

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

124. EXTENDICARE HOMES, INC., ETC., [2013-SC-000426-I](#) TRIGG
ET AL. V. TO BE PUBLISHED
BELINDA WHISMAN, ETC., ET AL.
AND
KINDRED NURSING CENTERS [2013-SC-000430-I](#) CLARK
LIMITED PARTNERSHIP, ETC., TO BE PUBLISHED
ET AL. V.
JANIS E. CLARK, ETC.,
AND
KINDRED NURSING CENTERS [2013-SC-000431-I](#) CLARK
LIMITED PARTNERSHIP, ETC., TO BE PUBLISHED
ET AL. V.
BEVERLY WELLNER, ETC.
OPINION OF THE COURT BY
JUSTICE VENTERS –
DENYING INTERLOCUTORY RELIEF
BARBER, CUNNINGHAM, AND
KELLER, JJ., CONCUR. ABRAMSON,
J., DISSENTS BY SEPARATE
OPINION IN WHICH MINTON, C.J.,
AND NOBLE, J., JOIN. NOBLE, J.
DISSENTS BY SEPARATE OPINION
IN WHICH MINTON, C.J., JOINS.

Questions Presented:

Power-of Attorney. Arbitration. Nursing home facilities. Personal Injury. Wrongful Death. Pre-dispute arbitration agreement in nursing home admission document was not validly formed or enforceable where the authority to arbitrate was not conferred upon the attorney-in-fact by the power-of-attorney instrument. Agent's authority to waive principal's constitutional right to access the courts and to trial by jury will not be inferred, but must be clearly expressed by the principal. Wrongful death beneficiaries are not bound to contractual arrangements purportedly made by the decedent or the decedent's attorney-in-fact.

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

125. RONNIE LEE BOWLING V. RANDY WHITE (WARDEN, KENTUCKY STATE PENITENTIARY) [2014-SC-000235-CL](#) FEDERAL
OPINION OF THE COURT BY JUSTICE NOBLE – CERTIFICATION OF LAW **TO BE PUBLISHED**
- MINTON, C.J.; ABRAMSON, CUNNINGHAM, KELLER, NOBLE, JJ., AND SPECIAL JUSTICES JOHN D. SEAY AND WILLIAM G. FRANCIS, SITTING. BARBER AND VENTERS, JJ., NOT SITTING. MINTON, C.J.; ABRAMSON, CUNNINGHAM, AND KELLER, JJ., AND SPECIAL JUSTICE WILLIAM G. FRANCIS CONCUR. SPECIAL JUSTICE JOHN D. SEAY DISSENTS BY SEPARATE OPINION.
- Questions Presented:**
Under the present version of KRS 532.120(3), the Department of Corrections may award an inmate jail-time credit that was mistakenly left off the judgment of conviction and sentence entered at a time when the trial court was statutorily commanded to award appropriate credit.
126. THEODORE MARAS V. COMMONWEALTH OF KENTUCKY [2013-SC-000267-DG](#) JEFFERSON
OPINION OF THE COURT BY CHIEF JUSTICE MINTON – AFFIRMING **TO BE PUBLISHED**
- ALL SITTING. ALL CONCUR.
- Questions Presented:**
Criminal Law. KRS 508.140. Stalking. RCr 10.04. Post-Verdict Juror Statements. Issues include: (1) whether the elements of the stalking statute are met where the victim does not fear for her own safety, but does fear for the safety of others; (2) whether jurors' post-verdict comments suggesting that they may have misinterpreted the instructions are admissible to impeach the verdict.

