

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

145. IN RE: WEHR CONSTRUCTORS, INC. V. [2012-SC-000221-CL](#) FEDERAL
ASSURANCE COMPANY OF AMERICA **TO BE PUBLISHED**

OPINION OF THE COURT BY JUSTICE VENTERS - CERTIFYING THE LAW
MINTON, C.J.; ABRAMSON, CUNNINGHAM, NOBLE AND SCOTT, JJ., CONCUR. NOBLE, J., CONCURS BY SEPARATE OPINION. SCHRODER, J., NOT SITTING.

Questions Presented:

Under Kentucky law, a clause in an insurance policy that requires the insured to obtain the insurer's prior written consent before assigning a claim for an insured loss under the policy is not enforceable or applicable to the assignment of a claim under the policy where the covered loss occurs before the assignment and such clause would, under those circumstances, be void against public policy.

146. DAVID STIGER V. [2008-SC-000864-DG](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

OPINION OF THE COURT BY JUSTICE ABRAMSON - AFFIRMING
MINTON, C.J.; CUNNINGHAM, NOBLE, SCOTT, AND VENTERS, JJ., CONCUR. SCHRODER, J., NOT SITTING.

Questions Presented:

Criminal Law. Ineffective Assistance of Counsel. Issues include whether erroneous advice concerning parole eligibility may constitute ineffective assistance of counsel under *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010).

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

147. DEREK KEELING V.
COMMONWEALTH OF KENTUCKY
**OPINION OF THE COURT BY
JUSTICE SCOTT -
AFFIRMING**
ALL SITTING. ALL CONCUR.

[2010-SC-000351-MR](#)
TO BE PUBLISHED

GRAVES

Questions Presented:
Guilty but mentally ill-Murder and assault-Life. Prosecution of a criminal defendant originally found incompetent to stand trial for his crimes was permissible upon a subsequent finding of competency to stand trial and no violation of defendant's constitutional rights. Trial court's earlier dismissal of an indictment based on a finding that defendant was incompetent to stand trial was not a dismissal "with prejudice", barring retrial, because it was not so designated with the consent of the Commonwealth's attorney. Overruling *Taber* and *Hicks* insofar as they erroneously apply CR 41.02(3) to criminal cases. Preponderance of the evidence supported trial judge's finding that defendant was competent. Trial court properly instructed the jury that "treatment shall be provided" to a GBMI defendant and refused to instruct on EED.

148. CHRISTOPHER TUCKER, AS
ADMINISTRATOR OF THE ESTATE
OF MINDI TUCKER, DECEASED;
ETC., ET AL. V.
WOMEN'S CARE PHYSICIANS OF
LOUISVILLE, P.S.C.; AND SUSAN
BUNCH, M.D.
**OPINION OF THE COURT BY
JUSTICE NOBLE -
AFFIRMING**
MINTON, C.J.; ABRAMSON AND
CUNNINGHAM, JJ., CONCUR. VENTERS,
J., DISSENTS BY SEPARATE OPINION
IN WHICH SCHRODER AND SCOTT, JJ.,
JOIN.

[2010-SC-000466-DG](#)
TO BE PUBLISHED

JEFFERSON

Questions Presented:
Medical malpractice. Evidence. Issue is whether the trial court abused its discretion in excluding certain expert testimony as irrelevant.

SUPREME COURT OF KENTUCKY

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149. KEITH EDWARD MEYERS V. [2010-SC-000515-DG](#) HICKMAN
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE SCOTT -
AFFIRMING
TO BE PUBLISHED

Questions Presented:
Spousal testimony privilege. KRE 504(c)(2)(a). Possession of a firearm by a convicted felon and second-degree PFO.

MINTON, C.J.; ABRAMSON, CUNNINGHAM, NOBLE AND VENTERS, JJ., CONCUR. SCHRODER, J., CONCURS IN RESULT ONLY.

