

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

- | | | | |
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| 90. | WARREN SMITH, ET AL. V.
CARBIDE AND CHEMICALS
CORPORATION, ET AL.
OPINION OF THE COURT BY
JUSTICE SCHRODER –
CERTIFYING THE LAW
CUNNINGHAM, J., DISSENTS BY
SEPARATE OPINION. MINTON, J.,
DISSENTS BY SEPARATE OPINION
IN WHICH LAMBERT, C.J., JOINS. | <u>2005-SC-000686-CL</u>
TO BE PUBLISHED | FROM U.S.
COURT OF
APPEALS,
6 TH CIRCUIT |
| 91. | DEBORAH F. THEISEN,
(INDIVIDUALLY) V.
ESTATE OF CLAYTON C. WILSON,
(A/K/A CLEO WILSON), ET AL.
OPINION OF THE COURT BY
JUSTICE SCHRODER –
VACATING AND REMANDING | <u>2005-SC-000769-DG</u>
TO BE PUBLISHED | PULASKI |
| 92. | BITUMINOUS CASUALTY
CORPORATION V.
KENWAY CONTRACTING, INC., ET AL.
OPINION OF THE COURT BY
JUSTICE CUNNINGHAM –
AFFIRMING
MCANULTY AND MINTON, J.J,
NOT SITTING. | <u>2005-SC-000013-DG</u>
TO BE PUBLISHED | WARREN |
| 93. | TRACEY J. DUNN V.
TODD FELTY
OPINION OF THE COURT BY
JUSTICE MCANULTY –
AFFIRMING | <u>2005-SC-000295-DG</u>
TO BE PUBLISHED | JEFFERSON |
| 94. | COMMONWEALTH OF KENTUCKY V.
CHARLES BUSSELL
OPINION OF THE COURT –
AFFIRMING
SCOTT, J., NOT SITTING. | <u>2006-SC-000001-MR</u>
TO BE PUBLISHED | CHRISTIAN |

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

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95. DANIEL GENE CUMMINGS V. [2005-SC-000479-MR](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE MCANULTY –
AFFIRMING IN PART, REVERSING
IN PART AND REMANDING
96. STEEL TECHNOLOGIES, INC. V. [2005-SC-000551-DG](#) GALLATIN
JASON CONGLETON (INDIVIDUALLY; **TO BE PUBLISHED**
IN HIS CAPACITY AS ADMINISTRATOR
FOR THE ESTATE OF MELISSA
CONGLETON; AND IN HIS CAPACITY
AS PARENT AND NEXT FRIEND OF
JASON AND SAMANTHA CONGLETON)
OPINION OF THE COURT BY
JUSTICE NOBLE – AFFIRMING IN
PART AND REVERSING IN PART
MCANULTY, J., CONCURS BY
SEPARATE OPINION. MINTON, J.,
NOT SITTING.
97. KARLOS BROWN V. [2005-SC-000078-DG](#) JEFFERSON
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE NOBLE – REVERSING
AND REMANDING
CUNNINGHAM, J., CONCURS BY
SEPARATE OPINION IN WHICH
LAMBERT, C.J.; MINTON AND
NOBLE, J.J., JOIN. SCOTT, J.,
DISSENTS BY SEPARATE OPINION
IN WHICH MCANULTY, J., JOINS.
SCHRODER, J., NOT SITTING.
98. B.B. (A CHILD UNDER EIGHTEEN) V. [2005-SC-000814-DG](#) ADAIR
COMMONWEALTH OF KENTUCKY **TO BE PUBLISHED**
OPINION OF THE COURT BY
JUSTICE SCHRODER –
REVERSING AND REMANDING