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

127. COUNCIL ON DEVELOPMENTAL DISABILITIES, INC. V. CABINET FOR HEALTH AND FAMILY SERVICES
OPINION OF THE COURT BY JUSTICE NOBLE – AFFIRMING
ALL SITTING. MINTON, C.J.; BARBER, AND KELLER, JJ., CONCUR. ABRAMSON, J., CONCURS IN RESULT ONLY BY SEPARATE OPINION. CUNNINGHAM, J., DISSENTS BY SEPARATE OPINION IN WHICH VENTERS, J., JOINS.
- [2013-SC-000357-DG](#) FRANKLIN
TO BE PUBLISHED
- Questions Presented:**
Open Records. KRS 209.140. Issues include whether a private agency which serves as an advocate for adults with mental disabilities may receive certain records from the Cabinet for Health and Family Services via an open records request.
128. RICKY BARRETT, JR. V. COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY JUSTICE KELLER – AFFIRMING
ALL SITTING. ALL CONCUR.
- [2014-SC-000048-DG](#) KENTON
TO BE PUBLISHED
- Questions Presented:**
Conditional Guilty Plea. Search and Seizure. Suppression of Evidence. Warrantless entry into residence by police.
129. CONSOL OF KENTUCKY, INC. V. OSIE DANIEL GOODGAME, JR., HONORABLE JEANIE OWEN MILLER, ADMINISTRATIVE LAW JUDGE; AND WORKERS' COMPENSATION BOARD
AND
OSIE DANIEL GOODGAME, JR., V. CONSOL OF KENTUCKY, INC., HONORABLE JEANIE OWEN MILLER, ADMINISTRATIVE LAW JUDGE; AND WORKERS' COMPENSATION BOARD
OPINION OF THE COURT BY JUSTICE KELLER – AFFIRMING
ALL SITTING. ALL CONCUR.
- [2014-SC-000305-WC](#) FROM COURT OF APPEALS
TO BE PUBLISHED
- [2014-SC-000333-WC](#) FROM COURT OF APPEALS
TO BE PUBLISHED
- Questions Presented:**
Workers' Compensation. Issues presented include what date the statute of limitations and statute of repose, contained in KRS 342.185(1), begin to run for an alleged work-related cumulative trauma injury.

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

130. DEREK EARLY V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE NOBLE –
AFFIRMING**
ALL SITTING. ALL CONCUR.
- [2014-SC-000311-MR](#) MCCRACKEN
TO BE PUBLISHED

Questions Presented:
Five counts of Trafficking in prescription blanks and PFO I – 20 years. Motion for directed verdict that contained only vague assertions that the evidence was insufficient was properly denied by the trial court where sufficient evidence was presented for a reasonable jury to find that the prescriptions constituted forgeries and that the defendant possessed the prescriptions with the intent to sell them to another. Separate trafficking convictions for each forged prescription did not violate double jeopardy.

131. MOLLIE T. SHOUSE V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE NOBLE –
AFFIRMING IN PART, REVERSING
IN PART, AND VACATING AND
REMANDING IN PART**
ALL SITTING. ALL CONCUR.
- [2012-SC-000663-MR](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
Wanton murder, second degree criminal abuse, first-degree wanton endangerment. Amended statute is clear that when the death of a child under eight is wantonly caused by leaving the child in a vehicle with extreme indifference to life and grave risk of death that results in death, those facts create the offense of manslaughter second degree and no other. KRS 507.040(1)(b).

132. STEVEN PETTWAY V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE NOBLE –
AFFIRMING IN PART, REVERSING
IN PART AND REMANDING**
ALL SITTING. ALL CONCUR.
- [2013-SC-000548-MR](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
Murder and intimidating a participant in the legal process-55 years. Conviction overturned for intimidating a participant in the legal process, where the defendant intentionally killed the witness. Delayed disclosure of discovery material by the Commonwealth did not warrant dismissal of the murder charge.

SUPREME COURT OF KENTUCKY

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133. COMMONWEALTH OF KENTUCKY V. [2013-SC-000830-DG](#) JESSAMINE
ADRIAN PARRISH
TO BE PUBLISHED

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

Questions Presented:
Criminal Law. Evidence. KRS 189A.104.
Brady v. Maryland, 373 U.S. 83 (1963).
Issues include whether a police officer's
failure to preserve evidence of the results of a
Preliminary Breath Test (PBT) constituted a
Brady violation, and the admissibility of a PBT
below .08 as exculpatory evidence.

