

**SUPREME COURT OF KENTUCKY**

**FEBRUARY 20, 2014 MINUTES**

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

1. MICHAEL S. BELL V. [2012-SC-000026-DG](#) MERCER  
MARY H. BELL  
**TO BE PUBLISHED**  
**OPINION OF THE COURT BY CHIEF  
JUSTICE MINTON –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Family Law. Child Support. KRS 403.212. Issue is whether a non-custodial parent may deduct unreimbursed business expenses to arrive at income for the purpose of determining their child support obligation pursuant to KRS 403.212.
  
2. R.S., A CHILD UNDER EIGHTEEN V. [2012-SC-000116-DG](#) BOONE  
COMMONWEALTH OF KENTUCKY  
**TO BE PUBLISHED**  
**OPINION OF THE COURT BY CHIEF  
JUSTICE MINTON –  
AFFIRMING**  
ALL SITTING. ABRAMSON,  
CUNNINGHAM, KELLER, SCOTT,  
AND VENTERS, JJ., CONCUR.  
NOBLE, J., CONCURS IN RESULT  
ONLY.

**Questions Presented:**  
Juvenile Code. Restitution. Issues include whether a juvenile should be ordered to pay full restitution to a victim of vandalism, when the juvenile was found guilty of complicity to commit criminal mischief, and the evidence is uncontroverted that others were involved in the vandalism.
  
3. MICHAEL HELPHENSTINE V. [2012-SC-000251-TG](#) GRAYSON  
COMMONWEALTH OF KENTUCKY  
**TO BE PUBLISHED**  
**OPINION OF THE COURT BY CHIEF  
JUSTICE MINTON –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Manufacturing methamphetamine and second degree PFO. Conditional Guilty Plea. Issue of failure to hold an evidentiary hearing was waived. Warrantless search of parolee's residence was consensual. Trial court did not err in failing to suppress lab results.

**SUPREME COURT OF KENTUCKY**

**FEBRUARY 20, 2014 MINUTES**

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

4. TARA LYNN WHITCOMB V.  
COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY  
JUSTICE CUNNINGHAM –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

[2012-SC-000376-DG](#)  
**TO BE PUBLISHED**

FAYETTE

**Questions Presented:**  
Criminal Law. Probation and Parole. KRS 533.020. Conrad v. Evridge, 314 S.W.3d 313 (Ky. 2010). Issues include whether Conrad v. Evridge precludes revocation of probation where the probationary period expired before an outstanding warrant for violating provisions of probation was served.

5. MARY BELL; THOMAS E. BELL,  
AS NEXT OF FRIEND; AND HON.  
RICHARD DAWAHARE V.  
COMMONWEALTH OF KENTUCKY,  
CABINET FOR HEALTH AND FAMILY  
SERVICES, DEPARTMENT FOR  
COMMUNITY BASED SERVICES  
**OPINION OF THE COURT BY  
JUSTICE NOBLE –  
AFFIRMING**  
ALL SITTING. ALL CONCUR.

[2012-SC-000600-DG](#)  
**TO BE PUBLISHED**

FRANKLIN

**Questions Presented:**  
Attorney's Fees. Medicaid. Disclosure of Records. Issues include the equitable powers of the court to award attorney's fees and the propriety of disclosure of Medicaid records by a state agency in civil discovery.

6. ROBERT BRATCHER V.  
COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY  
JUSTICE VENTERS –  
AFFIRMING**  
MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, KELLER, AND SCOTT,  
JJ., CONCUR. NOBLE, J., DISSENTS  
BY SEPARATE OPINION.

[2012-SC-000627-MR](#)  
**TO BE PUBLISHED**

MUHLENBERG

**Questions Presented:**  
Conditional guilty plea to manufacturing methamphetamine and second degree PFO- 21 years. Trial court properly denied parolee's motion to suppress drug-related evidence seized during a warrantless search of his residence, where a state police officer and his parole officer had reasonable suspicion to conduct the search.

