

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

30. JAMES S. BROOKS V. [2005-SC-000319-MR](#) HENDERSON
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
CHIEF JUSTICE LAMBERT –
AFFIRMING
CUNNINGHAM AND SCOTT, JJ.,
CONCUR WITH THE RESULT,
HOWEVER, DO NOT BELIEVE THAT
THE COMMONWEALTH ATTORNEY’S
STATEMENTS CONCERNING
REASONABLE DOUBT WERE
INAPPROPRIATE, NOR IN VIOLATION
OF CALLAHAN.
SEE JOHNSON V. COMMONWEALTH,
184 S.W.3D 544 (KY.2006).
31. MARQUIS DERON HEARD V. [2004-SC-000551-DG](#) FAYETTE
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
CHIEF JUSTICE LAMBERT –
AFFIRMING IN PART AND
REVERSING IN PART
32. SHANNON REECE V. [2005-SC-000079-DG](#) JEFFERSON
NATIONWIDE MUTUAL **TO BE PUBLISHED**
INSURANCE COMPANY
OPINION OF THE COURT BY
JUSTICE SCHRODER –
REVERSING AND REMANDING
33. NEAL SCOTT STONE V. [2004-SC-000690-MR](#) NELSON
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE CUNNINGHAM –
REVERSING

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

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| 34. | VONDA BRIDGEWATER V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2005-SC-000423-MR
NOT TO BE PUBLISHED | ADAIR |
| 35. | CORNELIUS JAMAL MONK V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u>
CUNNINGHAM, J., CONCURS IN
RESULT ONLY. MCANULTY, J.,
DISSENTS BY SEPARATE OPINION
IN WHICH MINTON AND SCHRODER,
JJ., JOIN. | 2005-SC-000470-MR
NOT TO BE PUBLISHED | CHRISTIAN |
| 36. | ROBERT J. HILL V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2005-SC-000767-MR
NOT TO BE PUBLISHED | GRAYSON |
| 37. | OWEN RAY GADD V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u>
MCANULTY, J., AND SCHRODER, J.,
CONCUR IN RESULT ONLY. | 2005-SC-000880-MR
NOT TO BE PUBLISHED | GARRARD |
| 38. | RENEE HAMMOND, ET AL. V.
HON. MICHAEL D. FOELLGER, JUDGE,
CAMPBELL CIRCUIT COURT, ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u>
SCHRODER, J., NOT SITTING. | 2005-SC-000966-MR
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 39. | GLENN ANTHONY HUDSON V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2006-SC-000269-MR
NOT TO BE PUBLISHED | FAYETTE |

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

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| 40. | SHARON HOLLAN V.
IBM, ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u>
MCANULTY, J., NOT SITTING. | 2006-SC-000342-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 41. | MITCHELL CHILDERS V.
ADELPHIA COMMUNICATIONS, ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2006-SC-000433-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 42. | MARTHA COX V.
TRIM MASTERS, INC., ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u> | 2006-SC-000478-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 43. | LEASEWAY MOTOR CO.
TRANSPORT V.
JON CLINE, ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING</u>
MCANULTY, J., NOT SITTING. | 2006-SC-000551-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 44. | MICHAEL JOHNSON V.
BLUEGRASS COOPERAGE, ET AL.
AND
BLUEGRASS COOPERAGE V.
MICHAEL JOHNSON, ET AL.
MEMORANDUM OPINION OF THE
COURT – <u>AFFIRMING IN PART,
REVERSING IN PART, AND
REMANDING.</u>
MINTON, J., NOT SITTING. | 2006-SC-000340-WC
NOT TO BE PUBLISHED

2006-SC-000398-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS

FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

45.	DAMONE BUCKMAN V. COMMONWEALTH OF KENTUCKY MEMORANDUM OPINION OF THE COURT – <u>AFFIRMING IN PART, REVERSING IN PART.</u> MCANULTY, J., DISSENTS BY SEPARATE OPINION.	2005-SC-000148-MR NOT TO BE PUBLISHED	JEFFERSON
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OPINIONS AND ORDERS – MARCH 22, 2007

