



DECISIONS, NOTICES AND ORDERS

Friday, April 1, 2011

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:

State of West Virginia v. Rodney Jason Berry, No. 35501 (Raleigh 07-F-15)
Refused (5-0)

MEMORANDUM DECISIONS

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

State of West Virginia v. Ferlin J. Heavener, No. 101231 (Pendleton 98-F-19)
Affirmed

Kenneth Ray Collins v. Teresa Waid, Warden, No. 101346 (Mingo 08-C-148)
Affirmed

State of West Virginia v. Ralph McMullen, No. 101401 (Wood 08-F-81)
Affirmed

State of West Virginia v. Edward Eugene Smith, No. 101205 (Kanawha 08-F-530, 08-M-93)
Affirmed

Michael L. Benedum v. Eric Hudkins, No. 101217 (Barbour 08-C-69)
Affirmed

Lyle Aliff, Jr. v. Carrier Corporation, et al., No. 101316 (Fayette 07-C-218)
Affirmed (Chief Justice Workman disqualified)

In Re: Robert H., No. 101469 (Nicholas 09-CIG-8)
Affirmed

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Elaine Pricket v. Monongalia Board of Education, No. 101484 (Kanawha 10-AA-4)
Affirmed (Chief Justice Workman disqualified)

State of West Virginia v. Joseph Nelson, No. 100981 (Wood 09-F-101)
Affirmed

State of West Virginia v. Clifford Guy Moore, No. 101474 (Upshur 10-F-11)
Affirmed

Marvin White v. David L. Bragg, No. 101507 (Fayette 09-C-255)
Affirmed

State of West Virginia v. Arthur Ray Petrie, No. 101509 (Mason 09-F-93)
Affirmed

Tamra Protan v. Hassan M. Ghannam, No. 101328 (Kanawha 06-D-165)
Reversed and Remanded

RULE 19 ARGUMENT GRANTED

The following cases will be scheduled for Rule 19 oral argument on a date to be determined by the Clerk:

Lawyer Disciplinary Board v. Dennie S. Morgan, Jr., No. 35513 (Disciplinary)

RULE 20 ARGUMENT GRANTED

The following cases will be scheduled for Rule 20 oral argument on a date to be determined by the Clerk:

Mary Catherine Lehman and Patricia Ann Powell v. United Bank, Inc., No. 101486
(Berkeley 09-C-616, 09-C-613)

PNGI Charles Town Gaming, LLC v. Lawrence Reynolds, et al., No. 101503
(Kanawha 09-C-688)

ORDERS

Orders of note were entered in the following cases:

SER Vernon Lee Freshwater v. Hon. Ronald E. Wilson, Judge, No. 11-0208
(Original Prohibition)
Petition refused (5-0)

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SER Melinda Casey v. Hon. David R. Janes, Judge, No. 11-0236 (Original Prohibition)
Petition refused (5-0)

SER Erie Insurance Property & Casualty Co. v. Hon. David W. Nibert, Judge, No. 11-0259
(Original Prohibition)
Rule to show cause issued (5-0)

SER Melissa J. Gamponia, M.D. and Sue A. Westfall v. Hon. Louis H. Bloom, Judge, No. 11-0316
(Original Prohibition)
Petition refused (4-1)(Justice Benjamin would grant)

SER Richmond American Homes of West Virginia, Inc. v. Hon. David H. Sanders, Judge,
No. 11-0302 (Original Prohibition)
Petition refused as the issues are more properly presented on appeal after full development of
the record in lower court. (4-1)(Justice Ketchum would grant.)

SER Craig Diggins, et al. v. Hon. Andrew N. Frye, Jr., Judge, et al., No. 11-0304
(Original Prohibition)
Petition refused (5-0)

Robin W. Hammer v. Thomas M. Hammer, et al., No. 11-0075 (Randolph 10-C-103)
Motion to stay denied (5-0)

Michael V. Coleman, Acting Warden v. Michael Brown, No. 11-0378 (Cabell 02-C-357)
Motion to stay granted (5-0)

Wright Automotive, Inc. v. Kenneth Edward Chittum and Patricia Kinder Beavers, No. 11-0521
(Mercer 11-C-114-WS)
Motion to stay denied (5-0)

Lesley Powers v. Fayetteville Physical Therapy & Sports Rehabilitation Center, Inc., et al.,
Pre-Petition No. 11-028
Motion to expedite granted (5-0)
Motion to stay granted and remanded to circuit court to set bond (4-1)(Justice Benjamin)

Lawyer Disciplinary Board v. Kirk H. Bottner, No. 35535 (Disciplinary)
Respondent is reprimanded and other sanctions imposed. (4-1)(Justice Ketchum would
sanction with probation)

CD's Place, Inc. and Cammy Adkins v. Fayette County Board of Zoning Appeals, No. 35704
(Fayette 08-AA-1)
Dismissed for failure to file a brief