150. COMMONWEALTH OF KENTUCKY V. [2011-SC-000126-DG](#) HARDIN
RUSSELL TIM PRIDHAM, JR.
AND
TO BE PUBLISHED

[2010-SC-000733-DG](#) HENRY
TO BE PUBLISHED

JASON COX V.
COMMONWEALTH OF KENTUCKY
OPINION OF THE COURT BY
JUSTICE ABRAMSON -
AFFIRMING
ALL SITTING. ALL CONCUR.

Questions Presented:
Criminal Law. Ineffective Assistance of Counsel. Issues include whether erroneous advice concerning parole eligibility and/or impact of the sex offender treatment program upon parole eligibility may constitute ineffective assistance of counsel under *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010).

151. TONY C. TAYLOR V. [2011-SC-000346-DG](#) HENDERSON
KENTUCKY UNEMPLOYMENT INSURANCE COMMISSION AND RIVER METALS RECYCLING, LLC
OPINION OF THE COURT BY
JUSTICE VENTERS -
AFFIRMING
TO BE PUBLISHED

Questions Presented:
Unemployment Benefits. Procedure. The issue is whether the Court should permit a party to file an Amended Complaint in order to satisfy the verification requirement in KRS 341.450.

ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

152. JACOB GINGERICH; ET AL. V. [2011-SC-000379-DGE](#) GRAVES
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

AND
MENNO ZOOK; ET AL. V. [2011-SC-000380-DGE](#) GRAVES
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

**OPINION OF THE COURT BY
JUSTICE NOBLE –
AFFIRMING**
MINTON, C.J.; CUNNINGHAM AND
SCHRODER, JJ., CONCUR. VENTERS,
J., CONCURS IN RESULT ONLY BY
SEPARATE OPINION. SCOTT, J.,
DISSENTS BY SEPARATE OPINION
IN WHICH ABRAMSON, J., JOINS.

Questions Presented:
Criminal Law. State Constitutional Law. In cases involving failure to display a KRS 189.820 “slow moving vehicle” emblem on Old Order Swartzentruber horse-drawn buggies, issues involve whether KY. CONST. §§ 1 & 5 provide greater religious protection than does the First Amendment to the United States Constitution.

153. WILLIAM D. SLONE V. [2011-SC-000493-MR](#) CAMPBELL
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**

**OPINION OF THE COURT BY
JUSTICE VENTERS -
AFFIRMING**
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, NOBLE AND
SCOTT, JJ., CONCUR.
SCHRODER, J., NOT SITTING.

Questions Presented:
First degree rape, first degree sodomy and first degree PFO-30 years. Trial court properly granted a continuance of the trial when the victim failed to appear. Cross examination of the victim regarding her failure to appear on the first trial date. Evidence of victim’s fear of contracting an STD. Failure to disclose SANE nurse’s final report. Competency evaluation.

154. FRED M. JONES, JR. V. [2012-SC-000054-MR](#) BELL
HON. ROBERT COSTANZO (BELL **TO BE PUBLISHED**
CIRCUIT COURT JUDGE), ET AL.

**OPINION OF THE COURT BY
JUSTICE SCOTT -
AFFIRMING**
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, NOBLE AND
VENTERS, JJ., CONCUR.
SCHRODER, J., NOT SITTING.

Questions Presented:
RCr 11.42-Ineffective assistance of counsel Denial of funds for witnesses pursuant to KRS 31.185. Appellant failed to satisfy the threshold requirement of showing a lack of adequate remedy by appeal or otherwise necessary for the issuance of a writ.