**SUPREME COURT OF KENTUCKY**

**FEBRUARY 20, 2014 MINUTES**

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

7. AMY JERRINE MISCHLER V. HONORABLE LARRY THOMPSON, PIKE COUNTY FAMILY COURT JUDGE; DAVID DESKINS, PIKE COUNTY CIRCUIT COURT CLERK; AND FRED HATFIELD, PIKE COUNTY TRIAL COMMISSIONER, AND JONAH LEE STEVENS  
**OPINION OF THE COURT - AFFIRMING**  
ABRAMSON, CUNNINGHAM, NOBLE, KELLER, AND VENTERS, JJ. AND PAUL W. BLAIR, S.J., CONCUR. NORMAN E. HARNED, S.J., CONCURS BY SEPARATE OPINION. MINTON, C.J. AND SCOTT, J., NOT SITTING.
- [2013-SC-000030-MR](#) FROM COURT OF APPEALS  
**TO BE PUBLISHED**
- Questions Presented:**  
Appellant is not entitled to a writ of mandamus to compel the circuit clerk to remove an order from the court record. The petition for writ of mandamus against the judge and the trial commissioner was properly denied.
8. SAMUEL MORGAN V. COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY JUSTICE CUNNINGHAM – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2013-SC-000070-MR](#) MCCRACKEN  
**TO BE PUBLISHED**
- Questions Presented:**  
First-degree robbery and first degree PFO-25 years. Identification by lay witnesses. Denial of continuance was not error where witness for defense changed her story. Motion for directed verdict was properly denied.
9. JAMES PRATER V. COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY JUSTICE SCOTT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
- [2013-SC-000115-MR](#) PULASKI  
**TO BE PUBLISHED**
- Questions Presented:**  
Guilty Plea. "Hammer Clause."  
Manufacturing methamphetamine, first-degree possession of a controlled substance, promoting contraband-38 years. Trial court did not err in refusing to allow defendant to withdraw his guilty plea.

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

10. APPALACHIAN RACING, LLC, [2012-SC-000414-DG](#) FRANKLIN  
ET AL. **V.** **TO BE PUBLISHED**  
THE FAMILY TRUST FOUNDATION  
OF KENTUCKY, INC., D/B/A THE  
FAMILY FOUNDATION, ET AL.  
**AND**  
THE KENTUCKY DEPARTMENT OF [2012-SC-000415-DG](#) FRANKLIN  
REVENUE **V.** **TO BE PUBLISHED**  
THE FAMILY TRUST FOUNDATION  
OF KENTUCKY, INC., D/B/A THE  
FAMILY FOUNDATION, ET AL.  
**AND**  
THE KENTUCKY HORSE RACING [2012-SC-000416-DG](#) FRANKLIN  
COMMISSION **V.** **TO BE PUBLISHED**  
FAMILY TRUST FOUNDATION  
OF KENTUCKY, INC., D/B/A THE  
FAMILY FOUNDATION, ET AL.  
**OPINION OF THE COURT BY**  
**JUSTICE VENTERS –**  
**AFFIRMING IN PART AND REVERSING**  
**IN PART**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**

Wagering on “historic” horse races. The Kentucky Horse Racing Commission has the statutory authority to license and regulate the operation of pari-mutuel wagering on historic horse racing. The Kentucky Department of Revenue does not have the statutory authority needed to collect tax on the wagering on historic races. Whether the actual operation of wagering on historic races violates the gambling provisions of the Kentucky Penal Code is dependent upon facts not in the record and therefore, this action is remanded for further proceedings in the circuit court. Great public importance and urgent need for resolution of a public issue are not sufficient to create justiciability, there must be an actual controversy presented in good faith by parties with adverse interests in the subject to be adjudicated.

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

11. C. LANCE LOVE, M.D., AND C. LANCE LOVE, M.D., PLLC V. LISA WALKER AND LARRY WALKER  
**OPINION OF THE COURT BY JUSTICE KELLER – AFFIRMING IN PART AND REVERSING IN PART**  
ALL SITTING. ALL CONCUR.
- [2012-SC-000602-DG](#) CHRISTIAN  
**TO BE PUBLISHED**
- Questions Presented:**  
Medical Malpractice. Whether failure to name a medical expert witness constituted a failure of proof that justified the grant of summary judgment. Applicability of *Blankenship v. Collier*, 302 S.W.3d 665 (Ky. 2010).
12. DR. PHILIP C. TROVER V. ESTATE OF JUDITH BURTON AND TROVER CLINIC FOUNDATION, INC. AND THE TROVER CLINIC FOUNDATION, INC., D/B/A REGIONAL MEDICAL CENTER OF HOPKINS COUNTY V. ESTATE OF JUDITH BURTON AND PHILIP C. TROVER, M.D.  
**OPINION OF THE COURT BY JUSTICE ABRAMSON – REVERSING**  
ALL SITTING. ALL CONCUR.
- [2011-SC-000565-DG](#) HOPKINS  
**TO BE PUBLISHED**
- [2011-SC-000580-DG](#) HOPKINS  
**TO BE PUBLISHED**
- Questions Presented:**  
Tort. Preservation of Issues. Issues include whether the tort of medical credentialing is recognizable in Kentucky and whether the trial court erred by preventing the plaintiff from cross examining the doctor defendant on the suspension of his medical license.
13. COMMONWEALTH OF KENTUCKY V. RONNIE LAMONT SEARIGHT  
**OPINION OF THE COURT BY CHIEF JUSTICE MINTON – REVERSING**  
ALL SITTING. ALL CONCUR.
- [2012-SC-000007-DG](#) FAYETTE  
**TO BE PUBLISHED**
- Questions Presented:**  
Criminal Law. Application of the standard for determining whether a party is entitled to an evidentiary hearing on an RCr 11.42 motion which alleges ineffective assistance of counsel.