134. JARED FUTRELL V. [2013-SC-000184-MR](#) WAYNE
COMMONWEALTH OF KENTUCKY
AND
TO BE PUBLISHED

KAYLA LORD V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE ABRAMSON –
REVERSING AND REMANDING**
MINTON, C.J.; BARBER, KELLER,
NOBLE, AND VENTERS, JJ.,
CONCUR. CUNNINGHAM, J.,
CONCURS IN PART AND DISSENTS
IN PART BY SEPARATE OPINION.

[2013-SC-000200-MR](#) WAYNE
TO BE PUBLISHED

Questions Presented:
Wanton murder of 17-month-old child-25
years. Jury instructions. Testimony of Child
Abuse Pediatrician. Because either appellant
could have been found guilty as the principal,
neither was entitled to a directed verdict. Trial
court abused its discretion in refusing to
remove for cause jurors with a close, on-going
relationship with the prosecutor. Unanimous
verdict concerns regarding combined
principal/accomplice instruction and the cause
of death, provision with murder instruction.
Testimony of Child-Abuse Pediatrician was
properly admissible. KRE 702. Trial court
erred by allowing too few peremptory juror
challenges and by disallowing diversion-
agreement impeachment cross-examination.

SUPREME COURT OF KENTUCKY

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135. JAMES CARTER V. [2013-SC-000325-DG](#) JEFFERSON
BULLITT HOST, LLC, ETC. **TO BE PUBLISHED**

**OPINION OF THE COURT BY
JUSTICE NOBLE –
REVERSING AND REMANDING**
ALL SITTING. MINTON, C.J.; BARBER,
AND KELLER, JJ., CONCUR.
VENTERS, J., DISSENTS BY
SEPARATE OPINION IN WHICH
ABRAMSON AND CUNNINGHAM,
JJ., JOIN.

Questions Presented:
Torts. Personal Injury. Open and Obvious
Doctrine. Whether application of the open and
obvious doctrine allows for summary
judgment in this case, arising out of a fall in
an icy hotel parking lot.

136. JEREMY BREWER V. [2013-SC-000467-DG](#) FAYETTE
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

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

Questions Presented:
Criminal Law. KRS 508.032. Enhancement
“by one degree” of the criminal penalty
imposed upon a conviction of third or
subsequent misdemeanor fourth-degree
assault when all of the previous convictions
arose from charges in a statutorily defined
domestic situation. Proper trifurcated method
for trial set out.

137. COMMONWEALTH OF KENTUCKY V. [2014-SC-000027-MR](#) FROM COURT
HON. AUDRA J. ECKERLE, OF APPEALS
JUDGE, JEFFERSON CIRCUIT
COURT, ET AL. **TO BE PUBLISHED**

**OPINION OF THE COURT BY
JUSTICE ABRAMSON –
REVERSING AND REMANDING**
MINTON, C.J.; BARBER, KELLER,
AND NOBLE, JJ., CONCUR. KELLER,
J., CONCURS BY SEPARATE
OPINION IN WHICH BARBER AND
NOBLE, JJ., JOIN. VENTERS, J.,
DISSENTS BY SEPARATE
OPINION IN WHICH CUNNINGHAM,
J., JOINS.

Questions Presented:
Writ granted. When determining whether
there is probable cause that a defendant’s
use of force in self-defense was unlawful, a
judge must first review the record, and in
those cases where a determination cannot be
made on the record any ensuing hearing
should be a probable cause hearing, as
outlined in RCr 3.14.

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

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- | | | | |
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| 138. | NISSAN MOTOR COMPANY, LTD,
ET AL. V.
AMANDA MADDOX
OPINION OF THE COURT BY
JUSTICE CUNNINGHAM –
<u>REVERSING IN PART AND
VACATING</u>
ALL SITTING. MINTON, C.J.;
ABRAMSON, KELLER, AND NOBLE, JJ.,
CONCUR. BARBER, J., DISSENTS BY
SEPARATE OPINION IN WHICH
VENTERS, J., JOINS. | 2013-SC-000685-DG
TO BE PUBLISHED | LINCOLN |
| | | <p>Questions Presented:
Torts. Products Liability. Design Defect.
Punitive Damages. Whether the plaintiff
presented sufficient evidence to warrant
a punitive damages instruction where the
defendant car manufacturer complied
with federal safety standards.</p> | |
| 139. | MARK TAYLOR V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2013-SC-000604-MR
NOT TO BE PUBLISHED | MCCRACKEN |
| 140. | JOSHUA HALL V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2013-SC-000701-MR
NOT TO BE PUBLISHED | JEFFERSON |
| 141. | MARTY LEE ROE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2013-SC-000793-MR
NOT TO BE PUBLISHED | FAYETTE |
| 142. | AARON RASHAD CAMPBELL V.
COMMONWEALTH OF KENTUCKY
AND
AARON RASHAD CAMPBELL V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
ALL SITTING. ALL CONCUR. | 2014-SC-000140-MR
NOT TO BE PUBLISHED