SUPREME COURT OF KENTUCKY

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155. JAMES WRIGHT V. [2011-SC-000191-MR](#) CAMPBELL
COMMONWEALTH OF KENTUCKY
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE SCOTT -
AFFIRMING IN PART, REVERSING AND
REMANDING IN PART, AND VACATING
IN PART
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, NOBLE AND
VENTERS, JJ., CONCUR.
SCHRODER, J., NOT SITTING.
- Questions Presented:**
First degree fleeing or evading police, fourth degree assault, possession of marijuana and first degree PFO-20 years. Jury was not properly instructed as to the domestic violence element on the fleeing or evading charge because the trial court failed to include a definition of an “unmarried couple.” Model instruction included to be used on retrial. Because the trial court found appellant to be indigent, it erred when it included fines in its sentencing order.
156. HAROLD BUSTER V. [2011-SC-000257-MR](#) HART
COMMONWEALTH OF KENTUCKY
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE NOBLE -
AFFIRMING IN PART, REVERSING IN
PART, AND REMANDING
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, SCOTT AND
VENTERS, JJ., CONCUR.
SCHRODER, J., NOT SITTING.
- Questions Presented:**
Multiple counts of first degree sexual abuse-20 years. Adequacy of notice of charges. Adequacy of bill of particulars. Testimony and recall of young victims. Trial court erred in attempting to retain jurisdiction to impose court costs and a partial public defender fee at the time of defendant’s release from prison.
157. RACHEL FORD V. [2011-SC-000330-DG](#) JEFFERSON
KEITH PERKINS
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE SCHRODER -
AFFIRMING IN PART, VACATING IN
PART AND REMANDING
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, NOBLE AND
SCOTT, JJ., CONCUR.
VENTERS, J., NOT SITTING.
- Questions Presented:**
Marriage Dissolution. Marital Property Division. Issues include: whether marriage, alone, supports an equal division of property acquired during the marriage and whether the evidence compelled an equal division.

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

158. SOPHIA SAVAGE, ET AL. V. [2010-SC-000478-DG](#) LAWRENCE
THREE RIVERS MEDICAL CENTER **TO BE PUBLISHED**
- AND**
THREE RIVERS MEDICAL CENTER V. [2011-SC-000348-DG](#) LAWRENCE
SOPHIA SAVAGE, ET AL. **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE VENTERS -
REVERSING
MINTON, C.J.; CUNNINGHAM, NOBLE
AND SCOTT, JJ., CONCUR.
ABRAMSON, J., CONCURS IN RESULT
ONLY. SCHRODER, J., NOT SITTING.
- Questions Presented:**
Torts. Medical Malpractice. Issues include whether the evidence sufficed to create a jury question relating to a surgical sponge left in a patient's abdomen when the patient had undergone multiple previous surgeries in that area of the body.
159. TOBY RAY LASURE V. [2011-SC-000220-MR](#) FAYETTE
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
- OPINION OF THE COURT BY**
JUSTICE CUNNINGHAM -
REVERSING
MINTON, C.J.; ABRAMSON, NOBLE,
SCOTT AND VENTERS, JJ., CONCUR.
SCHRODER, J., NOT SITTING.
- Questions Presented:**
Murder, first degree fleeing or evading the police and leaving the scene of an accident-Life. Defendant's Fifth Amendment right against self-incrimination was violated by the trial court's ruling, which forced him to testify before his medical expert was permitted to testify regarding alleged EED.
160. VANDA COLLINS (INDIVIDUALLY
AND AS EXECUTRIX OF THE
ESTATE OF ROY COLLINS) V. [2011-SC-000770-MR](#) WHITLEY
HONORABLE PAUL BRADEN, JUDGE, **TO BE PUBLISHED**
WHITLEY CIRCUIT COURT (NOW
DECEASED) AND
BAPTIST REGIONAL MEDICAL
CENTER, ETC., ET AL.
OPINION OF THE COURT
BY JUSTICE NOBLE -
REVERSING
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, SCOTT AND
VENTERS, JJ., CONCUR.
SCHRODER, J., NOT SITTING.
- Questions Presented:**
Attorney-client privilege asserted as to various documents. Writ of prohibition was erroneously granted where the Medical Center had not yet shown entitlement to the attorney-client privilege.

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

161. KENTUCKY UNEMPLOYMENT INSURANCE COMMISSION, ET AL. V. DIANA CECIL [2010-SC-000349-DG](#) JEFFERSON
TO BE PUBLISHED

OPINION OF THE COURT BY JUSTICE SCHRODER - REVERSING AND REMANDING ALL SITTING. ALL CONCUR.

