

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

RELEASED: 10:00 A.M.

122. KENTUCKY HIGH SCHOOL ATHLETIC ASSOCIATION V. JAMES "BO" EDWARDS
OPINION OF THE COURT BY JUSTICE NOBLE – SUPPORTING DISMISSAL
[2007-SC-000927-I](#)
TO BE PUBLISHED BARREN
123. LUIS ALBERT ALKABALA-SANCHEZ V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY JUSTICE NOBLE – AFFIRMING
MINTON, J., DISSENTS BECAUSE ALL OF THE RELEVANT CIRCUMSTANCES (INCLUDING THE PRESENCE OF MULTIPLE OFFICERS, THE TIME OF DAY OF THE INTERVIEW, THE LENGTH OF THE INTERVIEW, THE ISOLATION OF APPELLANT FROM HIS FAMILY MEMBERS BEFORE AND DURING QUESTIONING, AND THE LANGUAGE BARRIER BETWEEN APPELLANT AND THE OFFICERS) HAVE CAUSED HIM TO CONCLUDE THAT ALKABALA-SANCHEZ WAS IN CUSTODY FROM THE BEGINNING OF HIS INTERVIEW WITH THE POLICE. SCHRODER, J., DISSENTS WITHOUT SEPARATE OPINION.
[2006-SC-000196-MR](#)
TO BE PUBLISHED FAYETTE
124. RICHARD T. DAVIS, ET AL. V. PEGGY HENSLEY, CO-ADMINISTRATRIX OF THE RICHARD SCHWARTZ ESTATE, ET AL.
OPINION OF THE COURT BY SPECIAL JUSTICE JAMES D. HARRIS, JR – AFFIRMING
MINTON AND SCHRODER, JJ., NOT SITTING.
[2007-SC-000066-DG](#)
TO BE PUBLISHED BOONE

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

RELEASED: 10:00 A.M.

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| 125. | UNINSURED EMPLOYERS' FUND V.
CITY OF SALYERSVILLE, ET AL.
OPINION OF THE COURT -
<u>AFFIRMING</u> | 2007-SC-000183-WC
TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 126. | CARLOS COUCH V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE SCOTT – <u>AFFIRMING</u>
CUNNINGHAM, J., DISSENTS BY
SEPARATE OPINION, WITH
SCHRODER, J., JOINING THAT
DISSENT. | 2007-SC-000372-DG
TO BE PUBLISHED | PERRY |
| 127. | GORDON T. RAGER, ET AL. V.
CRAWFORD & COMPANY, ET AL.
OPINION OF THE COURT –
<u>AFFIRMING</u> | 2007-SC-000567-WC
TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 128. | WARREN KEMPER, M.D. V.
BARRY GORDON (INDIVIDUALLY
AND AS SURVIVING SPOUSE AND
PERSONAL REPRESENTATIVE OF
THE ESTATE OF LORI GORDON,
DECEASED), ET AL.
OPINION OF THE COURT BY
JUSTICE CUNNINGHAM –
<u>AFFIRMING IN PART, REVERSING
IN PART AND REMANDING</u>
LAMBERT, C.J., CONCURS IN RESULT
ONLY BY SEPARATE OPINION IN WHICH
ABRAMSON, J., JOINS. NOBLE, J.,
DISSENTS BY SEPARATE OPINION IN
WHICH THOMAS C. SMITH,
SPECIAL JUSTICE JOINS.
MINTON AND SCHRODER, JJ.,
NOT SITTING. | 2005-SC-000306-DG
2006-SC-000077-DG
TO BE PUBLISHED | JEFFERSON |

SUPREME COURT OF KENTUCKY

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129. CHILDERS OIL COMPANY, INC. V. [2007-SC-000032-DG](#) PIKE
BERTHA L. ADKINS, ET AL. **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE NOBLE –
AFFIRMING IN PART AND
REVERSING IN PART
130. COMMONWEALTH OF KENTUCKY, [2006-SC-000454-DG](#) JEFFERSON
TRANSPORTATION CABINET, **TO BE PUBLISHED**
DEPARTMENT OF HIGHWAYS V.
SHANNON D. SEXTON, ET AL.
OPINION OF THE COURT BY
JUSTICE MINTON –
REVERSING AND REMANDING
SCHRODER, J., NOT SITTING.
131. SANFORD WILLIAMS, [2006-SC-000856-DG](#) MENIFEE
ADMINISTRATOR OF THE ESTATE **TO BE PUBLISHED**
OF PAUL WILLIAMS V.
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY
OPINION OF THE COURT BY
JUSTICE SCHRODER –
REVERSING AND REMANDING
132. HARDIN COUNTY, KENTUCKY, D/B/A [2005-SC-000183-DG](#) HARDIN
HARDIN MEMORIAL HOSPITAL, **TO BE PUBLISHED**
ET AL. V.
BESSIE WILKERSON, DECEASED,
ET AL.
AND
CYNTHIA RANDOLPH HALL, R.N. V. [2005-SC-000206-DG](#) HARDIN
HARDIN COUNTY, KENTUCKY, D/B/A **TO BE PUBLISHED**
HARDIN MEMORIAL HOSPITAL, ET AL.
OPINION OF THE COURT BY
JUSTICE NOBLE – REVERSING
SCOTT, J., DISSENTS BY SEPARATE
OPINION IN WHICH CUNNINGHAM, J.,
JOINS. MINTON J., NOT SITTING.