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

14. COMMONWEALTH OF KENTUCKY V. [2012-SC-000402-DG](#) POWELL  
FLOYD GROVER JOHNSON  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE CUNNINGHAM –  
REVERSING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Criminal Law. KRS 15.200. Attorney General. Issues include whether the Office of the Attorney General has the jurisdiction to investigate drug related offenses within the Commonwealth.

15. CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY V. [2013-SC-000127-DGE](#) JEFFERSON  
K.H., SR.  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE CUNNINGHAM–  
REVERSING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Termination of Parental Rights. Issues involve the sufficiency of the evidence to support termination of the out-of-state father’s parental rights.

16. RICHARD YATES V. [2012-SC-000275-MR](#) FULTON  
COMMONWEALTH OF KENTUCKY  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE NOBLE –  
REVERSING AND REMANDING**  
ALL SITTING. MINTON, C.J.;  
ABRAMSON, KELLER, SCOTT, AND  
VENTERS, JJ., CONCUR.  
CUNNINGHAM, J., CONCURS IN  
RESULT ONLY BY SEPARATE  
OPINION.

**Questions Presented:**  
First degree rape and first degree sexual abuse-25 years. First degree rape conviction reversed due to insufficient proof of the element of forcible compulsion. Testimony about defendant’s computer password was relevant and properly admitted. Conviction of first-degree sexual abuse also reversed due to the denial of defense counsel’s request to cross-examine the victim about a prior inconsistent statement.

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

17. KYRUS LEE CAWL V. [2012-SC-000279-DG](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE VENTERS –  
REVERSING AND REMANDING**  
MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, NOBLE AND SCOTT,  
JJ., CONCUR. KELLER, J., NOT  
SITTING.

**Questions Presented:**  
Criminal Law. RCr 11.42. Ineffective assistance of counsel. Issue is whether a motion for additional findings of fact under CR 52.02 is required to preserve the issue of whether an evidentiary hearing should be granted to determine whether counsel failed to properly advise the defendant regarding parole eligibility.

18. JAMES D. NICHOLS V. [2012-SC-000317-DG](#) JEFFERSON  
ZURICH AMERICAN INSURANCE  
COMPANY  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE VENTERS –  
REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Automobile Insurance. Contract law. Mutual Mistake. Issues include whether the equitable defense of mutual mistake was properly asserted to void underinsured motorist coverage.

19. DWAYNE MITCHELL (AKA DAVID BUTIN) V. [2012-SC-000697-MR](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE SCOTT –  
REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
First degree robbery, first degree burglary, first degree unlawful imprisonment, receiving stolen property and second degree PFO-30 years. Irregularity in the grand jury proceedings did not require dismissal of defendant's indictment. Conviction reversed where trial court, in responding to defendant's inquiry, misstated that a form of hybrid representation was not available to the defendant. Upon retrial, misleading photographs shall not be introduced and first degree robbery instructions shall include omitted, essential element.

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

20. SCOTT COFFEY, ET AL. V. [2012-SC-000721-DGE](#) GREEN  
JAMES M. WETHINGTON  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE SCOTT –  
REVERSING AND REMANDING**  
MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, NOBLE AND  
VENTERS, JJ., CONCUR. KELLER,  
J., NOT SITTING.

