

SUPREME COURT OF KENTUCKY

MARCH 14, 2019 MINUTES

RELEASED: 10:00 A.M.

19. WILLIE WARD V. COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY JUSTICE HUGHES – AFFIRMING**  
MINTON, C.J.; KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., SITTING. ALL CONCUR.
- [2017-SC-000343-MR](#) JEFFERSON  
**TO BE PUBLISHED**
- Questions Presented:**  
First-degree sodomy, possession of a handgun by a convicted felon. PFO I-40 years. 911 Tip. Evidence properly obtained as a result of a Terry stop and search. Rape Shield Law prohibited introduction of evidence of victim's prior prostitution. KRE 412.
20. RODERICKA BRYANT V. LOUISVILLE METRO HOUSING AUTHORITY, ET AL.  
**OPINION OF THE COURT BY JUSTICE KELLER – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., SITTING. ALL CONCUR.
- [2017-SC-000367-DG](#) JEFFERSON  
**TO BE PUBLISHED**
- Questions Presented:**  
Governmental Immunity. Torts. Louisville Metro Housing Authority is entitled to governmental immunity from the plaintiff's claims related to her child's shooting death at a housing authority apartment.
21. JOSHUA T. HAMMOND V. COMMONWEALTH OF KENTUCKY  
**OPINION OF THE COURT BY JUSTICE HUGHES – AFFIRMING**  
MINTON, C.J.; KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., SITTING. ALL CONCUR.
- [2017-SC-000629-MR](#) FRANKLIN  
**TO BE PUBLISHED**
- Questions Presented:**  
First-degree robbery, reckless homicide, and tampering with evidence-25 years. Plea agreement. This Court's reversal of one count of first degree assault did not impact the validity of plea agreement.
22. DOUG TREVINO V. TRANSIT AUTHORITY OF RIVER CITY, ET AL.  
**OPINION OF THE COURT BY JUSTICE KELLER – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER, LAMBERT, VANMETER AND WRIGHT, JJ., SITTING. ALL CONCUR.
- [2018-SC-000364-WC](#) FROM COURT OF APPEALS  
**TO BE PUBLISHED**
- Questions Presented:**  
Workers Compensation. KRS 342.610(3). ALJ did not err in determining there was a willful intent to injure and in denying benefits in a workplace assault case in which the claimant bus driver was the aggressor.

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

23. DAVID MORTON, ET AL. V.  
BRUCE TIPTON  
**OPINION OF THE COURT BY  
JUSTICE HUGHES –  
AFFIRMING**  
MINTON, C.J.; KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ.,  
SITTING. ALL CONCUR.
- [2018-SC-000390-DGE](#) MONTGOMERY  
**TO BE PUBLISHED**
- Questions Presented:**  
KRS 405.021(1)(c). Grandparent Visitation.  
Preponderance of the Evidence. Best  
Interests of the Child. Where grandparents  
are custodians and not parents,  
preponderance of the evidence is the proper  
standard for determining whether other  
grandparents should have visitation rights.
24. ROBERT ROGERS V.  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER,  
LAMBERT, VANMETER AND WRIGHT,  
JJ., SITTING. ALL CONCUR.
- [2018-SC-000118-MR](#) CHRISTIAN  
**NOT TO BE PUBLISHED**
25. JIMMY DAVIS V.  
COMMONWEALTH OF KENTUCKY  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER,  
LAMBERT, VANMETER AND WRIGHT,  
JJ., SITTING. ALL CONCUR.
- [2018-SC-000124-MR](#) MCCracken  
**NOT TO BE PUBLISHED**

SUPREME COURT OF KENTUCKY

MARCH 14, 2019 MINUTES

RELEASED: 10:00 A.M.