2014-SC-000360-TG
NOT TO BE PUBLISHED | FAYETTE

FAYETTE |

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

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143. ISMAEEL K. AL KINI V. [2014-SC-000171-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
144. TAWAIIN WILLIAM LEWIS V. [2014-SC-000223-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
145. HARRY HENRY PAYNE, JR. V. [2014-SC-000349-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
146. PHARO WILSON V. [2014-SC-000392-MR](#) KENTON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
147. EDNA MILES V. [2014-SC-000442-WC](#) FROM COURT
BLUEGRASS REHABILITATION **NOT TO BE PUBLISHED** OF APPEALS
CENTER, HONORABLE WILLIAM J.
RUDLOFF, ADMINISTRATIVE LAW
JUDGE; AND WORKERS’
COMPENSATION BOARD
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. MINTON, C.J.;
ABRAMSON, KELLER, AND NOBLE, JJ.,
CONCUR. BARBER, J., DISSENTS BY
SEPARATE OPINION IN WHICH
CUNNINGHAM AND VENTERS,
JJ., JOINS.

SUPREME COURT OF KENTUCKY

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148. BASS WEBB V. [2014-SC-000546-MR](#) BOURBON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
149. RANDY A. MAREMA, ET AL. V. [2014-SC-000686-MR](#) FROM COURT
HON. KELLY MARK EASTON, JUDGE, **NOT TO BE PUBLISHED** OF APPEALS
HARDIN CIRCUIT COURT, ET AL.
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
150. CENTRAL BAPTIST HOSPITAL V. [2015-SC-000005-WC](#) FROM COURT
MARTY MAY, HONORABLE WILLIAM **NOT TO BE PUBLISHED** OF APPEALS
J. RUDLOFF, ADMINISTRATIVE LAW
JUDGE; AND WORKERS'
COMPENSATION BOARD
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
151. HODGES TRUCKING COMPANY V. [2015-SC-000013-WC](#) FROM COURT
ROBERT W. WALDECK, HONORABLE **NOT TO BE PUBLISHED** OF APPEALS
EDWARD D. HAYS, ADMINISTRATIVE
LAW JUDGE; AND WORKERS'
COMPENSATION BOARD
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
152. JESSICA HAILEY ROBINSON V. [2013-SC-000728-MR](#) ROCKCASTLE
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – REVERSING IN PART
AND AFFIRMING IN PART
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

153. LORITTA WHITWORTH V. [2014-SC-000283-WC](#) FROM COURT
BIG LOTS, ET AL. NOT TO BE PUBLISHED OF APPEALS
**MEMORANDUM OPINION OF
THE COURT – REVERSING AND
REINSTATING**
ALL SITTING. ALL CONCUR.

OPINION AND ORDERS – SEPTEMBER 16, 2015

SANITATION DISTRICT NO.1 V. 2015-SC-000007-DG KENTON
AARON ARNSPERGER, ET AL.
**ORDER GRANTED DISCRETIONARY REVIEW,
VACATED THE COURT OF APPEALS DECISION
AND REMANDED TO THE KENTON CIRCUIT
COURT FOR FURTHER CONSIDERATION OF
ITS AUGUST 29, 2011 ORDER IN LIGHT OF
OF THIS COURT’S RECENT DECISION IN
COPPAGE CONSTRUCTION COMPANY V.
SANITATION DISTRICT NO. 1, 459 S.W.3D 855
(KY. 2015).**
ALL SITTING. ALL CONCUR.