COMMONWEALTH OF KENTUCKY V. HAROLD S. BROWN ORDER GRANTED MOTION FOR DISCRETIONARY REVIEW, VACATED DECISION OF THE COURT OF APPEALS, AND REMANDED TO THE COURT OF APPEALS. MCANULTY, J., NOT SITTING ENTERED: MARCH 14, 2007	2005-SC-000309-D	LAUREL
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KIMBERLY C. MORTON V. KENTUCKY BAR ASSOCIATION ORDER RESTORED MOVANT TO THE PRACTICE OF LAW.	2006-SC-000779-KB TO BE PUBLISHED	IN SUPREME COURT
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KENTUCKY BAR ASSOCIATION V. JAMES GREGORY TROUTMAN ORDER SUSPENDED RESPONDENT FROM THE PRACTICE OF LAW.	2007-SC-000150-KB TO BE PUBLISHED	IN SUPREME COURT
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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
MARCH 14, 2007**

WORKFORCE DEVELOPMENT CABINET, DEPARTMENT FOR EMPLOYMENT SERVICES, DIVISION OF UNEMPLOYMENT INSURANCE V. MARY C. GAINES	2005-SC-000965-DG	FRANKLIN
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SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
MARCH 14, 2007**

COMMONWEALTH OF KENTUCKY V. MICHAEL CARNEAL	2006-SC-000653-DG	MCCRACKEN
JACQUELINE ANN HINSHAW, (NOW LENARZ) V. REN RICKY HINSHAW, ET AL.	2006-SC-000729-DGE	JEFFERSON
ALLEN DAVID JONES V. COMMONWEALTH OF KENTUCKY	2006-SC-000802-DG	FAYETTE
DONNA NANNY V. JENNIFER SMITH	2006-SC-000833-DG	GRAVES
NEURODIAGNOSTICS, PSC, D/B/A LEXINGTON DIAGNOSTIC CENTER V. KENTUCKY FARM BUREAU MUTUAL INSURANCE COMPANY, ET AL.	2006-SC-000857-DG	FAYETTE
W.D.B., A CHILD UNDER EIGHTEEN V. COMMONWEALTH OF KENTUCKY	2006-SC-000937-DGE	HENDERSON
COMMONWEALTH OF KENTUCKY V. B.J., A CHILD UNDER EIGHTEEN	2007-SC-000025-DGE	JEFFERSON
MARIA REGINA FRANCES V. BOBBY GENE FRANCES	2007-SC-000076-DGE	TRIGG
LEWIS BIZZACK, ET AL. V. ALICE SOUTH HUME, ET AL.	2007-SC-000091-DG	FRANKLIN

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MARCH 14, 2007**

LINDA C. MORRIS, IN HER CAPACITY AS GUARDIAN AND CONSERVATOR OF ROBERT LEE REDMON, JR., ET AL. V. COMMONWEALTH OF KENTUCKY, LABOR CABINET, ETC., ET AL.	2006-SC-000116-D	FRANKLIN
CARLITO AXIBAL V. OKSANA AXIBAL	2006-SC-000508-D	LAUREL
JAMES WALTERS V. COMMONWEALTH OF KENTUCKY ENTERED: MARCH 16, 2007	2006-SC-000543-D	MCCRACKEN
ELEANOR JEAN HUNTON, INDIVIDUALLY AND AS EXECUTRIX OF THE ESTATE OF BOBBY GENE HUNTON V. DETREX CORPORATION, ET AL.	2006-SC-000544-D	WARREN
STEPHEN E. JAMES V. COMMONWEALTH OF KENTUCKY ENTERED: MARCH 16, 2007	2006-SC-000600-D	LINCOLN
CHARLES ALEX KIMBROUGH V. COMMONWEALTH OF KENTUCKY, CHILD SUPPORT DIVISION EX REL. SHANTRECE LANIECE BELMAR	2006-SC-000613-D	JEFFERSON
WESLEY GILLIAM V. PIKEVILLE UNITED METHODIST HOSPITAL OF KENTUCKY, INC., AND DANNY BRISCOE	2006-SC-000637-D	PIKE
DEMARCUS FUQUA V. COMMONWEALTH OF KENTUCKY ENTERED: MARCH 16, 2007	2006-SC-000641-D	CALDWELL