**Questions Presented:**  
Child Custody. Standing. KRS 403.822. Issues involve whether relatives, having procured an emergency custody order upon the death of the mother and “primary residential custodian” of teenaged twins, have standing under KRS 403.822(1)(b) to be considered within the KRS 403.800(13) definition of “person acting as a parent” in custody litigation against the biological father who had joint custody but had not seen the children for over a year.

21. COMMONWEALTH OF KENTUCKY V. [2013-SC-000120-DGE](#) RUSSELL  
CHARLES P. FARMER  
**TO BE PUBLISHED**

**OPINION OF THE COURT BY  
JUSTICE ABRAMSON –  
REVERSING AND REMANDING**  
ALL SITTING. ALL CONCUR.

**Questions Presented:**  
Criminal Law. KRS 503.085. Immunity from Prosecution. Interlocutory Appealability. The issue is whether a defendant in a criminal prosecution may pursue an interlocutory appeal from denial of a defense motion to dismiss grounded upon alleged self-defense immunity.

22. MITCHELL JACKSON V. [2013-SC-000748-OA](#) IN SUPREME  
HONORABLE C. SHEA NICKELL, COURT  
JUDGE, COURT OF APPEALS, ET AL. **NOT TO BE PUBLISHED** COURT

**MEMORANDUM OPINION OF  
THE COURT – DISMISSING**  
MINTON, C.J.; CUNNINGHAM,  
KELLER, NOBLE, SCOTT, AND  
VENTERS, JJ., CONCUR.  
ABRAMSON, J., CONCURS IN  
RESULT ONLY.



SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

23. CHARLES MARTIN STOWERS, JR. V. [2012-SC-000100-MR](#) WARREN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, KELLER, AND NOBLE,  
JJ., CONCUR. SCOTT AND VENTERS,  
JJ., CONCUR IN RESULT ONLY.
24. JEFFREY JOHNSON V. [2012-SC-000158-MR](#) LAUREL  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
25. AMY MOSLEY V. [2012-SC-000216-MR](#) LAUREL  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
26. TIMMY LEE JACKSON V. [2012-SC-000259-MR](#) BELL  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
27. TED WILLIS V. [2012-SC-000333-MR](#) DAVIESS  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
28. EUGENE EMMANUEL BATES V. [2012-SC-000645-MR](#) FAYETTE  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

29. BETTI KERN V. [2012-SC-000695-MR](#) MCCRACKEN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
30. CHRISTOPHER HILL V. [2013-SC-000049-MR](#) CRITTENDEN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR.
31. RODNEY JONES V. [2013-SC-000175-MR](#) JESSAMINE  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
ALL SITTING. ALL CONCUR
32. MICHAEL J. O'CONNELL, IN HIS [2013-SC-000445-MR](#) FROM COURT  
OFFICIAL CAPACITY AS JEFFERSON **NOT TO BE PUBLISHED** OF APPEALS  
COUNTY ATTORNEY; AND SHELLEY  
SANTRY, IN HER FORMER CAPACITY  
AS AN ASISSTANT JEFFERSON  
COUNTY ATTORNEY  
V.  
HONORABLE FREDERIC J. COWAN,  
JUDGE, JEFFERSON COUNTY CIRCUIT  
COURT, ET AL.  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING**  
MINTON, C.J.; CUNNINGHAM, KELLER,  
NOBLE, SCOTT, AND VENTERS, JJ.,  
CONCUR. ABRAMSON, J., NOT SITTING.
33. GIOVANNI WRIGHT V. [2012-SC-000210-MR](#) KENTON  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF**  
**THE COURT – AFFIRMING IN PART,**  
**REVERSING IN PART AND**  
**REMANDING**  
ALL SITTING. ALL CONCUR.

**SUPREME COURT OF KENTUCKY**

**FEBRUARY 20, 2014 MINUTES**

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

**OPINIONS AND ORDERS – FEBRUARY 20, 2014**

DAVID WILLIAM DOAN V.  
KENTUCKY BAR ASSOCIATION  
**ORDER DENIED MOTION FOR  
REINSTATEMENT.**

[2013-SC-000561-KB](#)  
**TO BE PUBLISHED**

IN SUPREME  
COURT

ALL SITTING. MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, NOBLE, SCOTT AND VENTERS,  
JJ., CONCUR. KELLER, J., CONCUR IN RESULT  
ONLY.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 12, 2014**

COMMONWEALTH OF KENTUCKY V.  
GARY GAMBLE, SR.