Questions Presented:
Unemployment Benefits. KRS 341.370(6). The issues are: 1. Whether the “willful and wanton” standard still applies to specific misconduct enumerated under KRS 341.370(6), and 2. Whether the Water Company’s instruction to Cecil to sign a “last chance” employment agreement was reasonable.

162. NORTON HOSPITALS, INC. (D/B/A NORTON SUBURBAN HOSPITAL) V. BRANDI PEYTON [2010-SC-000818-DG](#) JEFFERSON
TO BE PUBLISHED

AND
NEONATAL INTENSIVE CARE EXPERTS II, PLLC, ET AL. V. BRANDI PEYTON
OPINION OF THE COURT BY JUSTICE SCHRODER - REVERSING AND REMANDING MINTON, C.J.; ABRAMSON, CUNNINGHAM, NOBLE AND VENTERS, JJ., CONCUR. SCOTT, J., DISSENTS BY SEPARATE OPINION.

[2010-SC-000819-DG](#) JEFFERSON
TO BE PUBLISHED

Questions Presented:
Statutory Immunity. Negligence. The primary issue is whether a hospital and its employees have statutory immunity under KRS 620.030 and 620.050 where a mother’s blood alcohol level may have been misreported to Child Protective Services.

163. BOBBY PERRY V. COMMONWEALTH OF KENTUCKY [2010-SC-000833-MR](#) KENTON
TO BE PUBLISHED

OPINION OF THE COURT BY JUSTICE NOBLE - REVERSING AND REMANDING ABRAMSON, CUNNINGHAM, SCHRODER AND SCOTT, JJ., CONCUR. VENTERS, J., DISSENTS BY SEPARATE OPINION IN WHICH MINTON, C.J., JOINS.

Questions Presented:
First degree sodomy-45 years. Defendant was entitled to an independent evaluation of a witness whose psychological condition might have affected his memory or ability to tell the truth. Trial court to review supplemented record to determine if witness may be impeached by prior claims of sexual conduct.

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

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164. PERRY GRAVES V. [2011-SC-000467-MR](#) MONROE
COMMONWEALTH OF KENTUCKY
TO BE PUBLISHED
OPINION OF THE COURT BY
JUSTICE VENTERS -
REVERSING AND REMANDING
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, NOBLE AND
SCOTT, JJ., CONCUR. SCHRODER, J.,
NOT SITTING.
- Questions Presented:**
First degree trafficking in a controlled substance, second or subsequent offense-20 years. Evidence alleging appellant had committed other acts of trafficking was erroneously admitted in violation of KRE 404(b).
165. MICHELLE L. WALKER V. [2012-SC-000004-DGE](#) JEFFERSON
DONNA S. BLAIR
TO BE PUBLISHED
OPINION OF THE COURT BY
CHIEF JUSTICE MINTON -
REVERSING AND REMANING
ABRAMSON, CUNNINGHAM, NOBLE,
SCHRODER AND VENTERS, JJ.,
CONCUR. SCOTT, J., DISSENTS BY
SEPARATE OPINION.
- Questions Presented:**
Grandparent Visitation. Issues involve evidentiary sufficiency and application of cases including *Troxel v. Granville*, 530 U.S. 57 (2000) and *Vibbert v. Vibbert*, 144 S.W.3d 292 (Ky. App. 2004).
166. FREDERICK W. DAVIS V. [2011-SC-000255-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, SCHRODER, SCOTT
AND VENTERS, JJ. CONCUR. NOBLE,
J., DISSENTS BY SEPARATE OPINION.
167. HOMER WAYNE BURD V. [2011-SC-000531-MR](#) ALLEN
COMMONWEALTH OF KENTUCKY
NOT TO BE PUBLISHED
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
MINTON, C.J.; ABRAMSON,
CUNNINGHAM, NOBLE, SCOTT AND
VENTERS, JJ., CONCUR. SCHRODER,
J., NOT SITTING.