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MARCH 14, 2007**

LARRY DUKES V. COMMONWEALTH OF KENTUCKY ENTERED: MARCH 16, 2007	2006-SC-000688-D	HOPKINS
ALBERTO ANDRADE V. GRACE MCPHAIL	2006-SC-000714-D	FAYETTE
WILLIAM L. HAYDEN V. COMMONWEALTH OF KENTUCKY, DEPARTMENT OF CORRECTIONS; AND TOM DAILEY, WARDEN	2006-SC-000751-D	OLDHAM
SIDNEY MILLER, AS A CORRECTIONAL OFFICER, AND JAMES NAPIER, AS A CORRECTIONAL OFFICER V. TERRANCE BOYKIN	2006-SC-000759-D	BOYLE
GARY JODY WEISS V. COMMONWEALTH OF KENTUCKY	2006-SC-000788-D	CLINTON
HENRY HALL V. THOMAS SIMPSON, WARDEN	2006-SC-000795-D	LYON
AARON JOSEPH HART V. COMMONWEALTH OF KENTUCKY	2006-SC-000797-D	HOPKINS
MICHAEL YANKAUS V. JOHN WHITE	2006-SC-000801-D	FAYETTE
DEAN W. FORLEO, ET AL. V. AMERICAN PRODUCTS OF KENTUCKY, INC., ET AL.	2006-SC-000804-D	JEFFERSON
LARRY DAVID DENNISON V. COMMONWEALTH OF KENTUCKY	2006-SC-000807-D	WARREN

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MARCH 14, 2007**

NANCYE BLACKBURN, ET AL. V. FAMILY BANK, FSB	2006-SC-000814-D	PIKE
DIANE WOOD V. BEN S. WOOD III, EXECUTOR, AND ESTATE OF BEN S. WOOD	2006-SC-000820-D	CHRISTIAN
GREG MORRISON V. COMMONWEALTH OF KENTUCKY	2006-SC-000822-D	SCOTT
JAY H. MCKENZIE V. COMMONWEALTH OF KENTUCKY	2006-SC-000841-D	JOHNSON
KEITH ALLGEIER V. COMMONWEALTH OF KENTUCKY	2006-SC-000870-D	CHRISTIAN
ELBERT PHILLIP LONG V. COMMONWEALTH OF KENTUCKY	2006-SC-000873-D	FRANKLIN
ARNEY UPCHURCH V. DOLLAR GENERAL PARTNERS	2006-SC-000891-D	CLINTON
TIMOTHY T. KIMBLE V. COMMONWEALTH OF KENTUCKY	2006-SC-000906-D	FAYETTE
JAMES FRANCIS V. CHESAPEAKE APPALACHIA, LLC	2006-SC-000909-D	KNOTT
WILLIAM T. POGUE, JR. V. COMMONWEALTH OF KENTUCKY	2006-SC-000917-D	DAVIESS
LANNY ESKRIDGE V. COMMONWEALTH OF KENTUCKY	2006-SC-000921-D	WASHINGTON
WILLIAM "COREY" HILLARD V. COMMONWEALTH OF KENTUCKY	2006-SC-000927-D	NELSON

SUPREME COURT OF KENTUCKY

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MARCH 22, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MARCH 14, 2007**

LISA HICKS, ET AL. V. MICHAEL F. EUBANKS, EXECUTOR OF THE ESTATE OF MARY F. HENDRICKS, DECEASED, ET AL.	2006-SC-000928-D	MADISON
KENNETH FRANK KIPP V. COMMONWEALTH OF KENTUCKY	2006-SC-000932-D	JEFFERSON
CONNIE MARSHALL V. ARVEL WISE, JR.	2006-SC-000944-D	JEFFERSON
WILLIAM D. LOGSDON, JR. V. OLLIE LOGSDON	2006-SC-000947-D	BULLITT
JOSEPH HUTSON V. COMMONWEALTH OF KENTUCKY	2007-SC-000012-D	CAMPBELL
MARIA C. ARCE V. JAVIER ARCE	2007-SC-000026-DE	JEFFERSON
ELEANOR JEAN HUNTON, INDIVIDUALLY AND AS EXECUTRIX OF THE ESTATE OF BOBBY GENE HUNTON V. CITY OF BOWLING GREEN, KENTUCKY	2007-SC-000055-D	WARREN

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – MARCH 1, 2007**

JOEL BLACKBURN V. COMMONWEALTH OF KENTUCKY	2006-SC-000943-D	JESSAMINE
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SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – MARCH 22, 2007