2013-SC-000141-DG

JOHNSON

YOUR COMMUNITY BANK, INC. V.  
WOODLAWN SPRINGS HOMEOWNERS  
ASSOCIATION, INC.

2013-SC-000234-DG

NELSON

THEODORE MARAS V.  
COMMONWEALTH OF KENTUCKY

2013-SC-000267-DG

JEFFERSON

JAMES CARTER V.  
BULLITT HOST, LLC, D/B/A HOLIDAY INN  
EXPRESS

2013-SC-000325-DG

JEFFERSON

UNIVERSITY OF LOUISVILLE ATHLETIC  
ASSOCIATION, INC. V.  
MARY BANKER AND BRYAN CASSIS

2013-SC-000778-DG

JEFFERSON

CHRISTOPHER J. MCGORMAN, JR. V.  
COMMONWEALTH OF KENTUCKY  
**KELLER, J., NOT SITTING.**

2013-SC-000818-DG

MADISON

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 12, 2014**

BILLY JOE HONEYCUTT, ET AL. V. ATMOS ENERGY CORPORATION, ET AL. <b>AND</b>	2013-SC-000118-D	EDMONSON
PARK CITY GAS, LLC, ET AL. V. ATMOS ENERGY CORPORATION, ET AL. <b>KELLER AND SCOTT, J., WOULD GRANT.</b>	2013-SC-000126-D	EDMONSON
ROBERT HAMPTON AND KATHY HAMPTON V. STACEY M. WATKINS	2013-SC-000135-D	BOONE
BILLY DRISKELL V. COMMONWEALTH OF KENTUCKY	2013-SC-000150-D	TODD
ALICE STAMBAUGH V. COMMONWEALTH OF KENTUCKY <b>NOBLE AND VENTERS, JJ., WOULD GRANT. SCOTT, J., NOT SITTING.</b>	2013-SC-000155-D	JOHNSON
CHARLES RHODES V. COMMONWEALTH OF KENTUCKY	2013-SC-000156-D	HOPKINS
KEVIN HENDERSON V. COMMONWEALTH OF KENTUCKY	2013-SC-000157-D	JEFFERSON
MICHAEL TODD SETTLES V. COMMONWEALTH OF KENTUCKY	2013-SC-000158-D	JEFFERSON
GUY HARRISON FRENCH V. COMMONWEALTH OF KENTUCKY <b>NOBLE, J., WOULD GRANT.</b>	2013-SC-000168-D	GREENUP
DAVID EDWARD GRAHAM V. COMMONWEALTH OF KENTUCKY	2013-SC-000172-D	JEFFERSON
DAVID ROACH V. RHONDA HEDGES, ET AL.	2013-SC-000177-D	JEFFERSON

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 12, 2014**

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, ET AL. <b>V.</b> KELVIN BROOKS, SR., ET AL.	2013-SC-000190-D	JEFFERSON
H. DREW MAYO <b>V.</b> COMMONWEALTH OF KENTUCKY	2013-SC-000191-D	MCCRACKEN
COMMONWEALTH OF KENTUCKY <b>V.</b> JAMES RAY DEHART <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2013-SC-000192-D	FLEMING
MARY EVANS, AS LEGAL GUARDIAN OF SHAYLA MCCANN <b>V.</b> JAMES W. AKIN, JR., M.D., ET AL. <b>KELLER J., WOULD GRANT.</b>	2013-SC-000195-D	JEFFERSON
MELISSA JACKSON, ET AL. <b>V.</b> MEHDI GHAYOUMI, D.C., ET AL.	2013-SC-000198-D	JEFFERSON
MICHAEL L. TAYLOR <b>V.</b> COMMONWEALTH OF KENTUCKY	2013-SC-000203-D	ADAIR
BRAMER CRANE SERVICES, LLC. <b>V.</b> LEXINGTON METAL SYSTEMS, LLC, ET AL. <b>KELLER, J., NOT SITTING.</b>	2013-SC-000217-D	MONTGOMERY
LAWRENCE HILL <b>V.</b> JACQUELINE HILL <b>SCOTT, J., WOULD GRANT AND REMAND TO THE TRIAL COURT. KELLER, J., NOT SITTING.</b>	2013-SC-000218-D	JEFFERSON
DANNY K. MONTGOMERY <b>V.</b> COMMONWEALTH OF KENTUCKY <b>KELLER, J., NOT SITTING.</b>	2013-SC-000224-D	TRIMBLE
KENTUCKY HORSE RACING COMMISSION <b>V.</b> DR. RODNEY STEWART	2013-SC-000237-D	FRANKLIN