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

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| 133. | CHRISTIE RICHARDSON V.
LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT
OPINION OF THE COURT BY
JUSTICE SCOTT – <u>REVERSING</u>
SCHRODER, J., NOT SITTING. | 2006-SC-000502-DG
TO BE PUBLISHED | JEFFERSON |
| 134. | BRAD COFFMAN V.
DEBRA RANKIN
OPINION OF THE COURT BY
CHIEF JUSTICE LAMBERT –
<u>REVERSING</u>
CUNNINGHAM, J., DISSENTS BY
SEPARATE OPINION IN WHICH
SCHRODER AND SCOTT, JJ., JOIN. | 2007-SC-000348-DGE
TO BE PUBLISHED | HARDIN |
| 135. | MICHAEL D. ST. CLAIR V.
HON. JANET P. COLEMAN,
JUDGE, HARDIN CIRCUIT COURT,
DIV. II, ET AL.
MEMORANDUM OPINION OF
THE COURT –
<u>DENYING WRIT OF PROHIBITION</u> | 2007-SC-000901-OA
NOT TO BE PUBLISHED | HARDIN |
| 136. | JOETTA CHARLES V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2006-SC-000185-MR
NOT TO BE PUBLISHED | LETCHER |
| 137. | LEONDO HARRIS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000142-MR
NOT TO BE PUBLISHED | JEFFERSON |

SUPREME COURT OF KENTUCKY

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| 138. | LARRY DUNN V.
GARY SLATER, D/B/A CAROL
DALE CONTRACTING, ET AL.
AND
GARY SLATER, D/B/A CAROL
DALE CONTRACTING, ET AL. V.
LARRY DUNN, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000202-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 139. | WASTE MANAGEMENT, INC. V.
KEITH COLLINS, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000460-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 140. | LINK BELT V.
GARY CHAD CAMPBELL, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2007-SC-000687-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 141. | J.L. FRENCH AUTOMOTIVE V.
WILLIAM JAMES DANIEL, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ABRAMSON, J., NOT SITTING. | 2007-SC-000789-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |
| 142. | RUSSELL GENE SULLIVAN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING IN PART
AND REMANDING IN PART</u>
LAMBERT, C.J., CONCURS IN
RESULT ONLY. | 2006-SC-000310-MR
NOT TO BE PUBLISHED | HARDIN |

SUPREME COURT OF KENTUCKY

MINUTES

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| 143. | NOEL LEE JENKINS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>REMANDING</u>
SCOTT, J., CONCURS IN PART
AND DISSENTS IN PART BY
SEPARATE OPINION IN WHICH
SCHRODER, J., JOINS. | 2006-SC-000523-MR
NOT TO BE PUBLISHED | MONROE |
| 144. | JEFFREY ALLEN V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>REVERSING</u>
SCOTT, J., DISSENTS BY SEPARATE
OPINION IN WHICH ABRAMSON AND
CUNNINGHAM, JJ., JOIN. | 2006-SC-000407-MR
NOT TO BE PUBLISHED | LETCHER |

OPINIONS AND ORDERS – JUNE 19, 2008

INQUIRY COMMISSION V. GREGORY CURTIS MENELEE ORDER TEMPORARILY SUSPENDED RESPONDENT FROM THE PRACTICE OF LAW.	2008-SC-000294-KB TO BE PUBLISHED	IN SUPREME COURT
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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
JUNE 11, 2008**

BRANNON SCOTT WINN V. COMMONWEALTH OF KENTUCKY	2006-SC-000876-DG	FAYETTE
COMMONWEALTH OF KENTUCKY V. DAVID NICHOLS	2007-SC-000493-DG	MCCRACKEN

SUPREME COURT OF KENTUCKY

MINUTES

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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
JUNE 11, 2008**

COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS V. BILL JOHNSON, INDIVIDUALLY, ET AL.	2007-SC-000678-DG	KNOTT
COMMONWEALTH OF KENTUCKY V. LENNIE G. HOUSE	2008-SC-000114-DG	FAYETTE
ASHLAND HOSPITAL CORPORATION, D/B/A KING'S DAUGHTERS MEDICAL CENTER AND PAUL MCDOWELL V. MARY BETH CALOR, M.D.	2008-SC-000317-DG	BOYD

