

SUPREME COURT OF KENTUCKY

MINUTES

MAY 24, 2007

RELEASED: 10:00 A.M.

68. COMMONWEALTH OF KENTUCKY V. [2006-SC-000313-CL](#) JEFFERSON
ASHLEY M. BLAKELY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE SCOTT –
CERTIFYING THE LAW
69. PATTI WEBB, ET AL. V. [2005-SC-000271-DG](#) MUHLENBERG
BRIAN SHARP, ET AL. **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE CUNNINGHAM –
AFFIRMING IN PART AND
REVERSING IN PART
MINTON, NOBLE AND SCOTT, J.J.,
CONCUR IN THE RESULT REACHED
BY THE MAJORITY BUT BELIEVE
THAT THE MAJORITY ERRS BY
CONSIDERING THE MERITS OF THE
RELIABILITY OF THE FIELD TESTS.
NEITHER THOMAS NOR SHARP
QUESTIONED THE RELIABILITY OF
THE FIELD TESTS DURING THE
ADMINISTRATIVE DISCIPLINARY
PROCESS. AS JUDGE KNOPF NOTED
IN HIS SEPARATE OPINION, THE
FAILURE TO RAISE AN ISSUE BEFORE
AN ADMINISTRATIVE BODY PRECLUDES
A LITIGANT FROM RAISING THAT ISSUE
IN AN ACTION FOR JUDICIAL REVIEW
OF THE AGENCY'S ACTION.
O'DEA V. CLARK, 883 S.W.2D 888, 892
(KY.APP. 1994).
70. DANIEL C. CLARK V. [2005-SC-000177-DG](#) BULLITT
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE MINTON – REVERSING
AND REMANDING
SCOTT, J., DISSENTS BY SEPARATE
OPINION IN WHICH CUNNINGHAM, J.,
JOINS.

SUPREME COURT OF KENTUCKY

MINUTES

MAY 24, 2007

RELEASED: 10:00 A.M.

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| 71. | JAMES A. CRUM V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE NOBLE – <u>REVERSING
AND REMANDING</u> | 2005-SC-000395-DG
TO BE PUBLISHED | PIKE |
| 72. | DAVID GORDON V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
NOBLE, J., DISSENTS BY SEPARATE
OPINION IN WHICH CUNNINGHAM,
AND SCHRODER, J.J., JOIN. | 2005-SC-000180-MR
NOT TO BE PUBLISHED | CARROLL |
| 73. | ALLEN GREY V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2005-SC-000590-MR
NOT TO BE PUBLISHED | FAYETTE |
| 74. | KELLY WAYNE GREENWELL V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2005-SC-000629-MR
NOT TO BE PUBLISHED | NELSON |
| 75. | LAWRENCE ELMER PATE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
CUNNINGHAM, J., CONCURS BY
SEPARATE OPINION. | 2005-SC-000654-MR
NOT TO BE PUBLISHED | BRACKEN |
| 76. | MELDRUM GREG HARVEY V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2005-SC-000700-MR
NOT TO BE PUBLISHED | MUHLENBERG |
| 77. | PAUL DAVID SMITH V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2005-SC-000840-MR
NOT TO BE PUBLISHED | WHITLEY |

SUPREME COURT OF KENTUCKY

MINUTES

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| 78. | TROY D. WADE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2005-SC-000844-MR
NOT TO BE PUBLISHED | MEADE |
| 79. | RICKY FULCHER V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2005-SC-000883-MR
2005-SC-000952-TG
NOT TO BE PUBLISHED | LOGAN |
| 80. | DAVID MCKEE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2005-SC-000954-MR
NOT TO BE PUBLISHED | BREATHITT |
| 81. | KEVIN ROWE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
SCOTT, J., NOT SITTING. | 2006-SC-000356-MR
NOT TO BE PUBLISHED | PIKE |
| 82. | MALINDA JANET MARTIN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2006-SC-000370-MR
NOT TO BE PUBLISHED | MCCRACKEN |
| 83. | RONNIE JOHNSON V.
CHERNE CONTRACTING
COMPANY, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
LAMBERT, C.J., DISSENTS BY
SEPARATE OPINION IN WHICH
SCOTT, J., JOINS. | 2006-SC-000576-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