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

168. CURTIS HALL V. [2011-SC-000602-MR](#) KNOX
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
169. SHELLEY NETHERWOOD V. [2012-SC-000040-MR](#) JEFFERSON
HONORABLE JAMES M. SHAKE, **NOT TO BE PUBLISHED**
JUDGE, JEFFERSON CIRCUIT COURT,
DIVISION 2, AND
ELAINE KENNEDY NESSLER AND
EKM REAL ESTATE
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
170. AMIEE ANDREE V. [2012-SC-000287-MR](#) CLINTON
HONORABLE REED RHORER, **NOT TO BE PUBLISHED**
SPECIAL JUDGE, CLINTON CIRCUIT
COURT; ET AL.
MEMORANDUM OPINION OF
THE COURT – AFFIRMING
ALL SITTING. ALL CONCUR.
171. U. B. THOMAS, III V. [2011-SC-000042-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **NOT TO BE PUBLISHED**
MEMORANDUM OPINION OF
THE COURT – AFFIRMING IN PART,
REVERSING IN PART AND
REMANDING
ALL SITTING. ALL CONCUR.

OPINIONS AND ORDERS – OCTOBER 25, 2012

- MICHAEL DALE ST. CLAIR V. [2011-SC-000781-OA](#) HARDIN
HONORABLE THOMAS O. CASTLEN, **TO BE PUBLISHED**
SPECIAL JUDGE, HARDIN CIRCUIT COURT,
ET AL.
ORDER DENIED WRIT OF PROHIBITION.
ALL SITTING. ALL CONCUR.

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – OCTOBER 25, 2012

MICHAEL W. LYONS V. KENTUCKY BAR ASSOCIATION ORDER PUBLICLY REPRIMANDED MOVANT. ALL SITTING. ALL CONCUR.	2011-SC-000514-KB TO BE PUBLISHED	IN SUPREME COURT
EARL VINCENT, JR. V. COMMONWEALTH OF KENTUCKY ORDER GRANTED DISCRETIONARY REVIEW, VACATED THE COURT OF APPEALS OPINION AND REMANDED BACK TO THE COURT OF APPEALS. ALL SITTING. ALL CONCUR.	2012-SC-000087-D NOT TO BE PUBLISHED	EDMONSON
KENTUCKY BAR ASSOCIATION V. WILLIAM L. SUMMERS ORDER SUSPENDED RESPONDENT FROM THE PRACTICE OF LAW FOR 180 DAYS. ALL SITTING. ALL CONCUR.	2012-SC-000254-KB TO BE PUBLISHED	IN SUPREME COURT
KENTUCKY BAR ASSOCIATION V. BRADLEY KRAEMER ORDER SUSPENDED RESPONDENT FROM THE PRACTICE OF LAW FOR 2 YEARS WITH CONDITIONS. ALL SITTING. ALL CONCUR.	2012-SC-000379-KB TO BE PUBLISHED	IN SUPREME COURT
STEVEN A. WIDES V. KENTUCKY BAR ASSOCIATION ORDER PUBLICLY REPRIMANDED MOVANT. ALL SITTING. ALL CONCUR.	2012-SC-000574-KB TO BE PUBLISHED	IN SUPREME COURT
ROBERT STEVEN JAFFE V. KENTUCKY BAR ASSOCIATION ORDER PERMANENTLY DISBARRED MOVANT FROM THE PRACTICE OF LAW. ALL SITTING. ALL CONCUR.	2012-SC-000575-KB TO BE PUBLISHED	IN SUPREME COURT

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

OPINIONS AND ORDERS – OCTOBER 25, 2012

WAYNE W. FITZGERALD V.
KENTUCKY BAR ASSOCIATION
**ORDER PERMANENTLY DISBARRED
MOVANT FROM THE PRACTICE OF
LAW.**

[2012-SC-000576-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

ALL SITTING. ALL CONCUR.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 17, 2012**

TERRY D. MILLS V.
DEPARTMENT OF CORRECTIONS,
OFFENDER INFORMATION SERVICES

2011-SC-000755-DG

LYON

ERVIN KLEIN, ET AL. V.
JONATHAN MILLER, IN HIS OFFICIAL
CAPACITY AS THE SECRETARY OF THE
FINANCE AND ADMINISTRATION CABINET,
ET AL.