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 12, 2014**

GEORGE BARNETT V. MARION T. CATES <b>KELLER, J., NOT SITTING.</b>	2013-SC-000240-D	CHRISTIAN
COMMONWEALTH OF KENTUCKY V. STEVEN BURTON <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2013-SC-000243-D	HICKMAN
DEVRON WADLINGTON V. COMMONWEALTH OF KENTUCKY <b>CUNNINGHAM, J., NOT SITTING.</b>	2013-SC-000244-D	TRIGG
JOSPEH O. PERRY, ET AL. V. CITY OF JUNCTION CITY, ET AL.	2013-SC-000246-D	BOYLE
REUBEN BENNETT V. EMILY OLIVER, BY AND THROUGH HER GUARDIAN, PATRICIA OLIVER, ET AL. <b>AND</b> TODD MCDANIEL, ET AL. V. EMILY OLIVER, BY AND THROUGH HER GUARDIAN, PATRICIA OLIVER	2013-SC-000250-D	CLAY
	2013-SC-000251-D	CLAY
KYLE MEDLIN V. PROGRESSIVE DIRECT INSURANCE COMPANY <b>KELLER, J., NOT SITTING.</b>	2013-SC-000274-D	JEFFERSON
ANTRELL MONTEZ MALONE V. COMMONWEALTH OF KENTUCKY	2013-SC-000277-D	JEFFERSON
RONALD N. SIMON V. LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT <b>KELLER, J., NOT SITTING.</b>	2013-SC-000280-D	FAYETTE
TONY H. SMITH V. BEAR, INC., D/B/A LAKER EXPRESS	2013-SC-000283-D	LAUREL

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 12, 2014**

HARLAN COUNTY, ET AL. V. JAYNE BROWNING, ET AL.	2013-SC-000286-D	HARLAN
STEVIE EARL WORLEY V. COMMONWEALTH OF KENTUCKY	2013-SC-000287-D	WHITLEY
WILLIAM E. MADDIX, JR. V. COMMONWEALTH OF KENTUCKY <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2013-SC-000289-D	GREENUP
LAWRENCE LEWIS V. COMMONWEALTH OF KENTUCKY	2013-SC-000290-D	CAMPBELL
DUDLEY J. VAN METER V. BA MERCHANT SERVICES, LLC, BANK OF AMERICA, N.A., ET AL.	2013-SC-000293-D	JEFFERSON
DR. JOHN L. DOYLE, III V. KENTUCKY BOARD OF MEDICAL LICENSURE <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. KELLER, J., NOT SITTING.</b>	2013-SC-000294-D	JEFFERSON
BARBARA S. SARABIA V. COMMONWEALTH OF KENTUCKY	2013-SC-000316-D	FAYETTE
TOMMY ALLEN SPARKS V. COMMONWEALTH OF KENTUCKY	2013-SC-000318-D	FRANKLIN
GULF COAST FARMS, LLC, ET AL. V. FIFTH THIRD BANK	2013-SC-000320-D	FAYETTE
KEVIN FAGIN V. SUSAN COLE AND GRANGE MUTUAL CASUALTY COMPANY <b>AND</b> GRANGE MUTUAL CASUALTY COMPANY V. SUSAN COLE AND KEVIN FAGIN	2013-SC-000326-D	MADISON
	2013-SC-000330-D	MADISON

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 12, 2014**

CHARLES FRENCH V. COMMONWEALTH OF KENTUCKY	2013-SC-000342-D	JEFFERSON
COMMONWEALTH OF KENTUCKY V. JOEIE WATTS <b>SCOTT, J., WOULD GRANT.</b>	2013-SC-000389-D	MADISON
TOMMY CLEMENT V. COMMONWEALTH OF KENTUCKY	2013-SC-000395-D	MCCRACKEN
ST. CHARLES CARE CENTER, INC. V. DARRELL MEADER AND DELORES MEADER <b>KELLER, J., NOT SITTING.</b>	2013-SC-000424-D	KENTON
KENTUCKY UNEMPLOYMENT INSURANCE COMMISSION V. JESSICA BLAKEMAN AND MCLANE CUMBERLAND COMPANY	2013-SC-000464-D	JESSAMINE
MICHAEL DEAN FUGATE V. COMMONWEALTH OF KENTUCKY	2013-SC-000465-D	POWELL
MICHAEL R. HOWARD V. COMMONWEALTH OF KENTUCKY	2013-SC-000485-D	MADISON
ARNETT RANDY MULLINS V. COMMONWEALTH OF KENTUCKY	2013-SC-000500-D	BREATHITT
DAVID C. VICK V. BELINDA K. ELLIOT, ET AL.	2013-SC-000520-D	LIVINGSTON
MICHAEL SANTOS, ET AL. V. EUGENE WALTERS, ET AL. <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2013-SC-000533-D	WHITLEY
LILLIE TRONC V. MICHAEL WATTENBERGER	2013-SC-000552-DE	CLARK



SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 12, 2014**

J. WAYNE MURPHY V. BILL SAALWAECHTER	2013-SC-000554-D	DAVISS
UNITED PARCEL SERVICE, INC., ET AL. V. MARION HUGHES, INDIVIDUALLY, AND ON BEHALF OF ALL OTHER PERSONS SIMILARLY SITUATED, ET AL.	2013-SC-000784-DE	JEFFERSON
JEFFERY YOUNG V. CHARLOTTE YOUNG	2013-SC-000798-DE	ADAIR

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
FEBRUARY 20, 2014**

DAVID STANFIELD V. DEPARTMENT OF CORRECTIONS, ET AL.	2013-SC-000300-D	FRANKLIN
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**COURT ORDERS DENYING MOTION TO TRANSFER – FEBRUARY 20, 2014**

KENTUCKY SPIRIT HEALTH PLAN, INC. V. COMMONWEALTH OF KENTUCKY, FINANCE AND ADMINISTRATION CABINET, ET AL. <b>ALL SITTING. ALL CONCUR.</b>	2013-SC-000398-T	FRANKLIN
GARLOCK SEALING TECHNOLOGIES, LLC V. DELORES ANN ROBERTSON, ET AL. <b>ALL SITTING. ALL CONCUR.</b>	2013-SC-000658-T	JEFFERSON
PURDUE PHARMA, L.P.; ET AL. V. COMMONWEALTH OF KENTUCKY, EX REL JACK CONWAY, ATTORNEY GENERAL <b>MINTON, C.J.; ABRAMSON, KELLER, AND NOBLE, JJ., CONCUR. CUNNINGHAM, SCOTT, AND VENTERS, JJ., WOULD GRANT.</b>	2013-SC-000698-T	FRANKLIN

SUPREME COURT OF KENTUCKY

FEBRUARY 20, 2014 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – FEBRUARY 20, 2014

KEVIN WAYNE DUNLAP V. [2010-SC-000226-MR](#) LIVINGSTON  
COMMONWEALTH OF KENTUCKY TO BE PUBLISHED  
**MINTON, C.J.; ABRAMSON, KELLER, NOBLE,  
SCOTT, AND VENTERS, JJ., SITTING. ALL  
CONCUR. CUNNINGHAM, J., NOT SITTING.**

TIMOTHY SCOTT MESKIMEN V. [2011-SC-000709-MR](#) FAYETTE  
COMMONWEALTH OF KENTUCKY TO BE PUBLISHED  
**ALL SITTING. ALL CONCUR.**

ERICK VEGA V. [2012-SC-000111-DG](#) FAYETTE  
COMMONWEALTH OF KENTUCKY TO BE PUBLISHED  
**MINTON, C.J.; ABRAMSON, CUNNINGHAM,  
NOBLE, SCOTT AND VENTERS, JJ., SITTING.  
SCOTT, J., WOULD GRANT. KELLER, J., NOT  
SITTING.**

COMMONWEALTH OF KENTUCKY V. [2012-SC-000261-DG](#) JEFFERSON  
WILLIAM AYERS TO BE PUBLISHED  
**ALL SITTING. MINTON, C.J.; ABRAMSON,  
CUNNINGHAM, KELLER, SCOTT,  
AND VENTERS, JJ., CONCUR. NOBLE, J.,  
WOULD GRANT.**

DEJUAN ANTHONY GLENN V. [2012-SC-000499-MR](#) JEFFERSON  
COMMONWEALTH OF KENTUCKY TO BE PUBLISHED  
**ALL SITTING. ALL CONCUR.**