MINUTES

MAY 24, 2007

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| 84. | ROY E. WHITE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u>
MCANULTY, J., CONCURS BY
SEPARATE OPINION IN WHICH
MINTON AND NOBLE, J.J, JOIN. | 2006-SC-000598-MR
NOT TO BE PUBLISHED | FAYETTE |
| 85. | JAMES MCCAULEY, JR. V.
PPG INDUSTRIES, D/B/A/
PORTER PAINTS, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2006-SC-000696-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 86. | PINE MOUNTAIN LUMBER CO., LLC V.
CARLOS J. ADAMS, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2006-SC-000756-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 87. | LISA MAE DAVIS V.
CARHARTT, INC., ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2006-SC-000758-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 88. | LEADING EDGE INSURANCE
GROUP, INC. ET AL. V.
TONY HART, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2006-SC-000790-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 89. | KIM PIKE V.
FAMILY DOLLAR STORE, ET AL.
MEMORANDUM OPINION
OF THE COURT – <u>AFFIRMING</u> | 2006-SC-000850-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

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MAY 24, 2007

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OPINIONS AND ORDERS – MAY 24, 2007

**KENTUCKY BAR ASSOCIATION V.
GEORGE T. RORRER III
ORDER PERMANENTLY DISBARRED
RESPONDENT FROM THE PRACTICE
OF LAW.**

[2006-SC-000603-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**CHAD DONOVAN TALBOTT V.
KENTUCKY BAR ASSOCIATION
ORDER RESTORED MOVANT TO
THE PRACTICE OF LAW.
ENTERED: MAY 17, 2007**

[2006-SC-000902-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**ROBERT DUNSON V.
COMMONWEALTH OF KENTUCKY
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: MAY 16, 2007**

2007-SC-000017-DG

FAYETTE

**BRIAN BANAS V.
KENTUCKY BAR ASSOCIATION
ORDER RESTORED MOVANT TO
THE PRACTICE OF LAW.**

[2007-SC-000148-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**GENON G. HENSLEY V.
KENTUCKY BAR ASSOCIATION
ORDER SUSPENDED MOVANT
FROM THE PRACTICE OF LAW
FOR 61 DAYS WITH CONDITIONS.**

[2007-SC-000149-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

SUPREME COURT OF KENTUCKY

MINUTES

MAY 24, 2007

RELEASED: 10:00 A.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
MAY 16, 2007**

CHARLES E. BREWSTER V. COLGATE PALMOLIVE COMPANY AND JEWISH HOSPITAL HEALTHCARE SERVICES	2006-SC-000584-DG	JEFFERSON
HUMANA, INC. V. COLLEEN BLOSE	2006-SC-000783-DG	JEFFERSON
COMMONWEALTH OF KENTUCKY, EDUCATION CABINET, OFFICE OF CAREER AND TECHNICAL EDUCATION; AND KENTUCKY TECHNICAL EDUCATION PERSONNEL BOARD V. DONNA P. SOLLY	2006-SC-000858-DG	FRANKLIN
HELEN KUGLAND, AS ADMINISTRATOR AND PERSONAL REPRESENTATIVE OF THE ESTATE OF BERNARD KUGLAND V. ENCOMPASS INSURANCE COMPANY	2007-SC-000002-DG	JEFFERSON
TYRONE ANTOINE HARTSFIELD V. COMMONWEALTH OF KENTUCKY	2007-SC-000077-DG	FAYETTE
DEBRA GILBERT V. NATIONWIDE MUTUAL INSURANCE COMPANY	2007-SC-000078-DG	JEFFERSON
LOIS DE VASIER, AS ADMINISTRATRIX OF THE ESTATE OF KENNEITHA CRADY V. WILLIAM JAMES, M.D.	2007-SC-000130-DG	JEFFERSON
MICHAEL CARNEAL V. COMMONWEALTH OF KENTUCKY	2007-SC-000203-DG	MCCRACKEN

SUPREME COURT OF KENTUCKY

MINUTES

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RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MAY 16, 2007**

CHRISTOPHER L. FLORENCE V. COMMONWEALTH OF KENTUCKY	2006-SC-000565-D	FAYETTE
DEMETRIUS HENRY V. COMMONWEALTH OF KENTUCKY	2006-SC-000769-D	FAYETTE
COMMONWEALTH OF KENTUCKY V. ENOCH DONNELL HUFF COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2006-SC-000812-D	BELL
GEORGE ISON V. GEICO GENERAL INSURANCE COMPANY	2006-SC-000848-D	PENDLETON
ANTHONY WAYNE RICHIE V. COMMONWEALTH OF KENTUCKY	2006-SC-000866-D	JEFFERSON
LISA DIANE MASSEY V. MICHAEL JOHN MASSEY	2006-SC-000899-D	JEFFERSON
DEBRA VANCE, INDIVIDUALLY, ET AL. V. WARREN COUNTY FISCAL COURT, ET AL.	2006-SC-000907-D	WARREN
GLORIA GEORGE V. THEODORE H. LAVIT AND STEVE MASTERSON	2006-SC-000913-D	MARION
WALTER R. DIXON V. COMMONWEALTH OF KENTUCKY	2006-SC-000942-D	JEFFERSON
TERRELL WOOSLEY V. COMMONWEALTH OF KENTUCKY, DEPARTMENT OF CORRECTIONS	2006-SC-000948-D	FRANKLIN