26. GEORGE ROBERT WHITE V. [2018-SC-000183-MR](#) MCLEAN  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER,  
LAMBERT, VANMETER AND WRIGHT,  
J.J., SITTING. MINTON, C.J.; HUGHES,  
KELLER, LAMBERT, VANMETER AND  
WRIGHT, J.J. CONCUR. HUGHES J.,  
ALSO CONCURS, AGREEING THAT NO  
PALPABLE ERROR OCCURRED  
REGARDING THE JUDGE’S STATEMENTS  
WITH RESPECT TO THE ORDER OF  
PROOF, BUT BELIEVE THE MORE  
ACCURATE AND LESS PROBLEMATIC  
STATEMENT WOULD BE: “AFTER THAT,  
MR. WHITE *MAY, IF HE CHOOSES,*  
PRESENT EVIDENCE, THEN I WILL  
INSTRUCT YOU ON THE LAW OF THE  
CASE.”
27. RODNEY WEINEL V. [2018-SC-000186-MR](#) CAMPBELL  
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER,  
LAMBERT, VANMETER AND WRIGHT,  
J.J., SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

MARCH 14, 2019 MINUTES

RELEASED: 10:00 A.M.

28. COMMONWEALTH OF KENTUCKY, [2018-SC-000385-WC](#) FROM COURT  
DEPARTMENT OF PARKS V. **NOT TO BE PUBLISHED** OF APPEALS  
SHANNON RUCKER; HON. TANYA  
PULLIN, ADMINISTRATIVE LAW JUDGE,  
ET AL.  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER,  
LAMBERT, VANMETER AND WRIGHT,  
JJ., SITTING. HUGHES, KELLER,  
LAMBERT, VANMETER AND WRIGHT,  
JJ., CONCUR. MINTON, C.J., DISSENTS.  
CHIEF JUSTICE MINTON DISSENTS FOR  
THE REASONS SET OUT IN HIS DISSENT  
IN *ACTIVE CARE CHIROPRACTIC, INC. V.  
RUDD*, 556 S.W.3D 561, 565-68 (KY. 2018),  
AS HE BELIEVES THE GENERAL  
ASSEMBLY DID NOT INTEND TO APPLY  
THE TWO-MULTIPLIER TO WORKERS'  
COMPENSATION BENEFITS RECEIVED  
BY INDIVIDUALS WHO VOLUNTARILY  
CEASE EMPLOYMENT FOR REASONS  
OTHER THAN DUE TO THE  
WORK-RELATED INJURY.
29. CHRISTINE L. COOK, M.D., ET AL. V. [2018-SC-000435-MR](#) (AMENDED 3/14/2019)  
HON. AUDRA J. ECKERLE, JUDGE, **NOT TO BE PUBLISHED** FROM COURT  
JEFFERSON CIRCUIT COURT, ET AL. OF APPEALS  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING.  
ALL CONCUR.

**SUPREME COURT OF KENTUCKY**

**MARCH 14, 2019 MINUTES**

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

30. LOGAN COONS, ETC. V. [2018-SC-000474-MR](#) FROM COURT  
HON. JUDITH MCDONALD-BURKMAN, **NOT TO BE PUBLISHED** OF APPEALS  
JUDGE, JEFFERSON CIRCUIT COURT,  
ET AL.  
**MEMORANDUM OPINION OF  
THE COURT – AFFIRMING**  
MINTON, C.J.; HUGHES, KELLER,  
LAMBERT, VANMETER AND WRIGHT,  
JJ., SITTING. MINTON, C.J.; HUGHES,  
VANMETER, JJ., CONCUR. KELLER, J.,  
CONCURS IN RESULT ONLY BY  
SEPARATE OPINION IN WHICH LAMBERT  
AND WRIGHT, JJ., JOIN.

**OPINION AND ORDERS – MARCH 14, 2019**

- KENTUCKY BAR ASSOCIATION V. [2018-SC-000438-KB](#) IN SUPREME  
RACHELLE NICHOLE HOWELL **TO BE PUBLISHED** COURT  
**ORDER OF SUSPENSION FROM THE  
PRACTICE OF LAW FOR 181 DAYS WITH  
CONDITIONS.**  
MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.
- KENTUCKY BAR ASSOCIATION V. [2018-SC-000664-KB](#) IN SUPREME  
JUSTIN NEAL O'MALLEY **TO BE PUBLISHED** COURT  
**ORDER OF PERMANENT DISBARMENT.**  
MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.
- BRYAN EDWARD BENNETT V. [2019-SC-000069-KB](#) IN SUPREME  
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT  
**ORDER OF PUBLIC REPRIMAND WITH  
CONDITIONS.**  
MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.