JAMES BEWARD, ET AL. V. 2015-SC-000090-DG BULLITT
CODY WHITAKER
**ORDER GRANTED DISCRETIONARY REVIEW,
VACATED THE COURT OF APPEALS DECISION
AND REMANDED TO THE COURT OF APPEALS
FOR FURTHER CONSIDERATION IN LIGHT OF
MARSON V. THOMASON, 438 S.W.3D 292
(KY. 2014).**
ALL SITTING. ALL CONCUR.

OPINION AND ORDERS – SEPTEMBER 24, 2015

KENTUCKY BAR ASSOCIATION V. [2015-SC-000248-KB](#) IN SUPREME
RUSSELL W. BURGIN TO BE PUBLISHED COURT
**ORDER OF SUSPENSION FROM THE
PRACTICE OF LAW FOR 1 YEAR WITH
CONDITIONS.**
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

OPINION AND ORDERS – SEPTEMBER 24, 2015

KENTUCKY BAR ASSOCIATION V.
JOHN D.T. BRADY
**ORDER OF SUSPENSION FROM THE
PRACTICE OF LAW FOR 5 YEARS WITH
CONDITIONS.**
ALL SITTING. ALL CONCUR.

[2015-SC-000252-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

MATTHEW D. BOWMAN V.
KENTUCKY BAR ASSOCIATION
**ORDER OF SUSPENSION FROM THE
PRACTICE OF LAW FOR 30 DAYS PROBATED
FOR 1 YEAR WITH CONDITIONS.**
ALL SITTING. ALL CONCUR.

[2015-SC-000404-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 16, 2015**

JESSE RICE V. COMMONWEALTH OF KENTUCKY	2014-SC-000733-DG	BOURBON
NITA HACKER V. COMMONWEALTH OF KENTUCKY NOBLE, J. WOULD DENY.	2015-SC-000038-DG	JACKSON
LESLEY D. SHINKLE V. BOBBY D. TURNER	2015-SC-000039-DG	BOONE
THOMAS K. STONE V. PENNIE DUBARRY (NOW DETORRES), ET AL.	2015-SC-000040-DG	JEFFERSON
KENTUCKY RETIREMENT SYSTEMS V. DIANNE CARSON	2015-SC-000094-DG	FRANKLIN
UNIFUND CCR PARTNERS V. CAROL HARRELL	2015-SC-000117-DG	NELSON
KENTUCKY RETIREMENT SYSTEMS V. CHARLES WIMBERLY	2015-SC-000159-DG	FRANKLIN

SUPREME COURT OF KENTUCKY

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**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 16, 2015**

REBEKAH MCCARTY V. 2015-SC-000271-DGE BATH
KENNETH FARIED
CUNNINGHAM, J., NOT SITTING.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 16, 2015**

CHERRY WEST V. 2014-SC-000633-D CHRISTIAN
BRANCH BANK AND TRUST COMPANY

JASON GIBSON, ET AL. V. 2014-SC-000665-D CAMPBELL
THE ST. LUKE HOSPITALS, INC., ET AL.

TAMMY GRAY, ET AL. V. 2014-SC-000679-D KENTON
KENTON COUNTY, KENTUCKY

DENNIS LEE CALLOWAY V. 2014-SC-000681-D LOGAN
COMMONWEALTH OF KENTUCKY

PIKEVILLE MEDICAL CENTER, INC. V. 2014-SC-000688-D PIKE
DORIS S. BEVINS, ET AL.
**THE OPINION OF THE COURT OF APPEALS
IS ORDERED NOT TO BE PUBLISHED.**

DEPARTMENT OF REVENUE, ETC. ET AL. V. 2014-SC-000700-D FRANKLIN
ARMSTRONG UTILITIES, INC.

VERA L. HAMMOND V. 2014-SC-000706-D MARTIN
WILLIAM JOHN CARR

ELIZABETH PALMER V. 2014-SC-000715-D HARDIN
THE DOCTORS, PLLC, ET AL.
KELLER, J. WOULD GRANT.