SUPREME COURT OF KENTUCKY

MINUTES

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| 99. | MICHAEL KEITH BUTTREY V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2005-SC-000320-MR
NOT TO BE PUBLISHED | LAUREL |
| 100. | DEBORAH L. HUIETT V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u>
MCANULTY, J., CONCURS BY
SEPARATE OPINION IN WHICH
MINTON, J., JOINS. | 2005-SC-000643-MR
NOT TO BE PUBLISHED | BOONE |
| 101. | ROBERT FLANDERS V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2005-SC-000815-MR
NOT TO BE PUBLISHED | LAUREL |
| 102. | MICHAEL TODD KEELING V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2006-SC-000003-MR
NOT TO BE PUBLISHED | MCCRACKEN |
| 103. | JASON PATRICK BOZE V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2006-SC-000137-MR
NOT TO BE PUBLISHED | FAYETTE |
| 104. | TONY GLASPER V.
COMMONWEALTH OF KENTUCKY
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2006-SC-000300-MR
NOT TO BE PUBLISHED | JEFFERSON |
| 105. | PEGGY ENGLEMAN V.
RUMPKE, ET AL.
MEMORANDUM OPINION OF
THE COURT – <u>AFFIRMING</u> | 2006-SC-000632-WC
NOT TO BE PUBLISHED | FROM COURT
OF APPEALS |

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

106. JAMES A. ELLIS, ET AL. V. [2006-SC-000660-MR](#) PIKE
HONORABLE JOHN DAVID CAUDILL, **NOT TO BE PUBLISHED**
SPECIAL JUDGE,
PIKE CIRCUIT COURT, ET AL.
**MEMORANDUM OPINION OF
THE COURT – AFFIRMING**
SCOTT, J., NOT SITTING.

OPINIONS AND ORDERS –

KENTUCKY BAR ASSOCIATION V. [2006-SC-000057-KB](#) IN SUPREME
KEVIN LEE NESBITT **TO BE PUBLISHED** COURT
**ORDER GRANTED 1 YEAR
EXTENSION TO COMPLETE
REMEDIAL EDUCATION.**
ENTERED: JUNE 21, 2007.

KENTUCKY BAR ASSOCIATION V. [2007-SC-000097-KB](#) IN SUPREME
DAVID ANTHONY GRIFFITHS **TO BE PUBLISHED** COURT
**ORDER SUSPENDED RESPONDENT
FROM THE PRACTICE OF LAW
FOR 181 DAYS.**
ENTERED: JUNE 21, 2007

KENTUCKY BAR ASSOCIATION V. [2007-SC-000116-KB](#) IN SUPREME
NANCY E. SHELBY CALLOWAY **TO BE PUBLISHED** COURT
**ORDER PUBLICLY REPRIMANDED
RESPONDENT.**
ENTERED: JUNE 14, 2007.

WILLIAM MORRIS SAWYER V. [2007-SC-000297-KB](#) IN SUPREME
KENTUCKY BAR ASSOCIATION **TO BE PUBLISHED** COURT
**ORDER SUSPENDED MOVANT
FROM THE PRACTICE OF LAW
FOR 3 YEARS.**
ENTERED: JUNE 21, 2007

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

**COURT ORDERS GRANTING MOTION FOR DISCRETIONARY REVIEW –
JUNE 13, 2007**

MICHAEL WAYNE HOLT V. COMMONWEALTH OF KENTUCKY	2006-SC-000391-DG	JEFFERSON
TRIPLE CROWN SUBDIVISION HOMEOWNERS ASSOCIATION, INC. V. CLINTON S. OBERST AND SUSAN J. OBERST	2006-SC-000934-DG	BOONE
STEPHEN B. EARLY, ET AL. V. OLDHAM COUNTY BOARD OF EDUCATION	2007-SC-000008-DG	OLDHAM
BRYAN LEE REINHARDT V. CAROLINE MUDD, WARDEN, ET AL.	2007-SC-000201-DG	MARION
LINDA JUSTICE V. DAN HALL	2007-SC-000215-DG	FLOYD
DAVID R. PORTERFIELD, JR. V. PAUL RENAKER	2007-SC-000223-DG	KENTON
JOHN TIM JENKINS V. COMMONWEALTH OF KENTUCKY	2007-SC-000248-DG	WOODFORD
MOORE PONTIAC, BUICK, GMC, INC. V. CANDRIA SCOTT AND JAMES E. SCOTT, JR.	2007-SC-000282-DG	PIKE

