



## DECISIONS, NOTICES AND ORDERS

**Friday, November 16, 2012**

The Supreme Court of Appeals of West Virginia has taken action in the following cases. This list contains only the action taken by the Court, not the content or actual date of orders or decisions.

---

### REHEARINGS

The Court took the following action on petitions for rehearing:

Arthur D. Hage v. Lillian C. Hage, No. 11-1751 (Putnam 11-D-6)  
Refused (5-0)

Edward Jones v. Adrian Hoke, Warden, No. 11-0396 (Taylor 08-C-39)  
Refused (5-0)

In Re: N.C. and B.B., No. 12-0250 (Cabell 09-JA-67, 68)  
Refused (5-0)

William L. Pearson v. Americredit Financial Services, Inc., No. 11-1455 (Raleigh 10-C-711)  
Refused (5-0)

Neil Williams v. David Ballard, Warden, No. 11-0889 (Ohio 10-C-434)  
Refused (5-0)

### MEMORANDUM DECISIONS

In accordance with Rule 21, memorandum decisions were entered in the following cases:

In Re: W.S., W.V. and A.R., No. 12-0464 (Jackson 11-JA-17, 18, 19)  
Affirmed (4-0) (Justice McHugh disqualified)

Roger Simmons v. Marvin Plumley, Warden, No. 11-0759 (Webster 06-P-10)  
Affirmed (5-0)

Robert Cawthon, et al. v. CNX Gas Company, et al., No. 11-1231 (Lewis 10-C-1)  
Affirmed (4-1) (Justice Benjamin dissenting)

Eddie Anderson and Hilary D. Miller v. Board of Education of the County of Gilmer, et al.,  
No. 11-1235 (Gilmer 10-C-26)  
Affirmed (5-0)

ORDER LIST  
November 16, 2012  
Page 2

State of West Virginia v. Adam Leatherman, No. 11-1505 (Jefferson 11-F-40)  
Affirmed (5-0)

Barbara Banister v. Town of Rowlesburg and Margaret Schollar, No. 11-1655 (Preston 11-C-157)  
Affirmed (3-2) (Justices Davis and Benjamin dissenting)

REM Community Options, LLC v. Laura W. Cain, No. 11-1236 (Wood 09-C-434)  
Affirmed (5-0)

John Jewell, Administrator of the Estate of Beverly Jewell v. Bruce Petersen, D.O., Lora Keaveny, D.O. and Peterson Clinic, PLLC, No. 11-1354 (Kanawha 10-C-1817)  
Affirmed (4-1) (Justice Benjamin dissenting)

Steel of West Virginia v. West Virginia Office Insurance Commissioner, No. 11-1607  
(Kanawha 11-C-122)  
Affirmed (4-1) (Chief Justice Ketchum dissenting)

Jeffrey Hylton and Tamara Hylton Woods v. Wetzel Bennett, Sheriff of Nicholas County, et al.,  
No. 12-0194 (Nicholas 08-C-70)  
Affirmed (5-0)

State of West Virginia v. Charles K. Stone, No. 11-1120 (Fayette 11-F-48)  
Affirmed (5-0)

James M. Pierson v. Michelle Lee Richards and Thomas Wayne Richards, No. 11-1144  
(Fayette 06-D-201)  
Affirmed (5-0)

Alfred Gray v. David Ballard, Warden, No. 11-1327 (Raleigh 09-C-169)  
Affirmed (5-0)

Keith and Holly Honeycutt v. Duane and Elizabeth Paugh, et al., No. 11-1491  
(Monongalia 10-C-104)  
September 15, 2011 circuit court order vacated and matter remanded to the circuit court with directions.

**RULE 19 ARGUMENT GRANTED**

The following cases are scheduled for Rule 19 oral argument on the dates stated:

Richard Ringer v. Joseph John, No. 11-1325 (Preston 09-C-225)  
February 5, 2013

SER Verizon West Virginia, Inc., et al. v. Hon. James A. Matish, Judge, et al., No. 12-1209  
(Original Prohibition)  
February 5, 2013

ORDER LIST  
November 16, 2012  
Page 3

Todd M. S. v. Julie M. G., No. 11-1703 (Kanawha 07-D-1799)  
February 19, 2013

Jason M. Smith v. Apex Pipeline Services, Inc., No. 11-1610 (Kanawha 09-C-2087)  
February 19, 2013

**RULE 20 ARGUMENT GRANTED**

The following cases are scheduled for Rule 20 oral argument on the dates stated:

SER Jennifer A. Fillinger, R.N. v. West Virginia Board of Examiners for Registered Nurses,  
No. 12-1055 (Original Prohibition)  
March 5, 2013

SER Joe E. Miller, Commissioner WV Division of Motor Vehicles v. Hon. Mark A. Karl, Judge,  
No. 12-1213 (Original Prohibition)  
SER Joe E. Miller, Commissioner WV Division of Motor Vehicles v. Hon. Charles King, Judge,  
No. 12-1223 (Original Prohibition)  
SER Joe E. Miller, Commissioner WV Division of Motor Vehicles v. Hon. William S. Thompson,  
Judge, No. 12-1224 (Original Prohibition)  
February 6, 2013 - consolidated for argument and decision.

Tabitha P. v. Robby P., No. 11-1293 (Mercer 10-D-525)  
February 6, 2013

State of West Virginia v. James Robertson, No. 11-1618 (Raleigh 01-F-130)  
February 6, 2013

Richard Lindsay and Pamela Lindsay v. Attorneys Liability Protection Society, Inc. v. Ronnie  
Smith, Administrator, No. 11-1651 (Kanawha 08-C-75)  
February 20, 2013

In Re: H.H., No. 12-0173 (Ohio 07-CJA-50)  
February 20, 2013

University Commons Riverside Home Owners Association, Inc. v. University Commons  
Morgantown, LLC, et al., No. 11-1577 (Monongalia 09-C-85)  
March 5, 2013

**ORDERS**

Orders of note were entered in the following cases:

SER Robert Jo McNemar v. Hon. Thomas H. Keadle, Judge, No. 12-1173 (Original Prohibition)  
Petition refused (5-0)

SER Joe E. Miller, Commissioner WV Division of Motor Vehicles v. Hon. Phillip M. Stowers,  
Judge, No. 12-1215 (Original Prohibition)  
Petition refused (5-0)

ORDER LIST  
November 16, 2012  
Page 4

Lawyer Disciplinary Board v. Charles L. Phalen, Jr., No. 11-1746 (Lawyer Disciplinary)  
License to practice law in the state of West Virginia suspended for one year. (5-0)

Patrick J. O'Reilly v. Kanawha County Board of Education, Pre-Petition No. 12-059, No. 12-1334  
(Kanawha 12-C-1984)  
Summarily affirmed (4-0) (Justice McHugh disqualified)

SER Vincent Camastro v. Scott R. Smith, Prosecuting Attorney, No. 12-058 (Original  
Mandamus)  
Petition refused (5-0)