

SUPREME COURT OF KENTUCKY
ORAL ARGUMENT CALENDAR

WEDNESDAY, JUNE 5, 2024

**10:00 a.m. CLEVELAND ASKEW, JR. V. TROOPER EDWARD WHITWORTH
(2023-SC-0070-DG)**

[APPELLANT BRIEF](#)

[APPELLEE BRIEF](#)

[REPLY BRIEF](#)

**[AMICUS BRIEF \(KENTUCKY ASSOCIATION OF COUNTIES AND
KENTUCKY SHERIFF'S ASSOCIATION\)](#)**

Torts. Qualified Immunity. Good Faith. Assault & Battery. Excessive Force. Issues include whether a law enforcement officer who shot a suspect while attempting to execute an arrest warrant is entitled to qualified immunity when the suspect, backup officer, and other witnesses dispute the officer's version of the events that occurred after the suspect opened his apartment door. The officer, suspect, and witnesses disagree about: (1) whether the officer announced he was law enforcement, instructed the suspect to drop his lawful gun, and gave the suspect an opportunity to drop his gun before shooting him; and (2) whether the suspect lunged at the officer before the shooting.

Bisig, J., not sitting.

Discretionary Review Granted:
Trial Court(s):
Presiding Judge(s):

June 7, 2023
Jefferson Circuit Court
Hon. Charles L. Cunningham, Jr.

Counsel for Appellant,
Cleveland Askew:

Adrian Mendiondo
Morgan & Morgan

Counsel for Appellee,
Trooper Edward Whitworth:

Jason Nemes
Robert Nemes
Gregory Healey
*Commonwealth Counsel
Group, PLLC*

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WEDNESDAY, JUNE 5, 2024
(CONTINUED)

11:00 a.m. T & J LAND CO., LLC V. DAKOTA MILLER
(2023-SC-0051-DG)

APPELLANT BRIEF
APPELLEE BRIEF
REPLY BRIEF

Torts. Negligence. Car Accident. MVRA. Statute of Limitations. Issues include whether the MVRA statute of limitation or the negligence statute of limitations applies when: (1) the plaintiff is struck by a car while inside a commercial building; (2) the plaintiff sues the building owner, alleging that it was negligent for failing to install barriers to prevent cars from breaching the building; and (3) the plaintiff filed a separate lawsuit against the at-fault drivers and building tenant.

Discretionary Review Granted:	June 7, 2023
Trial Court(s):	Knox Circuit Court
Presiding Judge(s):	Hon. Michael O. Caperton

Counsel for Appellant,
T & J Land Co., LLC:

Robert Maclin, III
McBrayer PLLC

Counsel for Appellee,
Dakota Miller:

Jerome Prather
J. Connor Niceley
Garmer & Prather, PLLC

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WEDNESDAY, JUNE 5, 2024
(CONTINUED)

1:30 p.m. **WILLIAM SLOSS V. COMMONWEALTH OF KENTUCKY**
(2023-SC-0012-MR)

[APPELLANT BRIEF](#)
[APPELLEE BRIEF](#)
[REPLY BRIEF](#)

Criminal Law. Sixth Amendment. Federal Rules of Criminal Procedure, Rule 43. Issues include whether the defendant's constitutional right to be present at every stage of the criminal proceedings against the defendant was violated when the trial court proceeded to trial, penalty phase and sentencing without personal waiver from the defendant or a hearing held on the defendant's absence.

Oral Argument Granted:	April 21, 2024
Trial Court(s):	Jefferson Circuit Court
Presiding Judge(s):	Hon. A.C. McKay Chauvin

Counsel for Appellant, <i>William Sloss:</i>	Kathleen Schmidt <i>Department of Public Advocacy</i>
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Counsel for Appellee, <i>Commonwealth of Kentucky:</i>	Sarah Christensen <i>Assistant Solicitor General Office of the Attorney General</i>
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	Bryan Morrow <i>Deputy Solicitor General Office of the Attorney General</i>
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THURSDAY, JUNE 6, 2024

**9:00 a.m. NIRUPAMA KULKARNI V. DENNIS HORLANDER, BOBBIE HOLSCRAW,
AS CHAIR OF THE JEFFERSON COUNTY BOARD OF ELECTIONS,
KENTUCKY BOARD OF ELECTIONS, AND MICHAEL ADAMS,
KENTUCKY SECRETARY OF STATE
(2024-SC-0215-DG)**

**[APPELLANT BRIEF](#)
[APPELLEE BRIEF](#)**

Election Law. Disqualification of Candidate. KRS 118.176. Issues include whether KRS 118.176(4) requires disqualification of candidate for state representative from primary race where one of the candidate's signatories to nominating petition was not a member of the candidate's party at the time the signatory signed the petition, but changed her party affiliation to become a member of the candidate's party by the time her candidacy was certified by the Secretary of State.