SUPREME COURT OF KENTUCKY

MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MAY 16, 2007**

THOMAS W. FRENTZ, TRUSTEE OF THE CHAPTER 7 BANKRUPTCY ESTATE OF JUDY PENROD V. SHPS, INC., ET AL.	2007-SC-000001-D	JEFFERSON
DEELYNNE RICE V. WILLIAM E. BARNES	2007-SC-000004-D	MCCRACKEN
KENTUCKY ASSOCIATION OF COUNTIES, INC., ET AL. V. JENNIE PHILPOT CLARK	2007-SC-000009-D	FRANKLIN
REBECCA JEANETTE MURPHY CHIPMAN V. CHRISTOPHER MICHAEL MURPHY	2007-SC-000015-D	HARDIN
DONALD GARRISON, INDIVIDUALLY, ET AL. V. JOANNE M. LEAHY-AUER, M.D., ET AL.	2007-SC-000016-D	FAYETTE
JERRY A. ESTEP, ET AL. V. CHESTER MULLINS, ET AL.	2007-SC-000018-D	PIKE
DAN DUFFY V. FAYETTE COUNTY ATTORNEY, ET AL.	2007-SC-000027-D	FAYETTE
COMMONWEALTH OF KENTUCKY V. ROBERT STIVER	2007-SC-000038-D	FAYETTE
TRACY PAULINE BOTTO V. COMMONWEALTH OF KENTUCKY	2007-SC-000049-D	HARDIN
LESLIE CHESTER V. COMMONWEALTH OF KENTUCKY	2007-SC-000053-D	CHRISTIAN
LYDIA J. HOLBROOK V. STANLEY G. HOLBROOK	2007-SC-000057-D	MAGOFFIN

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MAY 16, 2007**

SMITH FOGLE, ET AL. V. GENERALI – U.S. BRANCH	2007-SC-000062-D	MARION
DENISE MULLINS V. WILLIAM DAVID GOOCH, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY FOR THE LINCOLN COUNTY REGIONAL JAIL	2007-SC-000075-D	LINCOLN
EDDIE ARNOLD WARFIELD, ET AL. V. CLEO GENEVA WARFIELD, INDIVIDUALLY, AND BY AND THROUGH HER BEST FRIEND, DIANNA CAROL WARFIELD MCKEEHAN, AND BY AND THROUGH HER POWER OF ATTORNEY BEING DIANNA CAROL WARFIELD MCKEEHAN, ET AL.	2007-SC-000101-D	KNOX
T.R.V. AND L.V. V. COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH AND FAMILY SERVICES AS NEXT FRIEND OF J.S.V., A CHILD, AND S.V., A CHILD, AND CABINET FOR HEALTH AND FAMILY SERVICES	2007-SC-000134-DE	BALLARD
JOE ACTON V. VICTORIA DAVIDSON BUSH	2007-SC-000158-D	PENDLETON
RACHEL EVA (STRICKLAND) POLLARD AND ALBERT POLLARD V. KEVIN FRANCKE	2007-SC-000164-D	HENDERSON
WILLIAM BRANCH V. JEREMY S. MAUNEY	2007-SC-000165-D	FAYETTE
BOBBY C. JONES V. COMMONWEALTH OF KENTUCKY	2007-SC-000166-D	MONTGOMERY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
MAY 16, 2007**

HOLBROOK TOWING AND RECOVERY INC. V. COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET	2007-SC-000174-D	FRANKLIN
THOMAS MICHAEL CROWE, ET AL. V. DAVID D. CRENSHAW, ET AL.	2007-SC-000178-D	HENRY
BONNIE JEAN RIGDON V. DOLLAR GENERAL CORPORATION	2007-SC-000186-D	WARREN

**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – MAY 15, 2007**

JOSEPH C. BOWDEN V. COMMONWEALTH OF KENTUCKY	2007-SC-000064-D	FAYETTE
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COURT ORDERS GRANTING MOTION TO TRANSFER – MAY 24, 2007

GLYNDON EATON V. COMMONWEALTH OF KENTUCKY	2007-SC-000277-T	MADISON
KEVIN DARYL MARTINDALE V. COMMONWEALTH OF KENTUCKY ENTERED: MAY 11, 2007	2007-SC-000322-T	DAVISS