COURT ORDERS DISMISSING

ALFRED LAUD LANGLEY, III V. 2013-SC-000405-DG JEFFERSON  
MARY EDELEN LANGLEY, ET AL.  
**CUNNINGHAM, ABRAMSON, NOBLE, AND  
VENTERS, JJ., SITTING. ALL CONCUR.**  
ENTERED: FEBRUARY 17, 2014

**SUPREME COURT OF KENTUCKY**

**FEBRUARY 20, 2014 MINUTES**

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

**COURT ORDERS DISMISSING**

JOSEPH A. STARCHER V. 2012-SC-000500-MR JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**CUNNINGHAM, ABRAMSON, NOBLE, AND  
VENTERS, JJ., SITTING. ALL CONCUR.**  
ENTERED: FEBRUARY 17, 2014

LUTHER CREECH V. 2013-SC-000752-MR JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**CUNNINGHAM, ABRAMSON, NOBLE, AND  
VENTERS, JJ., SITTING. ALL CONCUR.**  
ENTERED: FEBRUARY 17, 2014

HYDRO ALUMINUM NORTH AMERICA V. 2013-SC-000768-WC FROM COURT  
MELISSA GREENWELL, ET AL. OF APPEALS  
**CUNNINGHAM, ABRAMSON, NOBLE, AND  
VENTERS, JJ., SITTING. ALL CONCUR.**  
ENTERED: FEBRUARY 17, 2014

**COURT ORDERS**

BAPTIST PHYSICIANS LEXINGTON, [2012-SC-000242-DG](#) FAYETTE  
INC., ET AL. V. **TO BE PUBLISHED**  
THE NEW LEXINGTON CLINIC, P.S.C.  
**ORDER MODIFIED THE OPINION OF THE  
COURT RENDERED DECEMBER 19, 2013 BY  
SUBSTITUTION OF PAGE 7 IN LIEU OF THE  
ORIGINAL PAGE 7.**  
ALL SITTING. ALL CONCUR.  
ENTERED: FEBRUARY 20, 2014

**SUPREME COURT OF KENTUCKY**

**FEBRUARY 20, 2014 MINUTES**

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

**COURT ORDERS**

CHRISTOPHER WARNER V. 2012-SC-000433-DG JEFFERSON  
COMMONWEALTH OF KENTUCKY NOT TO BE PUBLISHED  
**THE VOTE OF THE SIX MEMBERS OF THIS  
COURT PARTICIPATING IN THE  
DETERMINATION OF THIS APPEAL BEING  
EQUALLY DIVIDED, PURSUANT TO SCR 1.020,  
THE OPINION OF THE COURT OF APPEALS  
HEREBY STANDS AFFIRMED.**  
CUNNINGHAM, SCOTT AND VENTERS, JJ.,  
WOULD AFFIRM THE OPINION OF THE COURT  
OF APPEALS. MINTON, C.J., ABRAMSON AND  
NOBLE, JJ., DISSENT AND WOULD VACATE  
AND REMAND. KELLER, J., NOT SITTING.  
**ENTERED: FEBRUARY 20, 2014**

IN RE: STEVEN BLACK V. 2013-SC-000794-OA IN SUPREME  
KENTUCKY OFFICE OF BAR ADMISSIONS COURT  
**ORDER DENIED MOVANT'S PETITION TO  
WAIVE REQUIREMENTS.**  
ALL CONCUR, EXCEPT CUNNINGHAM, J.,  
NOT SITTING.  
**ENTERED: FEBRUARY 6, 2014**

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE  
KENTUCKY BAR ASSOCIATION**

DARRELL D. KING V. 2013-SC-000816-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: DECEMBER 20, 2013**

STEVEN BRUCE ROTMAN V. 2013-SC-000817-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: DECEMBER 20, 2013**

ROBERT ANDREW MEYER, JR. V. 2014-SC-000003-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: JANUARY 3, 2014**

**SUPREME COURT OF KENTUCKY**

**FEBRUARY 20, 2014 MINUTES**

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

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE  
KENTUCKY BAR ASSOCIATION**

**WILLIAM LINDSEY LOGAN III V.  
KENTUCKY BAR ASSOCIATION  
ENTERED: JANUARY 3, 2014**

**2014-SC-000004-KB**

**IN SUPREME  
COURT**

**JAMES PATRICK KELLY, JR. V.  
KENTUCKY BAR ASSOCIATION  
ENTERED: JANUARY 3, 2014**

**2014-SC-000005-KB**

**IN SUPREME  
COURT**