BIG SPRING ASSEMBLY OF GOD, INC. V. 2014-SC-000720-D NELSON
MELISSA STEVENSON, ETC., ET AL.

AND
MELISSA STEVENSON, ETC., ET AL. V. 2014-SC-000727-D NELSON
BIG SPRING ASSEMBLY OF GOD, INC.

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
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SHARAYA BECKHAM V. COMMONWEALTH OF KENTUCKY	2014-SC-000724-D	JEFFERSON
BETH ANN J. KLOIBER V. DANIEL KLOIBER DYNASTY TRUST, ET AL.	2014-SC-000754-D	FAYETTE
CHRISTOPHER LEE JACKSON V. COMMONWEALTH OF KENTUCKY	2014-SC-000761-D	DAVISS
KEITH FERRIELL V. CITY OF AUDUBON PARK	2015-SC-000001-D	JEFFERSON
COMMONWEALTH OF KENTUCKY V. TRACY NAPIER THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. CUNNINGHAM, J., WOULD GRANT.	2015-SC-000002-D	PERRY
BRIAN P. SCOTT V. COMMONWEALTH OF KENTUCKY	2015-SC-000004-D	JEFFERSON
JUSTIN DARLAND V. COMMONWEALTH OF KENTUCKY	2015-SC-000006-D	MADISON
LOWE'S FEED AND GRAIN, INC. V. CITY OF BOWLING GREEN, KENTUCKY, ET AL. MINTON, C.J., NOT SITTING.	2015-SC-000008-D	WARREN
DANIEL LEGASPI V. CAROLINE MOSES	2015-SC-000009-D	HARDIN

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 16, 2015**

ROBERT FREEPARTNER, D/B/A OKOLONA PLUMBING, ET AL. V. DENNIS ANDERSON PARK LAKE APARTMENTS, LLC. AND DENNIS ANDERSON PARK LAKE APARTMENTS, LLC. V. LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT AND DENNIS ANDERSON PARK LAKE APARTMENTS, LLC. V. ROBERT FREEPARTNER, D/B/A OKOLONA PLUMBING, ET AL.	2015-SC-000014-D	JEFFERSON
PETER HADJIEV V. BOARD OF TRUSTEES OF UNIVERSITY OF KENTUCKY, ET AL.	2015-SC-000015-D	FAYETTE
BRADLEY FARRAR V. MELISSA FARRAR THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2015-SC-000016-D	JEFFERSON
EDDIE TAMME V. RUTH LOUISE GOGGIN	2015-SC-000027-D	BOYLE
DAVID TIDWELL V. MARTIN GRANADO, WARDEN, ETC., ET AL.	2015-SC-000037-D	OLDHAM
LARRY MARTIN, ET AL. V. OUR LADY OF BELLEFONTE HOSPITAL, INC.	2015-SC-000046-D	GREENUP
OSAMA EL-SAYED V. REHAB ABDELFATTAH	2015-SC-000047-D	JEFFERSON
FREDERICK DAVIS V. COMMONWEALTH OF KENTUCKY	2015-SC-000054-D	KENTON

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 16, 2015**

DAMIEN A. SUBLETT V. ALAN BROWN, WARDEN, ET AL. ABRAMSON, J., NOT SITTING.	2015-SC-000059-D	MUHLENBERG
DONALD R. SRYGLER, ET AL. V. LEON CONSTANT, ET AL.	2015-SC-000060-D	HART
PEGGY GILBERT V. THOMAS GILBERT	2015-SC-000061-D	SCOTT
SASAN PASHA, ET AL. V. COMMONWEALTH LAND TITLE INSURANCE COMPANY	2015-SC-000066-D	FAYETTE
ANTHONY HOPE V. COMMONWEALTH OF KENTUCKY	2015-SC-000067-D	BRECKINRIDGE
C & M SERVICES OF KENTUCKY, INC., ETC. V. ROBIN HITE	2015-SC-000071-D	JEFFERSON
DENNIS SAYLOR V. COMMONWEALTH OF KENTUCKY	2015-SC-000076-D	MADISON
MELISSA BROCK V. BARRY BENNETT, ET AL.	2015-SC-000077-D	JEFFERSON
ESTATE OF JENNIFER ZIMMER, BY AND THROUGH ADMINISTRATRIX GERALDINE ZIMMER, ET AL. V. EATON ASPHALT AND PAVING COMPANY, INC. BARBER, J., WOULD GRANT.	2015-SC-000084-D	CAMPBELL
GEOFFREY M. YOUNG V. COMMONWEALTH OF KENTUCKY	2015-SC-000085-D	FAYETTE
IGNACIO ROMAN, ET AL. V. GREAT AMERICAN FINANCIAL, ETC.	2015-SC-000088-D	HARDIN