ERNEST ABNEY V. NATIONWIDE MUTUAL INSURANCE COMPANY, ET AL. ORDER MODIFIED OPINION OF THE COURT BY JUSTICE MCANULTY RENDERED NOVEMBER 22, 2006, WITH THE ADDITION OF FOOTNOTE (1) ON PAGE 7 AND SUBSTITUTION OF PAGES 1, 7, 8, 9 DUE TO PAGINATION.	2004-SC-000937-DG	BOURBON
COMMONWEALTH OF KENTUCKY V. EDWARD GREEN JAMESON	2004-SC-000983-DG	MCCRACKEN
BOBBI PILE (AS EXECUTRIX OF THE ESTATE OF THERESA ANN FOLTZ, DECEASED) V. CITY OF BRANDENBURG AND JOHN MILLER, OFFICER	2005-SC-000047-DG	MEADE
BRENDA SPEARS V. CARHARTT, INC., ET AL.	2005-SC-000694-WC	FROM COURT OF APPEALS

COURT ORDERS

CITY OF HICKMAN, FULTON COUNTY, KENTUCKY V. JOHN GARDNER ORDER VACATED THE OPINION OF THE COURT OF APPEALS AND REMANDED.	2004-SC-000688-DG 2005-SC-000693	FULTON
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SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

COURT ORDERS

COMMONWEALTH OF KENTUCKY V. [2005-SC-000257-DG](#) CAMPBELL
PATRICK MCKENZIE
**ORDER CORRECTED OPINION OF
THE COURT BY JUSTICE SCOTT
RENDERED FEBRUARY 22, 2007,
BY SUBSTITUTION OF PAGES 1 AND 4.**
ENTERED: FEBRUARY 26, 2007

COMMONWEALTH OF KENTUCKY V. [2005-SC-000348-DG](#) RUSSELL
PHILLIP YORK
**ORDER CORRECTED OPINION OF
THE COURT BY JUSTICE SCOTT
RENDERED FEBRUARY 22, 2007,
BY SUBSTITUTION OF PAGES 1 AND 5.**
ENTERED: FEBRUARY 26, 2007

JEAN ALISA ELDER V. 2006-SC-000015-DG UNION
THOMAS DAMIEN ELDER, JR.
ORDER DISMISSED APPEAL
ENTERED: MARCH 16, 2007

STEVEN TAYLOR V. 2006-SC-000131-MR KENTON
HON. PATRICIA M. SUMME, JUDGE,
KENTON CIRCUIT COURT
ORDER DISMISSED APPEAL
ENTERED: MARCH 19, 2007

ROBERT MARK BEAL V. [2006-SC-000918-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION COURT
**ORDER MODIFIED THE OPINION AND
ORDER ENTERED JANUARY 25, 2007
BY SUBSTITUTION OF PAGES 1, 5 AND 6.**
ENTERED: MARCH 22, 2007

SUPREME COURT OF KENTUCKY

MINUTES

MARCH 22, 2007

RELEASED: 10:00 A.M.

COURT ORDERS

WAL-MART STORES, INC. V. PATSY FINNEY, ET AL. ORDER DISMISSED APPEAL ENTERED MARCH 15, 2007	2006-SC-000919-WC	FROM COURT OF APPEALS
AMERICAN TAX FUNDING, LLC V. HON. JOHN FARRIS, IN HIS CAPACITY AS SECRETARY OF THE FINANCE AND ADMINISTRATION CABINET, ET AL. ORDER GRANTED MOTION TO DISMISS APPEAL. ENTERED: MARCH 15, 2007	2006-SC-000950-T	FRANKLIN
ROGER G. DERMITT, ET AL. V. JAMES A. JESSIE, ET AL. ORDER GRANTED MOTION TO WITHDRAW APPEAL. ENTERED: FEBRUARY 22, 2007	2007-SC-000028-D	GRAYSON
COMMONWEALTH OF KENTUCKY, UNINSURED EMPLOYERS FUND V. WORKERS COMPENSATION BOARD, ET AL. ORDER GRANTED MOTION TO WITHDRAW APPEAL. ENTERED: MARCH 12, 2007	2007-SC-000092-MR	FROM COURT OF APPEALS
JOHN W. PEROTTI V. DONALD STINE ORDER DENIED MOTION TO PROCEED IN FORMA PAUPERIS. ENTERED: MARCH 14, 2007	2007-SC-000119-D	MCCREARY