OF KENTUCKY**

**2023-SC-0194-DG**

**August 22, 2024**

Opinion of the Court by Justice Thompson. All sitting. VanMeter, C.J.; Conley and Keller, JJ., concur. Nickell, J., dissents by separate opinion in which Bisig and Lambert, JJ., join.



In addition to a sentence of incarceration, Darrie Rushin was sentenced to a five-year period of postincarceration supervision. Rushin absconded during his supervision period and, during his reincarceration, was denied sentence credits pursuant to KRS 197.045 to reduce the length of his reincarceration. The Kentucky Department of Corrections and the trial court denied his petition and the Court of Appeals affirmed.

After granting discretionary review, the Supreme Court concluded that Inmates who have been reincarcerated for violating the terms of their postincarceration supervision are entitled to earn statutory sentence credits under KRS 197.045 during the period of their reincarceration for application toward the remainder of their in-custody sentence.

**WORKERS' COMPENSATION:**

**LABORATORY CORP. OF AMERICA V. HUNTER SMITH, ET AL.**

**2023-SC-0479-WC**

**August 22, 2024**

**AND**

**HUNTER SMITH V. LABORATORY CORP. OF AMERICA, ET AL.**

**2023-SC-0484-WC**

**August 22, 2024**

Opinion of the Court by Justice Nickell. All sitting. All concur.

Smith sustained acute lower back injuries when a shelving unit collapsed, striking him on the head and knocking him to the floor. Subsequent surgical intervention did not alleviate his symptoms. Examining physicians utilized different methods of assessing permanent impairment for the physical injury. The surgeon and treating physician assessed 24% impairment ratings with 5% attributable to pre-existing conditions, while the physician for the employer assessed a 10% impairment rating and attributed the entirety to pre-existing, active conditions. Smith also claimed psychological injuries. Labcorp's examining professional concluded no work-related psychological impairment existed and assessed a 0% impairment rating. Smith's examining psychologist diagnosed a Class II impairment but refrained from assessing a percentage of impairment as he was unconvinced claimant had reached maximum medical improvement (MMI) because Smith had not received treatment for his mental health issues. Several weeks later, upon learning Labcorp would not pay for mental health treatment and Smith could not afford same, the psychologist provided an addendum to his report concluding Smith was at MMI and assessing a 20% impairment rating.

The ALJ concluded Smith sustained a work-related injury but accepted the employer’s physician’s 10% overall impairment rating and Smith’s physician’s apportionment of 5% to pre-existing conditions as most appropriate. The ALJ also awarded benefits for a work-related psychological injury, accepting Smith’s psychologist’s 20% rating. Labcorp appealed and Smith cross-appealed. The Board affirmed. Both parties appealed, reasserting the same arguments presented to the Board, and the Court of Appeals affirmed.

The Supreme Court affirmed the Court of Appeals, noting the arguments presented were identical to those raised and rejected at all levels below. Both parties were merely asserting the ALJ chose the wrong expert in reaching its decision on an impairment rating. The Court concluded the reports issued by the physicians were grounded in and conformed to the *AMA Guides*. Although conflicting evidence was presented and each party advocated for a different result based on their own assessment of the proof, the ALJ properly weighed the evidence and assessed what it believed was an appropriate impairment rating. As the parties presented no new or novel questions of law, challenged no existing precedents, raised no constitutional issues, and all questions had previously been thoroughly analyzed by the lower tribunals, the case merited no further appellate oversight.

**ELECTION LAW:**

**NIRUPAMA KULKARNI V. DENNIS HORLANDER, ET AL.**

**2024-SC-0215-DGE**

**August 22, 2024**

Opinion of the Court by Justice Nickell. All sitting. VanMeter, C.J.; Conley, Keller, Lambert, and Nickell, JJ., concur. Thompson, J., concurs in part and dissents in part by separate opinion in which Bisig, J., joins. Bisig, J., dissents by separate opinion in which Thompson, J., joins.

An incumbent state Representative (“Candidate”) filed her nominating papers to appear on the ballot for the 2024 Democratic Party primary. After the filing deadline had passed, it was discovered that one of the signatories to the Candidate’s nomination was a registered Republican. A former state Representation (“Challenger”) sought to disqualify the Candidate because her nominating papers failed to include the signatures of “not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination” as required by KRS 118.125(2).