2012-SC-000071-DG

FRANKLIN

COMMONWEALTH OF KENTUCKY V.
LEAH TRIMBLE

2012-SC-000106-DG

KENTON

COMMONWEALTH OF KENTUCKY V.
ASIA BUCALO

2012-SC-000123-DG

HARDIN

JOSE RAMIREZ V.
TRACY NIETZEL, IN HER CAPACITY AS
ADJUSTMENT HEARING OFFICER AT THE
NORTHPOINT TRAINING CENTER AND
KENTUCKY DEPARTMENT OF CORRECTIONS

2012-SC-000131-DG

BOYLE

KNOTT COUNTY BOARD OF EDUCATION,
ET AL. V.
GRACE PATTON

2012-SC-000139-DG

KNOTT

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 17, 2012**

RANDY BRUMLEY V. COMMONWEALTH OF KENTUCKY	2012-SC-000189-DG	CLINTON
LOUISVILLE SOCCER ALLIANCE, INC., ET AL. V. STEVEN L. BESHEAR, IN HIS OFFICIAL CAPACITY AS THE GOVERNOR OF KENTUCKY, ET AL.	2012-SC-000197-DG	FRANKLIN
BAPTIST PHYSICIANS LEXINGTON, INC.; ET AL. V. THE NEW LEXINGTON CLINIC, P.S.C.	2012-SC-000242-DG	FAYETTE
SHANE THOMAS MASTERS V. DENA SUE GREER MASTERS	2012-SC-000420-DGE	MADISON
CABINET FOR HEALTH AND FAMILY SERVICES, GUARDIAN AD LITEM FOR MINOR CHILD V. GARY FOLLOWELL	2012-SC-000437-DGE	KENTON

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 17, 2012**

DONALD RAY HALL V. DEBORAH L. HALL	2011-SC-000765-D	FAYETTE
SHAWN MICHAEL MALONE V. COMMONWEALTH OF KENTUCKY	2012-SC-000033-D	LAUREL
NICHOLAS M. NIGHSWANDER, ET AL. V. LAMAR ADVANTAGE GP COMPANY, LLC., D/B/A LAMAR ADVERTISING OF CINCINNATI	2012-SC-000069-D	KENTON
SABRA SCHULZE V. MARY A. HINTON THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2012-SC-000075-D	BOONE

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 17, 2012**

CARL LANORE V. DEBORAH LANORE (NOW PYNE) NOBLE AND VENTERS, JJ., WOULD GRANT.	2012-SC-000077-D	JEFFERSON
MICHAELLE L. NICHOLS V. COMMONWEALTH OF KENTUCKY, BOARD OF CLAIMS, ET AL.	2012-SC-000083-D	JEFFERSON
ALLEN MOORE V. INA ROBINSON	2012-SC-000084-D	KNOX
TERRY WAYNE JOHNSON V. COMMONWEALTH OF KENTUCKY	2012-SC-000094-D	JEFFERSON
BERTHA MASON V. DON DAUGHERTY, ET AL.	2012-SC-000102-D	FAYETTE
TUNACAKES PROPERTIES, INC. V. STEVEN KILLIAN THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2012-SC-000107-D	SPENCER
LARRY RAINES V. COMMONWEALTH OF KENTUCKY NOBLE AND VENTERS, JJ., WOULD GRANT.	2012-SC-000121-D	JESSAMINE
DANIEL KERR V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2012-SC-000124-D	JEFFERSON
INA MULLINS V. GLENDA LEE ELKINS, ET AL.	2012-SC-000125-D	LETCHER
HANS KALLENBERGER V. SANTA CRUZ CATTLE COMPANY, ET AL.	2012-SC-000126-D	HENRY

SUPREME COURT OF KENTUCKY

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RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 17, 2012**