Discretionary Review Granted:
Trial Court(s):
Presiding Judge(s):

May 20, 2024
Jefferson Circuit Court
Hon. Mitchell Perry

Counsel for Appellant,
Nirupama Kulkarni:

Tyler Larson
James Craig
Craig Henry, PLC

Counsel for Appellee,
Dennis Horlander:

Steven J. Megerle
Megerle Law

Counsel for Appellee,
*Bobbie Holsclaw, as
Chair of the Jefferson
County Board of Elections:*

Natalie Johnson
Kathryn Meador
Jefferson County Attorney's
Office

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Counsel for Appellee,
*Kentucky Board of
Elections:*

Taylor Brown
State Board of Elections

Counsel for Appellee,
*Michael Adams,
Kentucky Secretary of
State:*

Jennifer Scutchfield
Office of Secretary of State

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THURSDAY, JUNE 6, 2024
(CONTINUED)

10:00 a.m. **LOUISVILLE & JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT V. JENNIFER ALBRIGHT, INDIVIDUALLY AND AS ADMINISTRATRIX OF THE ESTATE OF DAVID K. ALBRIGHT (2023-SC-0079-DG)**

APPELLANT BRIEF

APPELLEE BRIEF

REPLY BRIEF

AMICUS BRIEF (SANITATION DISTRICT 1 OF NORTHERN KENTUCKY AND NORTHERN KENTUCKY WATER DISTRICT)

AMICUS BRIEF (KENTUCKY LEAGUE OF CITIES)

Immunity. Claims Against Local Government Act. Special Districts. Questions include: (1) whether the Metropolitan Sewer District is a “special district” (and, therefore, a “local government”) pursuant to the Claims Against Local Government Act and (2) if so, were the relevant actions or inactions ministerial or discretionary in nature?

Discretionary Review Granted:
Trial Court(s):
Presiding Judge(s):

June 7, 2023
Jefferson Circuit Court
Hon. Ann Bailey Smith

Counsel for Appellant,
*Louisville & Jefferson
County Metropolitan
Sewer District:*

Adam T. Goebel
John W. Bilby
Adam C. Reeves
Stoll Keenon Ogden, PLLC

Counsel for Appellee,
*Jennifer Albright
Individually and as
Administratrix of the
Estate of David K. Albright:*

Lee E. Sitlinger
Curt Sitlinger
Abigail T. Fletcher
Sitlinger Law

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THURSDAY, JUNE 6, 2024
(CONTINUED)

11:00 a.m. JAIME MORALES V. CITY OF GEORGETOWN, KENTUCKY; OFFICER JOSEPH ENRICCO, INDIVIDUALLY AND IN HIS CAPACITY AS A DEPUTY WITH THE GEORGETOWN POLICE DEPARTMENT; GEORGETOWN POLICE DEPARTMENT; AND LIEUTENANT JAMES WAGONER, INDIVIDUALLY AND IN HIS CAPACITY AS A LIEUTENANT WITH THE GEORGETOWN POLICE DEPARTMENT (2023-SC-0248-DG)

APPELLANT BRIEF (JAIME MORALES)
APPELLEE BRIEF (GEORGETOWN AND GEORGETOWN POLICE DEPARTMENT)
APPELLE BRIEF (JAMES MICHAEL WAGONER)
APPELLE BRIEF (JOSEPH ENRICCO)
REPLY BRIEF (JAIME MORALES)

AND

LIEUTENANT JAMES WAGONER, INDIVIDUALLY AND IN HIS CAPACITY AS A LIEUTENANT WITH THE GEORGETOWN POLICE DEPARTMENT V. JAIME MORALES; CITY OF GEORGETOWN, KENTUCKY; OFFICER JOSEPH ENRICCO, INDIVIDUALLY AND IN HIS CAPACITY AS A DEPUTY WITH THE GEORGETOWN POLICE DEPARTMENT; AND GEORGETOWN POLICE DEPARTMENT (2023-SC-0265-DG)

APPELLANT BRIEF (JAMES WAGONER)
APPELLEE BRIEF (JAIME MORALES)
REPLY BRIEF (JAMES WAGONER)

Immunity. Summary judgment. CALGA. Issues include whether Lieutenant James Wagoner and the City of Georgetown are immune (under various theories) from claims brought by Jaime Morales who was injured by friendly fire.

Discretionary Review Granted:	September 20, 2023
Trial Court(s):	Scott Circuit Court
Presiding Judge(s):	Hon. Brian Privett

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Counsel for Appellant/Appellee,
Jaime Morales:

Elliott Miller
Thomas Miller
Elizabeth Woodford
*Miller, Griffin &
Marks, P.S.C.*

Counsel for Appellee,
*City of Georgetown, Kentucky
and Georgetown Police
Department:*

Maureen Malles
Scott Miller
*Sturgill, Turner,
Barker & Moloney,
PLLC*

Counsel for Appellee,
*Officer Joseph Enrico,
Individually and in his
Capacity as a Deputy with
the Georgetown Police Department:*

Jeffrey Mando
*Adams, Stepner,
Wolterman & Dusing,
PLLC*

Counsel for Appellant/Appellee,
*Lieutenant James Wagoner,
Individually and in his
Capacity as a Lieutenant with
The Georgetown Police Department:*

Jason Bell
*Bell Hess & VanZant,
PLLC*

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