**SUPREME COURT OF KENTUCKY**

**MARCH 14, 2019 MINUTES**

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

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –  
MARCH 6, 2019**

A.H., THE MINOR CHILD OF JAMES HATCHER BY AND THROUGH HEIDI GALLO, ETC. <b>V.</b> LOUISVILLE METRO GOVERNMENT, ET AL.	2018-SC-000359-DG	JEFFERSON
JOHN HAUBER, ET AL. <b>V.</b> HARRY W. HAUBER, III, ET AL.	2018-SC-000394-DG	JEFFERSON
KEVIN RAY WELLS, SR. <b>V.</b> CATHOLIC HEALTH INITIATIVES, INC., ET AL.	2018-SC-000490-DG	LAUREL
COMMONWEALTH OF KENTUCKY <b>V.</b> SHERRY GILMORE	2018-SC-000588-DG	PULASKI
DEPARTMENT FOR COMMUNITY BASED SERVICES, CABINET FOR HEALTH AND FAMILY SERVICES <b>V.</b> REBECCA BAKER	2018-SC-000610-DG	MCLEAN
GEOFFREY HAMPTON <b>V.</b> INTECH CONTRACTING, LLC, ET AL.	2018-SC-000611-DG	MUHLENBERG
TRACIE WILLIAMS <b>V.</b> KATELIN HAWKINS, ADMINISTRATRIX OF THE ESTATE OF CHARLOTTE HAWKINS	2019-SC-000012-DG	BULLITT
BRYAN SCOT SUTTLES <b>V.</b> KIMBERLY SUTTLES, NOW GROVES	2019-SC-000019-DGE	CARTER
CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY, ET AL. <b>V.</b> P. W.	2019-SC-000020-DGE	FAYETTE
<b>AND</b> CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY, ET AL. <b>V.</b> P. W.	2019-SC-000021-DGE	FAYETTE

SUPREME COURT OF KENTUCKY

MARCH 14, 2019 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
MARCH 6, 2019**

UNIVERSITY OF LOUISVILLE V. CHRISTOPHER M. GRANDE, M.D. <b>WRIGHT, J., WOULD GRANT.</b>	2018-SC-000360-D	JEFFERSON
PEYTON FELTNER, AS ADMINISTRATOR OF THE ESTATE OF EARL BRANSFORD FELTNER V. PJ OPERATIONS, LLC D/B/A PAPA JOHN'S KENTUCKY, ET AL. <b>WRIGHT, J., WOULD GRANT.</b>	2018-SC-000411-D	PERRY
BETTY DAWSON V. VIRGINIA BOONE, ET AL. <b>WRIGHT, J., WOULD GRANT.</b>	2018-SC-000415-D	FRANKLIN
WILDCAT PROPERTY MANAGEMENT, LLC V. STEPHANIE REUSS, ET AL.	2018-SC-000452-D	FAYETTE
ROBERT SAMUEL SAUNDERS V. HEIDI SAUNDERS (NOW WALKER), ET AL.	2018-SC-000458-D	JEFFERSON
JOSHUA FREEMAN BUMPHUS V. COMMONWEALTH OF KENTUCKY	2018-SC-000465-D	HENDERSON
COREY D. TOOGOOD, JR. V. COMMONWEALTH OF KENTUCKY	2018-SC-000479-D	JEFFERSON
STEVE MIRACLE, ETC, ET AL. V. TAMMY DUNCAN, ET AL.	2018-SC-000579-D	FRANKLIN
RICHARD VERNON MCKINZIE V. COMMONWEALTH OF KENTUCKY <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.</b>	2018-SC-000596-D	TRIGG
JACK HURST V. THOMAS M. GREER	2018-SC-000603-D	NELSON