TROY SCHWEIKERT V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2012-SC-000127-D	KENTON
SAINT JOSEPH HEALTH SYSTEM, INC. V. COMMONWEALTH OF KENTUCKY, FINANCE AND ADMINISTRATION CABINET, DEPARTMENT OF REVENUE, ET AL.	2012-SC-000133-D	FAYETTE
WOMBLES CHARTERS, INC. AND BOBBY G. WOMBLES, JR. V. COMMUNITY TRUST BANK, INC. AND FIFTH THIRD BANK, KENTUCKY, INC. NOBLE, J., NOT SITTING.	2012-SC-000134-D	JESSAMINE
SAINT JOSEPH HEALTH SYSTEM, INC., F/K/A SAINT JOSEPH HEALTH CARE, INC., ETC., ET AL. V. BLUEGRASS ORTHOPAEDICS SURGICAL DIVISION, LLC, ET AL.	2012-SC-000135-D	FRANKLIN
AND CABINET FOR HEALTH AND FAMILY SERVICES, COMMONWEALTH OF KENTUCKY V. BLUEGRASS ORTHOPAEDICS SURGICAL DIVISION, LLC, ET AL. THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2012-SC-000136-D	FRANKLIN
COMMONWEALTH OF KENTUCKY V. JAMES W. ALLEN	2012-SC-000137-D	GRANT
DARRYL HITCH V. SALLY ANN HITCH	2012-SC-000145-D	WARREN
MONICA MEADOWS V. COMMONWEALTH OF KENTUCKY	2012-SC-000150-D	CARROLL

SUPREME COURT OF KENTUCKY

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 17, 2012**

COMMONWEALTH OF KENTUCKY V. JEFFREY DALE BLAKE THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED. CUNNINGHAM, J., WOULD GRANT.	2012-SC-000160-D	GRAVES
RICKY LEE WILSON V. COMMONWEALTH OF KENTUCKY THE OPINION OF THE COURT OF APPEALS IS ORDERED NOT TO BE PUBLISHED.	2012-SC-000161-D	FAYETTE
ERIC DETERS V. KENTON COUNTY	2012-SC-000174-D	KENTON
KDS PROPERTIES, INC. V. AARON MORTGAGE COMPANY	2012-SC-000204-D	BOYD
JOHN T. EBERT, M.D. V. SUSAN DURANT, ET AL.	2012-SC-000205-D	JEFFERSON
KARL KRAUS, JR. V. COMMONWEALTH OF KENTUCKY CUNNINGHAM, J., NOT SITTING.	2012-SC-000207-D	LIVINGSTON
CHRISTOPHER SHAHEID PEYTON V. COMMONWEALTH OF KENTUCKY	2012-SC-000222-D	HOPKINS
BENJI MANNS V. COMMONWEALTH OF KENTUCKY	2012-SC-000223-D	MAGOFFIN
GERALD ELVIS BROWN V. COMMONWEALTH OF KENTUCKY	2012-SC-000268-D	WARREN
DERWIN I. NICKELBERRY V. COMMONWEALTH OF KENTUCKY	2012-SC-000271-D	DAVISS

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
OCTOBER 17, 2012**

AARON K. KIDD V. 2012-SC-000418-DE PERRY
JAMES COMBS
**THE OPINION OF THE COURT OF APPEALS
IS ORDERED NOT TO BE PUBLISHED.**

JANET MILLER V. 2012-SC-000429-DE JEFFERSON
DONALD R. NORRIS AND ROXANNE NORRIS
**THE OPINION OF THE COURT OF APPEALS
IS ORDERED NOT TO BE PUBLISHED.**

BRIAN P. EPPERSON V. 2012-SC-000485-D POWELL
COMMONWEALTH OF KENTUCKY

COURT ORDERS DENYING MOTION TO TRANSFER – OCTOBER 25, 2012

OLGA MANRRIQUEZ-HERNANDEZ, ETC., 2012-SC-000163-T JEFFERSON
ET AL. V.
TEXAS ROADHOUSE, INC., ET AL.

COURT ORDERS DENYING PETITION FOR REHEARING – OCTOBER 25, 2012

KENTON SMITH, ET AL. V. 2010-SC-000332-DG MEADE
RICHARD WILLIAMS, ET AL.

GARY HALL, ET AL. V. 2010-SC-000559-DG LAUREL
MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC., ET AL.