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
SEPTEMBER 16, 2015**

MICHAEL BICKEL, ADMINISTRATOR, ETC. V. 2015-SC-000096-D JEFFERSON
SANDRA RAE HALEY, ET AL.
**THE OPINION OF THE COURT OF APPEALS
IS ORDERED NOT TO BE PUBLISHED.**

DONNA TEMPLE V. 2015-SC-000097-D GREEN
COMMUNITY TRUST BANK, INC., ET AL.

M.K. V. 2015-SC-000294-DE JESSAMINE
CABINET FOR HEALTH AND FAMILY
SERVICES, ETC., ET AL.

STEPHANIE M. KEHRT V. 2015-SC-000364-DE MERCER
WILLIS R. REESE

COURT ORDERS GRANTING MOTION TO TRANSFER – SEPTEMBER 24, 2015

KENTUCKY RESTAURANT ASSOCIATION, 2015-SC-000371-TG JEFFERSON
ET AL. V.
LOUISVILLE/JEFFERSON COUNTY METRO
GOVERNMENT
**ALL SITTING. MINTON, C.J.; ABRAMSON,
BARBER, CUNNINGHAM, NOBLE, AND
VENTERS, JJ., CONCUR. KELLER, J. WOULD
DENY.**

COURT ORDERS DENYING PETITION FOR REHEARING – SEPTEMBER 23, 2015

BRITTANY DIXON, ET AL. V. 2012-SC-000687-DG MCCracken
DAYMAR COLLEGES GROUP, LLC, ET AL.
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – SEPTEMBER 24, 2015

WAGNER'S PHARMACY, INC. V. [2013-SC-000541-DG](#) JEFFERSON
MELISSA K. PENNINGTON **NOT TO BE PUBLISHED**
**ORDER MODIFIED THE MEMORANDUM
OPINION OF THE COURT RENDERED MAY 14,
2015 BY SUBSTITUTION OF THIS OPINION IN
LIEU OF THE ORIGINAL.**
ALL SITTING. ALL CONCUR.

DAVID MILAM V. 2013-SC-000681-DG FAYETTE
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.

ANDRE FELLIPE WILSON V. 2013-SC-000731-MR BOONE
COMMONWEALTH OF KENTUCKY
**MINTON, C.J.; ABRAMSON, BARBER, KELLER,
NOBLE AND VENTERS, JJ., CONCUR.
CUNNINGHAM, J., NOT SITTING.**

COMMONWEALTH OF KENTUCKY V. 2013-SC-000742-DG WEBSTER
CHRISTOPHER DUNCAN
ALL SITTING. ALL CONCUR

JOSHUA C. JOHNSON V. 2013-SC-000787-MR BOYLE
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.

KENNETH LESLIE WRIGHT, JR. V. 2014-SC-000250-MR HARDIN
COMMONWEALTH OF KENTUCKY
ALL SITTING. ALL CONCUR.