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 13, 2007**

GEORGE D. LAWSON, EXECUTOR OF THE ESTATE OF R.E. PETRIE AND TRUSTEE OF THE TRUST ESTABLISHED BY THE WILL OF R.E. PETRIE V. WILLIAM A. HAYNES, SPECIAL ADMINISTRATOR OF THE ESTATE OF FRANCIS R. PETRIE AND THOMAS R. LOID, JR.	2006-SC-000687-D	WARREN
WILLIAM J. BARROW II V. LEXINGTON-FAYETTE URBAN COUNTY CIVIL SERVICE COMMISSION, ET AL.	2006-SC-000730-D	FAYETTE
DAVID TRENT V. LAKE CUMBERLAND RESORT, INC.	2006-SC-000811-D	PULASKI
CHRISTOPHER BARLEY V. KENTUCKY DEPARTMENT OF CORRECTIONS, ET AL.	2006-SC-000941-D	MUHLENBERG
HOANG CONG DUONG V. COMMONWEALTH OF KENTUCKY	2007-SC-000022-D	FAYETTE
DR. ROBERT D. HILGERS, ET AL. V. INTERNATIONAL GYNECOLOGIC CANCER SOCIETY, INC., ET AL.	2007-SC-000065-D	JEFFERSON
WOODROW CLAY BUSH, ET AL. V. ELLIS BUSH, ET AL.	2007-SC-000068-D	WOLFE
VIRGINIA KUPPER V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2007-SC-000070-D	JEFFERSON

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 13, 2007**

DONALD RAY VIOLETT V. W. CURRIE MILLIKEN	2007-SC-000110-D	WARREN
MICHAEL HARDIN V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2007-SC-000129-D	NELSON
WHITNEY W. BRIDGERS V. COMMONWEALTH OF KENTUCKY	2007-SC-000139-D	SPENCER
C. WES COLLINS V. PEGGY S. COLLINS (RICE)	2007-SC-000144-D	FAYETTE
RICK BELL V. COMMONWEALTH OF KENTUCKY	2007-SC-000171-D	MCCREARY
ESTATE OF TONY TURNER, BY AND THROUGH ADMINISTRATRIX, GERALDINE TURNER V. GLOBE INDEMNITY COMPANY	2007-SC-000182-D	HARLAN
JATHNIEL CHENAULT V. COMMONWEALTH OF KENTUCKY COURT OF APPEALS' OPINION ORDERED NOT TO BE PUBLISHED.	2007-SC-000198-D	FAYETTE
AUBREY HALL, ET AL. V. COMMONWEALTH OF KENTUCKY, TRANSPORTATION CABINET, DEPARTMENT OF HIGHWAYS	2007-SC-000211-D	PERRY
CHARLES ANTHONY COATES V. COMMONWEALTH OF KENTUCKY	2007-SC-000219-D	JEFFERSON
ARTHUR JASPER, JR. V. COMMONWEALTH OF KENTUCKY	2007-SC-000231-D	FAYETTE

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

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**COURT ORDERS DENYING MOTION FOR DISCRETIONARY REVIEW –
JUNE 13, 2007**

JERI STEWART V. JIMMY RANDALL	2007-SC-000232-DE	JEFFERSON
KROGER V-338 V. DR. JAMES W. HOLSINGER, JR., SECRETARY, COMMONWEALTH OF KENTUCKY, CABINET FOR HEALTH & FAMILY SERVICES, ET AL.	2007-SC-000240-D	MCCRACKEN
DEMETRIUS DAVIS V. COMMONWEALTH OF KENTUCKY	2007-SC-000244-D	JEFFERSON
GINA MARIE LEE V. BENSON LOCKHART LEE	2007-SC-000252-D	FRANKLIN
MILTON W. KEENEY, ET AL. V. BARBARA JOANNE KEENEY	2007-SC-000263-D	PULASKI