JOHN A. RICHEY, ET AL. V. 2011-SC-000326-WC FROM COURT
PERRY ARNOLD, INC., ET AL. OF APPEALS

COMMONWEALTH OF KENTUCKY, 2010-SC-000335-WC FROM COURT
UNINSURED EMPLOYERS' FUND V. OF APPEALS
JESSIE ROGERS, ET AL.

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS DENYING PETITION FOR REHEARING – OCTOBER 25, 2012

RUSSELL D. ALRED, CIRCUIT JUDGE
OF THE 26TH JUDICIAL CIRCUIT V.
COMMONWEALTH OF KENTUCKY,
JUDICIAL CONDUCT COMMISSION
**ORDER MODIFIED THE OPINION OF THE
COURT RENDERED JULY 23, 2012 BY
SUBSTITUTION OF PAGES 1, 51, 52 AND
53 IN LIEU OF THE ORIGINAL PAGES 1, 51,
52 AND 53.**
MINTON, C.J.; ABRAMSON, CUNNINGHAM,
NOBLE, SCHRODER, AND VENTERS, JJ.,
CONCUR. SCOTT, J., DISSENTS AND WOULD
GRANT.

[2011-SC-000558-RR](#)
TO BE PUBLISHED

IN SUPREME
COURT

COURT ORDERS DISMISSING

JULIANNE MAY YOUNG, INDIVIDUALLY
AND AS CO-EXECUTRIX OF THE ESTATE OF
JULIA C. MAY, DECEASED, ET AL. V.
HON. ALLAN RAY BERTHAM, CHIEF JUDGE,
MARION CIRCUIT COURT, ET AL.
ENTERED: OCTOBER 23, 2012

2012-SC-000343-MR

MARION

HENRY B. LIVINGSTON V.
KAREN CONRAD, JUDGE, OLDHAM
CIRCUIT COURT, ET AL.
ENTERED: SEPTEMBER 21, 2012

2012-SC-000439-MR

OLDHAM

JOHN DAVID LEE V.
STEPHEN M. GEORGE (JUDGE JEFFERSON
CIRCUIT COURT, FAMILY DIVISION), ET AL.
ENTERED: SEPTEMBER 18, 2012

2012-SC-000488-MR

FROM COURT
OF APPEALS

MICHAEL ALLEN V.
COMMONWEALTH OF KENTUCKY
ENTERED: OCTOBER 22, 2012

2012-SC-000441-MR

ROCKCASTLE

SUPREME COURT OF KENTUCKY

OCTOBER 25, 2012 MINUTES

RELEASED: 10:00 A.M.

COURT ORDERS

GLENN L. GREENE, JR. V.
KENTUCKY BAR ASSOCIATION
**ORDER MODIFIED OPINION AND ORDER
RENDERED JUNE 21, 2012, BY
SUBSTITUTION OF THE ENTIRE OPINION
AND ORDER.**
ENTERED: OCTOBER 25, 2012

[2012-SC-000283-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

DANNY R. SHARP V.
COMMONWEALTH OF KENTUCKY
**ORDER DENIED MOTION TO
RECONSIDER**
ENTERED: OCTOBER 5, 2012

2012-SC-000501-MR

WHITLEY

KENTUCKY BAR ASSOCIATION V.
GARY LYNN GOBLE
**RESPONDENT AUTOMATICLY
SUSPENDED FROM THE PRACTICE OF
LAW.**
ENTERED: SEPTEMBER 18, 2012

[2012-SC-000597-KB](#)
TO BE PUBLISHED

IN SUPREME
COURT

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE
KENTUCKY BAR ASSOCIATION – OCTOBER 3, 2012**

RYAN MELVIN TEW V.
KENTUCKY BAR ASSOCIATION
ENTERED: OCTOBER 3, 2012

2012-SC-000635-KB

IN SUPREME
COURT

MONET MARIE DESHLER V.
KENTUCKY BAR ASSOCIATION
ENTERED: OCTOBER 3, 2012

2012-SC-000636-KB

IN SUPREME
COURT