COURT ORDERS DISMISSING

TIMOTHY HELMS V. 2015-SC-000134-MR FAYETTE
COMMONWEALTH OF KENTUCKY
ENTERED: SEPTEMBER 15, 2015

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS DISMISSING

ANTONIO L. HINKSTON V.
COMMONWEALTH OF KENTUCKY
ENTERED: SEPTEMBER 4, 2015

2015-SC-000402-D

BOONE

JOSEPH WILLIAMS V.
COMMONWEALTH OF KENTUCKY
ENTERED: SEPTEMBER 11, 2015

2015-SC-000358-MR

CHRISTIAN

CHARLES CHURCH V.
COMMONWEALTH OF KENTUCKY
ENTERED: SEPTEMBER 11, 2015

2015-SC-000454-D

MUHLENBERG

COURT ORDERS

MIAMI MANAGEMENT COMPANY, INC.,
ET AL. V.
ELGAN BRUNER, ET AL.
**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.**
MINTON, C.J., AND NOBLE AND BARBER, JJ.,
WOULD AFFIRM THE OPINION OF THE
COURT OF APPEALS. VENTERS,
ABRAMSON AND CUNNINGHAM, JJ.,
WOULD REVERSE THE OPINION OF THE
COURT OF APPEALS. KELLER, J., NOT
SITTING.
ENTERED: SEPTEMBER 17, 2015

2012-SC-000318-DG

JESSAMINE

LORETTA SARGENT V.
WILLIAM SHAFFER, M.D.
**ORDER CORRECTED THE OPINION OF THE
COURT BY JUSTICE VENTERS RENDERED
AUGUST 20, 2015, BY SUBSTITUTION OF THIS
OPINION IN LIEU OF THE ORIGINAL
OPINION.**
ENTERED: AUGUST 26, 2015

[2013-SC-000111-DG](#)
TO BE PUBLISHED

FROM COURT
OF APPEALS

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS

KEITH RANDALL SPARKMAN
D/B/A IN-DEPTH SANITARY SERVICE
GROUP, ET AL. V.
CONSOL ENERGY, INC. AND
CONSOL OF KENTUCKY, INC.

[2013-SC-000119-DG](#)
[2013-SC-000831-DG](#)
TO BE PUBLISHED

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KNOTT

**ORDER CORRECTED THE OPINION OF THE
COURT BY JUSTICE ABRAMSON RENDERED
AUGUST 20, 2015, BY SUBSTITUTION OF THIS
OPINION IN LIEU OF THE ORIGINAL
OPINION.**

ENTERED: SEPTEMBER 24, 2015

HONORABLE ANN BAILEY SMITH (CHIEF
JUDGE, JEFFERSON DISTRICT COURT) V.
COMMONWEALTH OF KENTUCKY (EX REL.
MICHAEL J. O'CONNELL), ET AL.
**ORDER GRANTED MOTION TO RECONSIDER
AND AMENDED THIS COURT'S ORDER
ENTERED JUNE 11, 2015 BY SUBSTITUTION
OF THIS ORDER IN LIEU OF THE ORIGINAL
ORDER.**

2013-SC-000828-TG

JEFFERSON

ALL SITTING. ALL CONCUR.
ENTERED: SEPTEMBER 24, 2015

COMMONWEALTH OF KENTUCKY V.
JAMES DOSS
ORDER GRANTED CERTIFICATION OF LAW.
MINTON, C.J.; ABRAMSON, BARBER,
CUNNINGHAM, NOBLE, AND VENTERS,
JJ., CONCUR. KELLER, J. DISSENTS.
ENTERED: SEPTEMBER 24, 2015

2015-SC-000018-CL

JEFFERSON

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

LISA-MARIE LINE V.
KENTUCKY BAR ASSOCIATION
ENTERED: AUGUST 17, 2015

2015-SC-000440-KB

IN SUPREME
COURT

SUPREME COURT OF KENTUCKY

SEPTEMBER 24, 2015 MINUTES

RELEASED: 10:00 A.M.

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

**MARTHA TURNER HAMANN V.
KENTUCKY BAR ASSOCIATION
ENTERED: AUGUST 17, 2015**

2015-SC-000441-KB

IN SUPREME
COURT

**DAVID EUGENE COTEY V.
KENTUCKY BAR ASSOCIATION
ENTERED: AUGUST 25, 2015**

2015-SC-000455-KB

IN SUPREME
COURT

**JULIE NIEHOFF HUSS V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 16, 2015**

2015-SC-000497-KB

IN SUPREME
COURT

**JAMES R. ELKINS V.
KENTUCKY BAR ASSOCIATION
ENTERED: SEPTEMBER 16, 2015**

2015-SC-000498-KB

IN SUPREME
COURT