SUPREME COURT OF KENTUCKY

MARCH 14, 2019 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
MARCH 6, 2019**

MARTIN JOSEPH NIENABER V. MARY COLLEEN GILDAY	2018-SC-000608-D	KENTON
COMMONWEALTH OF KENTUCKY V. DALE HARMON <b>VANMETER, J., WOULD GRANT.</b>	2018-SC-000616-D	BREATHITT
JEROME REID BAKER V. COMMONWEALTH OF KENTUCKY	2018-SC-000623-D	FAYETTE
STACEY OBERMEYER V. COMMONWEALTH OF KENTUCKY	2018-SC-000629-D	CAMPBELL
ALICIA L. PETERSON V. GRANGE PROPERTY & CASUALTY <b>THE OPINION OF THE COURT OF APPEALS IS ORDERED TO BE PUBLISHED. LAMBERT, J., WOULD GRANT.</b>	2018-SC-000632-D	JEFFERSON
CHAD ERIC SHOFNER V. COMMONWEALTH OF KENTUCKY	2018-SC-000645-D	TAYLOR
DEMARIO VAN MATTHEWS V. TRANSPORT DRIVERS INC., ET AL.	2018-SC-000654-D	JEFFERSON
WILLIAM TIMMS V. COMMONWEALTH OF KENTUCKY	2018-SC-000661-D	MCCRACKEN TRIMBLE
CHARLES MOSLEY, ET AL. V. ALBEY BROCK, ET AL.	2018-SC-000663-D	BELL
CERTIFIED CONSTRUCTION CO. OF KENTUCKY, LLC V. KEYSTOPS, LLC.	2018-SC-000673-D	MEADE
BRIAN K. DAMRELL V. COMMONWEALTH OF KENTUCKY	2018-SC-000676-D	ROCKCASTLE

SUPREME COURT OF KENTUCKY

MARCH 14, 2019 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –  
MARCH 6, 2019**

ROY LEE LYNEM, JR. V. 2019-SC-000003-D FAYETTE  
COMMONWEALTH OF KENTUCKY  
**THE OPINION OF THE COURT OF APPEALS  
IS ORDERED NOT TO BE PUBLISHED.**

LAWRENCE R. WEBSTER V. 2019-SC-000018-D PIKE  
PFEIFFER ENGINEERING COMPANY  
**WRIGHT, J., WOULD GRANT.**

BRIAN WORTINGER V. 2019-SC-000049-D HARDIN  
HEATHER WORTINGER (NOW DAVIS)

**COURT ORDERS GRANTING MOTION TO TRANSFER – MARCH 11, 2019**

BENNY LEE HODGE V. 2019-SC-000137-TG LAUREL  
COMMONWEALTH OF KENTUCKY

CHAZERAE MEL'ON TAYLOR, SR. V. 2019-SC-000138-TG FAYETTE  
COMMONWEALTH OF KENTUCKY

**COURT ORDERS DENYING PETITION FOR REHEARING – MARCH 14, 2019**

BINGHAM GREENBAUM DOLL, LLP V. 2017-SC-000105-DG KENTON  
MEREDITH L. LAWRENCE  
**MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.**

SHAWN TIGUE V. [2017-SC-000156-MR](#) BELL  
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**  
**ON THE COURT'S OWN MOTION, THE OPINION  
OF THE COURT, RENDERED NOVEMBER 1,  
2018 IS MODIFIED BY SUBSTITUTION OF THIS  
OPINION IN LIEU OF THE ORIGINAL OPINION.**  
MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.