Concluding the Candidate had substantially complied with the statutory requirements, the trial court denied the Challenger’s petition. The Court of

Appeals reversed. On discretionary review, the Supreme Court affirmed the Court of Appeals.

As a preliminary matter, the Supreme Court concluded the right to appeal exists where a trial court denies a challenge to a candidate's bona fides under KRS 118.176. Turning to the merits, the Supreme Court further held the requirement that nominating papers contain at least two signatures of registered voters from the same party as the candidate was mandatory and subject to strict compliance. Thus, neither good faith nor substantial compliance can operate to cure this material defect after the expiration of the filing deadline. Because the signatory was not a member of the same party as the candidate at the time the nomination papers were signed, the Candidate did not comply with the requirements of KRS 118.125(2), and the failure to do so was fatal to her candidacy.

**ATTORNEY DISCIPLINE:**

**IN RE: BRITTANY LAWRYN OLIVER**

**2024-SC-0098-KB**

**August 22, 2024**

Opinion and Order. All sitting. All concur.

Brittany Lawryn Oliver failed to respond to the charges of the Kentucky Bar Association Inquiry Commission and a default case pursuant to SCR 3.167 proceeded against her. In the representation giving rise to the charges against her, Oliver represented three couples who retained her to pursue filing bankruptcy actions. Oliver did not file the bankruptcy actions, failed to properly communicate with her clients, did not refund some of her clients' unearned fees, and failed to respond to the charges. Because she had failed to respond to the charges, the Supreme Court indefinitely suspended Oliver in *Ky. Bar Ass'n v. Oliver*, 681 S.W.3d 77 (Ky. 2023). In the present case, the KBA Board of Governors found Oliver violated multiple counts of SCR 3.130(1.3), (1.4), (1.16)(d), and (8.1) recommended Oliver be suspended from the practice of law for 181 days and that she be required to attend and successfully complete the Ethics and Enhancement Professionalism Program, participate in the Kentucky Lawyers Assistance Program, refund unearned fees, and pay the costs of the proceeding against her. Neither Oliver nor the KBA sought review of the Board's decision from the Supreme Court, therefore, the Court adopted the Board's recommendation pursuant to SCR 3.370(10).

**IN RE: RONALD COLEMAN TAYLOR, JR.**

**2024-SC-0165-KB**

**August 22, 2024**

Opinion and Order. All sitting. All concur.

The Inquiry Commission of the Kentucky Bar Association petitioned the Supreme Court to temporarily suspend Ronald Coleman Taylor, Jr., from the practice of law. Taylor had been fired from a job at a law firm for belligerent behavior toward clients and other employees. A few months later, he drove up to a group of employees of the law firm blaring loud music and pulled a baseball bat and axe from the trunk of his car. He stood in the road and screamed for the partner of the firm to come face him. He was covered in what he referred to as “war paint” on the occasion. On the same day, Taylor’s wife obtained an EPO against him and he was ordered to surrender his firearms. Taylor then texted his former assistant threatening the partner at the firm in very graphic and disturbing terms. The Supreme Court found probable cause to believe Taylor’s conduct poses a substantial threat of harm to his clients or the public and that he is mentally disabled or addicted to intoxicants or drugs. As such, the Court temporarily suspended him from the practice of law pursuant to SCR 3.165(1).

**IN RE: GERALD DOUGLAS DEROSSETT**

**2024-SC-0194-KB**

**August 22, 2024**

Opinion and Order. All sitting. All concur.

Gerald Douglas DeRossett failed to file answers to two charges brought by the Inquiry Commission of the Kentucky Bar Association. Therefore, he was indefinitely suspended from the practice of law pursuant to SCR 3.167.

**IN RE: BARRY NATHANIEL SULLIVAN**

**2024-SC-0196-KB**

**August 22, 2024**

Opinion and Order. All sitting. All concur.