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 11, 2008**

JOHN S. JOHNSON V. COMMONWEALTH OF KENTUCKY	2007-SC-000523-D	LESLIE
DAVID LEE LEWIS, JR. V. COMMONWEALTH OF KENTUCKY	2007-SC-000606-D	BELL
KYLE RUARK V. COMMONWEALTH OF KENTUCKY	2007-SC-000625-D	GREENUP
MICHAEL THOMAS V. COMMONWEALTH OF KENTUCKY	2007-SC-000635-D	ROWAN
DOUGLAS R. LEWIS V. HAROLD D. TRAVIS, ET AL.	2007-SC-000646-D	LYON
CAROLYN ARNETT AND ADOPTIONS OF KENTUCKY, INC. V. AMANDA GOEBEL	2007-SC-000685-D	CAMPBELL

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 11, 2008**

SHANE DEVER V. COMMONWEALTH OF KENTUCKY	2007-SC-000750-D	NELSON
KENNETH EDWARD BANKSTON V. COMMONWEALTH OF KENTUCKY	2007-SC-000762-D	FAYETTE
NADINE SAYLOR AND LEE HELTON V. DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR LONG BEACH MORTGAGE LOAN TRUST 2004-1	2007-SC-000797-D	HARLAN
KENNETH CAPSHAW V. COMMONWEALTH OF KENTUCKY	2007-SC-000815-D	MONROE
FRED JONES V. COMMONWEALTH OF KENTUCKY	2007-SC-000831-D	BELL
JACQUELINE LEE V. CABINET FOR HEALTH AND FAMILY SERVICES, ET AL.	2007-SC-000839-D	JEFFERSON
JOSEPH FANTUZZO V. COMMONWEALTH OF KENTUCKY	2007-SC-000878-D	BOYD
CONNIE MARSHALL V. WANDA LEACHMAN	2007-SC-000888-D	JEFFERSON
JEFFREY STEWART V. COMMONWEALTH OF KENTUCKY	2007-SC-000931-D	PIKE
ALICIA FIELDS (NOW ALVARADO) V. PAPA JOHN'S INTERNATIONAL, INC. COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2007-SC-000949-D	FAYETTE

SUPREME COURT OF KENTUCKY

MINUTES

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RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 11, 2008**

GARY WILSON AND JOYCE WILSON V. AMERICAN NATIONAL PROPERTY AND CASUALTY COMPANY, ET AL.	2008-SC-000038-D	FRANKLIN
KERRY ALAN WATTERS V. COMMONWEALTH OF KENTUCKY	2008-SC-000047-D	JEFFERSON
ANTHONY EARDLEY V. PAUL F. WIGLER	2008-SC-000139-D	FAYETTE
RYAN SCOTT HODGE V. COMMONWEALTH OF KENTUCKY	2008-SC-000152-D	LARUE
RICHARD WAGERS V. COMMONWEALTH OF KENTUCKY	2008-SC-000154-D	FAYETTE
DOUGLAS LEE BAKER V. PATRICIA LYNN BAKER	2008-SC-000162-D	CALLOWAY
COUNTY EMPLOYEES RETIREMENT SYSTEM AND BOARD OF TRUSTEES OF KENTUCKY RETIREMENT SYSTEMS V. YVONNE WILLIAMS	2008-SC-000195-D	FRANKLIN
M.R.G., PARENT, ET AL. V. CABINET FOR HEALTH AND FAMILY SERVICES	2008-SC-000271-DE	ROCKCASTLE
RICHARD R. HOOFRING V. JEANIE LYNN SPRAY FITE COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2008-SC-000297-DE	KENTON

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 11, 2008**

DUSTIN STEWART V. 2008-SC-000314-D PIKE
COMMONWEALTH OF KENTUCKY

COURT ORDERS DENYING MOTION TO TRANSFER – JUNE 19, 2008

DAVID K. KAREM V. 2007-SC-000719-T FRANKLIN
BOARD OF TRUSTEES OF THE JUDICIAL
FORM RETIREMENT SYSTEM

COURT ORDERS DENYING PETITION FOR REHEARING – JUNE 19, 2008

ROBERT (BOB) TERRY V. 2005-SC-000749-MR OWSLEY
COMMONWEALTH OF KENTUCKY

KAREN BROWN V. 2005-SC-000967-DG FAYETTE
COMMONWEALTH OF KENTUCKY 2006-SC-000151-DG

SHIRLEY MCVAY LACH, ET AL. V. 2005-SC-001014-DG FAYETTE
MAN O'WAR, LLC, ET AL.