**SUPREME COURT OF KENTUCKY**

**MARCH 14, 2019 MINUTES**

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

**COURT ORDERS DENYING PETITION FOR REHEARING – MARCH 14, 2019**

VERONICA BRADLEY V. 2017-SC-000275-DG FRANKLIN  
KENTUCKY RETIREMENT SYSTEMS  
**MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.**

MEREDITH L. LAWRENCE, ET AL. V. 2017-SC-000531-DG GALLATIN  
BINGHAM GREENBAUM DOLL, LLP, ET AL.  
**MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING.  
MINTON, C.J.; HUGHES, KELLER,  
VANMETER AND WRIGHT, J.J., CONCUR.  
LAMBERT, J., WOULD GRANT.**

GERRY E. LAWSON V. 2017-SC-000621-MR JEFFERSON  
COMMONWEALTH OF KENTUCKY  
**MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.**

**COURT ORDERS DISMISSING – MARCH 14, 2019**

KENTUCKY TRAILER V. 2018-SC-000163-WC FROM COURT  
KEMAL ZVIZDIC, ET AL. OF APPEALS  
**HUGHES, KELLER, LAMBERT AND  
VANMETER, JJ., SITTING. ALL CONCUR.**

KAREEM M. EDWARDS V. 2018-SC-000204-MR FROM COURT  
HON. PAMELA GOODWINE, JUDGE, OF APPEALS  
FAYETTE CIRCUIT COURT, ET AL.  
**MINTON, C.J.; HUGHES, KELLER, LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.**

RURAL METRO CORP. V. 2018-SC-000489-WC FROM COURT  
MICHAEL MULLINS, ET AL. OF APPEALS  
**HUGHES, KELLER, LAMBERT AND  
VANMETER, JJ., SITTING. ALL CONCUR.**

**SUPREME COURT OF KENTUCKY**

**MARCH 14, 2019 MINUTES**

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

**COURT ORDERS DISMISSING – MARCH 14, 2019**

CELESTINE LANIER V. 2018-SC-000685-WC FROM COURT  
UNIVERSITY OF LOUISVILLE, ET AL. OF APPEALS  
**MINTON, C.J.; HUGHES, KELLER AND  
VANMETER, JJ., SITTING. ALL CONCUR.**

ASHLEE DEHNAE SMITH V. 2019-SC-000074-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT

**COURT ORDERS**

KENTUCKY BAR ASSOCIATION V. 2018-SC-000149-KB IN SUPREME  
JASON THOMAS BUTLER COURT  
**ORDER DENIED MOVANT’S MOTION FOR  
CLARIFICATION.**  
ENTERED: MARCH 14, 2019

INQUIRY COMMISSION V. [2018-SC-000448-KB](#) IN SUPREME  
JOSEPH W. BOLIN TO BE PUBLISHED COURT  
**ORDER CORRECTED THE OPINION OF  
THE COURT RENDERED FEBRUARY 14,  
2019, BY SUBSTITUTION OF THIS OPINION  
IN LIEU OF THE ORIGINAL OPINION.**  
ENTERED: FEBRUARY 15, 2019

RENE BOUCHER V. 2018-SC-000640-I WARREN  
RAND PAUL, ET AL.  
**ORDER DENYING MOTION TO VACATE OR  
MODIFY ORDER DENYING INTERLOCUTORY  
RELIEF.**  
MINTON, C.J.; HUGHES, KELLER LAMBERT,  
VANMETER AND WRIGHT, JJ., SITTING. ALL  
CONCUR.  
**ENTERED: MARCH 14, 2019**

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

JAMES WOODWARD CURRY, JR. V. 2019-SC-000086-KB IN SUPREME  
KENTUCKY BAR ASSOCIATION COURT  
**ENTERED: FEBRUARY 13, 2019**

**SUPREME COURT OF KENTUCKY**

**MARCH 14, 2019 MINUTES**

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

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

**PIERRE H. BERGERON V.  
KENTUCKY BAR ASSOCIATION  
ENTERED: FEBRUARY 19, 2019**

**2019-SC-000098-KB**

**IN SUPREME  
COURT**

**LINDSEY ALEXANDRA RASMUSSEN V.  
KENTUCKY BAR ASSOCIATION  
ENTERED: FEBRUARY 19, 2019**

**2019-SC-000099-KB**

**IN SUPREME  
COURT**