Barry Nathaniel Sullivan filed a motion asking the Supreme Court to enter a negotiated sanction pursuant to SCR 3.480(2) to resolve a pending disciplinary proceeding against him. The Kentucky Bar Association did not object and the Court agreed the proposed sanction was mostly adequate with the exception of the amount of a refund due to a former client. In the underlying case, the Inquiry Commission of the Kentucky Bar Association had charged Sullivan with violating SCR 3.130(1.5)(a) for charging an unreasonable fee; (1.15)(e) for withdrawing unearned fees from his IOLTA account; (1.16)(d) for failing to refund unearned fees when the representation terminated; (3.4)(c) for knowingly disobeying an obligation under the rules of a tribunal; (8.1)(a) for knowingly making a false statement of material fact in connection with a disciplinary proceeding; and (8.4)(c) for engaging in conduct involving

dishonesty, fraud, deceit, or misrepresentation. The parties agreed to dismiss the count regarding Sullivan withdrawing unearned fees from his IOLTA account. Otherwise, Sullivan admitted to the other counts pursuant to the terms of his negotiated sanction with the KBA. Under the terms of the sanction, Sullivan was suspended from the practice of law for 181 days, probated subject to conditions.

**IN RE: RICHARD DAVIS NULL**

**2024-SC-0197-KB**

**August 22, 2024**

Opinion and Order. VanMeter, C.J.; Bisig, Conley, Keller, Lambert, and Thompson, JJ., sitting. All concur. Nickell, J., not sitting.

In two open files, Richard David Null began representing clients, but then stopped showing up or answering their calls. He was charged with violating various rules of professional conduct, including multiple counts of violating SCR 3.130(1.3), (1.4)(a)(3) and (4), (1.16)(d) and (8.4)(c). Null was eventually served through the Kentucky Bar Association's Executive Director. The KBA's Board of Governors determined Null was guilty of violating each of the counts of professional misconduct and recommended he be suspended for two years and pay restitution to his clients. Noting Null's long disciplinary history, the Supreme Court rejected the recommended sanction, opting instead to indefinitely suspend Null from the practice of law pursuant to SCR 3.167(1).

**IN RE: SCOTT BLAIR**

**2024-SC-0260-KB**

**August 22, 2024**

Opinion and Order. All sitting. All concur.

Scott Blair, the former Commonwealth's Attorney of Perry County, filed a motion to resign from the Kentucky Bar Association under terms of permanent disbarment pursuant to SCR 3.480(3). Blair pleaded guilty to wire fraud in federal court and was automatically suspended from the practice of law in the Commonwealth. Related to the federal case against him, Blair admitted he took bribes for recommending probation and drug court and not recommending probation violations in exchange for drugs and sexual favors. The Supreme Court accepted Blair's motion and permanently disbarred him from the practice of law in the Commonwealth of Kentucky.

**IN RE: CHRISTOPHER JAMES MILLS**

**2024-SC-0261-KB**

**August 22, 2024**

Opinion and Order. All sitting. VanMeter, C.J.; Bisig, Conley, Keller, and Nickell, JJ., concur. Thompson, J., concurs in result only. Lambert, J., dissents without opinion.

Christopher James Mills moved the Supreme Court to impose a negotiated sanction pursuant to SCR 3.480(2). The Court agreed and imposed the negotiated sanction of a probated thirty-day suspension from the practice of law with conditions and a refund of unearned fees. A client retained Mills to resolve the ownership of a piece of property that had belonged to the client's late father. While Mills did undertake some actions, he did not properly communicate with his client and keep her apprised of the case. Mills also failed to perform all the tasks for which the client had paid him and failed to return the unearned portions of his fee. Mills admitted he violated SCR 3.130(1.3) by failing to act with diligence and promptness; (1.4)(a) by failing to keep his client reasonably informed and failing to comply with reasonable requests for information; (1.16)(d) by failing to return unearned fees when representation terminated; and (3.3)(a) by knowingly making a false statement of fact to a tribunal or offering evidence which he knew to be false.

**IN RE: RYAN RICHARD STITH**

**2024-SC-0290-KB**

**August 22, 2024**

Opinion and Order. All sitting. All concur.

Ryan Richard Stith has been suspended from the practice of law in the Commonwealth of Kentucky since 2020 and applied for reinstatement pursuant to SCR 3.502. The Character and Fitness Committee recommended Stith's reinstatement with conditions and the Supreme Court agreed and adopted the Committee's recommendation. Stith was initially suspended indefinitely for failing to respond to charges of professional misconduct and was then found guilty of multiple violations and the Court suspended him for an additional 61 days and ordered Stith enter into and comply with a Kentucky Lawyer Assistance Program agreement. Stith has since complied with his KYLAP agreement.