COMMONWEALTH OF KENTUCKY V. 2006-SC-000321-DG HARDIN
JOSE R. PADILLA

RAYMOND SCHLAGEL, ET AL. V. 2006-SC-000430-MR BOONE
HON. ANTHONY W. FORHLICH, JUDGE,
BOONE CIRCUIT COURT, AND
BERLING DEVELOPMENT ENTERPRISES/
BERLING CONSTRUCTION COMPANY,
REAL PARTY IN INTEREST, ET AL.

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – JUNE 19, 2008

COMMONWEALTH OF KENTUCKY V. S.K.; M.M.F; AND B.D.T	2006-SC-000449-DG	DAVISS
ROBERT BENTON MILLER V. COMMONWEALTH OF KENTUCKY ORDER MODIFIED THE OPINION OF THE COURT RENDERED FEBRUARY 21, 2008, BY SUBSTITUTION OF NEW OPINION.	2006-SC-000464-MR	FAYETTE
DARIUS FRYE V. COMMONWEALTH OF KENTUCKY ORDER MODIFIED THE MEMORANDUM OPINION OF THE COURT, RENDERED MARCH 20, 2008, BY SUBSTITUTION OF NEW OPINION.	2007-SC-000061-MR	FAYETTE
KNOTT FLOYD LAND COMPANY V. ANDREW FUGATE, ET AL.	2007-SC-000235-WC	FROM COURT OF APPEALS

COURT ORDERS DISMISSING

RALPH BAZE, ET AL. V. JOHN D. REES, COMMISSIONER, KENTUCKY DEPARTMENT OF CORRECTIONS, FRANKFORT, KENTUCKY, ET AL. ENTERED: MAY 21, 2008	2006-SC-000949-MR	FRANKLIN
HELEN KUGLAND, AS ADMINISTRATOR AND PERSONAL REPRESENTATIVE OF THE ESTATE OF BERNHARD KUGLAND V. ENCOMPASS INSURANCE COMPANY ENTERED: JUNE 13, 2008	2007-SC-000002-DG 2007-SC-000370-DG	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

RELEASED: 10:00 A.M.

COURT ORDERS DISMISSING

BETTY CHANEY V. COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS ENTERED: JUNE 16, 2008	2008-SC-000227-D	PULASKI
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COURT ORDERS

ROBERT (BOB) TERRY V. COMMONWEALTH OF KENTUCKY ORDER MODIFIED MEMORANDUM OPINION OF THE COURT, RENDERED DECEMBER 20, 2007, BY SUBSTITUTION OF PAGE 1. ENTERED: JUNE 13, 2008	2005-SC-000749-MR	OWSLEY
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RODNEY DOUGLAS BECKHAM V. COMMONWEALTH OF KENTUCKY ORDER CORRECTED OPINION OF THE COURT BY JUSTICE MINTON, RENDERED MARCH 20, 2008, BY SUBSTITUTION OF PAGES 1 AND 3. ENTERED: JUNE 5, 2008	2006-SC-000136-MR	BOONE
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JOHN MILLS V. HON. RODERICK MESSER, JUDGE, KNOX CIRCUIT COURT; AND COMMONWEALTH OF KENTUCKY, REAL PARTY IN INTEREST ORDER GRANTED PETITION FOR WRIT OF MANDAMUS ENTERED: JUNE 19, 2008	2007-SC-000553-OA TO BE PUBLISHED	KNOX
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SUPREME COURT OF KENTUCKY

MINUTES

JUNE 19, 2008

RELEASED: 10:00 A.M.

COURT ORDERS

JOHN MILLS V.
HON. RODERICK MESSER, JUDGE,
KNOX CIRCUIT COURT; AND
COMMONWEALTH OF KENTUCKY,
REAL PARTY IN INTEREST
**ORDER GRANTED PETITION FOR
WRIT OF MANDAMUS**
ENTERED: JUNE 19, 2008

[2007-SC-000663-OA](#)
TO BE PUBLISHED

KNOX

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

HUGH MATHIS TALBERT V.
KENTUCKY BAR ASSOCIATION
ENTERED: JUNE 9, 2008

2008-SC-000391-KB

IN SUPREME
COURT

STEPHEN SLOAN EBERLY V.
KENTUCKY BAR ASSOCIATION
ENTERED: JUNE 6, 2008

2008-SC-000403-KB

IN SUPREME
COURT

ELIZABETH ANN SHAW V.
KENTUCKY BAR ASSOCIATION
ENTERED: JUNE 17, 2008

2008-SC-000439-KB

IN SUPREME
COURT

SUPREME COURT RECENT OPINIONS – THE KENTUCKY SUPREME COURT HAS COMPILED THE MOST RECENT OPINIONS INTO A ZIP FILE. PLEASE VIEW THE INSTRUCTIONS AND FILE BEFORE DOWNLOADING ON OUR SEARCHABLE OPINIONS WEBSITE, http://apps.kycourts.net/supreme/sc_opinions.shtm