COURT ORDERS GRANTING MOTION TO TRANSFER – JUNE 14, 2007

ERNIE FLETCHER, IN HIS OFFICIAL CAPACITY AS THE GOVERNOR OF THE COMMONWEALTH OF KENTUCKY, ET AL. V. HAYDON BRIDGE COMPANY, INC., ET AL.	2007-SC-000058-TG	FRANKLIN
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**COURT ORDERS DENYING BELATED MOTION FOR ENLARGEMENT OF TIME TO FILE
MOTION FOR DISCRETIONARY REVIEW – JUNE 18, 2007**

JEFFREY CURTIS V. COMMONWEALTH OF KENTUCKY	2007-SC-000334-D	CALLOWAY
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SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

COURT ORDERS DENYING PETITION FOR REHEARING – JUNE 21, 2007

ROBERT EARL GAINES V. 2005-SC-000412-MR LIVINGSTON
COMMONWEALTH OF KENTUCKY

CORNELIUS JAMAL MONK V. [2005-SC-000470-MR](#) CHRISTIAN
COMMONWEALTH OF KENTUCKY
**ORDER MODIFIED OPINION
RENDERED MARCH 22, 2007,
BY SUBSTITUTION OF PAGE 10.**

THOMAS C. BOWLING V. [2005-SC-000712-MR](#) FAYETTE
COMMONWEALTH OF KENTUCKY
**ORDER MODIFIED OPINION
RENDERED JUNE 15, 2006,
BY SUBSTITUTION OF
PAGES 1 AND 6 THROUGH 13.**

COURT ORDERS

JAMES A. CRUM V. [2005-SC-000395-DG](#) PIKE
COMMONWEALTH OF KENTUCKY
**ORDER MODIFIED OPINION
RENDERED MAY 24, 2007, BY
BY SUBSTITUTION OF
PAGES 4, 5, AND 6.**
ENTERED: MAY 25, 2007

JOHN W. POTTER, SPECIAL JUDGE 2006-SC-000886-OA FROM COURT
BOONE CIRCUIT COURT V. OF APPEALS
JOHN DOE CLASS, ET AL.
**ORDER GRANTED MOTION TO
DISMISS APPEAL.**
ENTERED: JUNE 21, 2007

SUPREME COURT OF KENTUCKY

MINUTES

JUNE 21, 2007

RELEASED: 2:00 P.M.

COURT ORDERS

HYDEN CITIZENS BANK V.
COMMONWEALTH OF KENTUCKY,
EX REL. KENTUCKY DEPARTMENT
OF REVENUE.

2006-SC-000887-I

FRANKLIN

**ORDER GRANTED MOTION TO
DISMISS APPEAL.**

ENTERED: JUNE 14, 2007

JACK LAKE, JR. V.
COMMONWEALTH OF KENTUCKY
**ORDER DISMISSED APPEAL FOR
FAILURE TO PERFECT.**

2007-SC-000145-MR

KNOX

MAY 22, 2007

LEE SCALF V.
COMMONWEALTH OF KENTUCKY
**ORDER GRANTED MOTION
TO DISMISS MOTION FOR
DISCRETIONARY REVIEW.**

2007-SC-000228-D

KENTON

JUNE 11, 2007

GARRY BROCK V.
COMMONWEALTH OF KENTUCKY
**ORDER DENIED MOTION TO
PROCEED IN FORMA PAUPERIS.**

2007-SC-000325-MR

JEFFERSON

ENTERED: MAY 23, 2007

**COURT ORDERS PERMITTING MOVANT TO WITHDRAW AS A MEMBER OF THE
KENTUCKY BAR ASSOCIATION – JUNE 14, 2007**

DAVID K. SCHWIRIAN V.
KENTUCKY BAR ASSOCIATION

2007-SC-000424-KB

IN SUPREME
COURT

CHELSEA ANNE WHITLEY V.
KENTUCKY BAR ASSOCIATION

2007-SC-000431-KB

IN SUPREME
COURT