COURT ORDERS DENYING PETITION FOR REHEARING – MAY 24, 2007

MITCHELL WILLOUGHBY V. COMMONWEALTH OF KENTUCKY	2005-SC-000115-MR	FAYETTE
DAMONE BUCKMAN V. COMMONWEALTH OF KENTUCKY	2005-SC-000148-MR	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

MAY 24, 2007

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – MAY 24, 2007

OLIVIA ANNE STEWART V. UNIFIRST CORPORATION, ET AL.	2006-SC-000396-WC	FROM COURT OF APPEALS
MICHAEL CAIN V. HON. LISABETH HUGHES ABRAMSON, JUDGE, JEFFERSON CIRCUIT COURT AND COMMONWEALTH OF KENTUCKY (REAL PARTY IN INTEREST) ORDER MODIFIED OPINION RENDERED JANUARY 25, 2007, ON PAGE 9, LINES 6 AND 7.	2006-SC-000477-MR	JEFFERSON

COURT ORDERS

KENTUCKY BAR ASSOCIATION V. J. THOMAS HARDIN ORDER CORRECTED OPINION AND ORDER RENDERED APRIL 19, 2007, BY SUBSTITUTION OF PAGES 1 AND 16. ENTERED: APRIL 25, 2007	2006-SC-000268-KB	IN SUPREME COURT
RICHARD C. HOLMES V. TIMOTHY SCOTT COUCH, ET AL. ORDER GRANTED MOTION TO DISMISS MOTION FOR INTERLOCUTORY RELIEF. ENTERED: MAY 2, 2007	2006-SC-000792-I	FAYETTE
DEREK TRUMBO V. COMMONWEALTH OF KENTUCKY ORDER DISMISSED APPEAL. ENTERED: MAY 2, 2007	2006-SC-000910-MR	JEFFERSON
MARC CULLINS V. NATIONWIDE PAPERS, ET AL. ORDER DISMISSED APPEAL. ENTERED: APRIL 30, 2007	2007-SC-000071-WC	FROM COURT OF APPEALS

SUPREME COURT OF KENTUCKY

MINUTES

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COURT ORDERS

CANDACE SMITH V. OWSLEY COUNTY HEALTH CARE CENTER, ET AL. ORDER DISMISSED APPEAL. ENTERED: MAY 15, 2007	2007-SC-000072-WC	FROM COURT OF APPEALS
KENTUCKY BAR ASSOCIATION V. JAMES W. CONWAY ORDER CONFIRMED AUTOMATIC SUSPENSION. ENTERED: MAY 24, 2007	2007-SC-000087-KB TO BE PUBLISHED	IN SUPREME COURT
RICKEY BERNARD JONES V. DEPARTMENT OF CORRECTIONS ORDER DENIED MOTION FOR ENLARGEMENT OF TIME. ENTERED: APRIL 19, 2007	2007-SC-000121-D	OLDHAM
JOEL R. ADCOCK V. COMMONWEALTH OF KENTUCKY ORDER DENIED MOTION FOR ENLARGEMENT OF TIME. ENTERED: APRIL 27, 2007	2007-SC-000125-D	LYON
MAINSTREAM TRANSPORTATION COMPANY V. ANN E. BEARD, ADMINISTRATRIX OF THE ESTATE OF MARTHA ANN RANKIN, DECEASED ORDER GRANTED MOTION TO DISMISS MOTION FOR DISCRETIONARY REVIEW. ENTERED: MAY 9, 2007	2007-SC-000208-D	JEFFERSON
DENNIS SCOTT MOE V. COMMONWEALTH OF KENTUCKY ORDER DENIED MOTION TO PROCEED IN FORMA PAUPERIS. ENTERED: MAY 14, 2007	2007-SC-000249-D	CHRISTIAN

SUPREME COURT OF KENTUCKY

MINUTES

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COURT ORDERS

TERRELL WOOSLEY V.
COMMONWEALTH OF KENTUCKY
**ORDER DENIED MOTION TO
PROCEED IN FORMA PAUPERIS.**
ENTERED: MAY 14, 2007

2007-SC-000258-D

HENDERSON

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

ARNOLD ALBERT BLANK, JR. V.
KENTUCKY BAR ASSOCIATION
ENTERED: MAY 11, 2007

2007-SC-000313-KB

IN SUPREME
COURT

JAMES J. RAGAN, III. V.
KENTUCKY BAR ASSOCIATION
ENTERED: MAY 17, 2007

2007-SC-000343-KB

IN SUPREME
COURT