



DECISIONS, NOTICES AND ORDERS

Friday, March 9, 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:

Marlon Ferguson v. Nicholas J. Wall, No. 11-0597 (Kanawha 09-C-790)
Refused (4-0)(Justice Workman not participating)

Albert Postelwait, Jr. v. The City of Wheeling, No. 11-0206 (Ohio 07-C-291)
Refused (4-0)(Justice Workman not participating)

MEMORANDUM DECISIONS

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

State of West Virginia v. Shawn J. Bailey, Nos. 11-0417 and 11-0794 (Wood 10-F-8)
Affirmed (4-1)(Chief Justice Ketchum dissenting)

State of West Virginia v. Shelley Ray Guthrie, No. 11-0556 (Marshall 11-F-5)
Affirmed (5-0)

Roger Repass v. Adrian Hoke, Warden, No. 11-0663 (Mercer 10-C-254)
Affirmed (5-0)

State of West Virginia v. David Kestner, No. 11-0777 (Jackson 08-F-48)
Affirmed (4-0)(Justice McHugh disqualified)

Gary Lanham v. WV Consolidated Public Retirement Board, No. 11-0778 (Kanawha 10-AA-133)
Affirmed (5-0)

In Re: Adoption of Wesley G., No. 11-0553 (Boone 10-A-10)
Affirmed (5-0)

Melissa Sue E. v. Andrew Blair C., No. 11-0702 (Kanawha 99-D-165)
Affirmed (5-0)

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Travis Hough v. Boll Medical, Inc., No. 11-0814 (Kanawha 10-MISC-463)
Affirmed (5-0)

Brett Childress v. WV State Police and WV Division of Personnel, No. 11-0329
(Kanawha 09-AA-201)
Affirmed (4-0)(Justice Workman disqualified)

Andre King v. Jim Ielapi, Warden, No. 11-0237 (Mercer 09-C-375)
Affirmed (5-0)

William David Belcher v. Adrian Hoke, Warden, No. 11-0494 (Mercer 09-C-286)
Affirmed (5-0)

Ernest "Sonny" Tucker v. Thomas L. McBride, Warden, No. 11-0593 (Berkeley 07-C-281)
Affirmed (5-0)

State of West Virginia v. J.D. Lambert, No. 11-0988 (Ritchie 10-F-1)
Affirmed (5-0)

State of West Virginia v. James Ellis Spudock, No. 11-0620 (Kanawha 07-F-585)
Affirmed (3-2)(Chief Justice Ketchum and Justice Benjamin dissent)

RULE 19 ARGUMENT GRANTED

The following case will be scheduled for Rule 19 oral argument on a date to be determined by the Clerk; unless otherwise stated:

Vickie L. Akers v. CSX Transportation, No. 11-0385 (Cabell 08-C-656)

Rose L. Thomas, Administratrix v. Charlotte Jane Cain, No. 11-0750 (Monongalia 10-C-56)
The Town of War v. George Michael Corteslesi, No. 11-0485 (McDowell 09-C-23)

Ernie Belcher v. Stollings Trucking Co., Inc., No. 11-0495 (Logan 05-C-372-P)

State of West Virginia v. Julia Surbaugh, No. 11-0561 (Webster 10-F-14)

Robert L. Meadows, II and Rhonda K. Meadows v. Massey Coal Services, Inc. and Independence Coal Company, Inc., No. 11-0631 (Boone 08-C-185)(Justice Benjamin disqualified)

RULE 20 ARGUMENT GRANTED

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

Ronald Hicks, et al. v. Erica Mani, Director WV Consolidated Public Retirement Board, et al., No. 11-0748 (Kanawha 10-C-1502)

Victoria Drumheller, et al. v. James Fillinger, et al., No. 11-0681 (Jefferson 08-C-393)

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ORDERS

Orders of note were entered in the following cases:

SER John W. Gasparini, Inc. v. Hon. Charles E. King, Jr., Judge, No. 12-0143
(Original Prohibition)
Petition refused (4-0)(Justice Workman not participating)

SER Billy David Surface aka David Claypool v. Hon. Thomas C. Evans, III, Judge, No. 12-0168
(Original Prohibition)
Petition refused (2-1)(Justice Benjamin would grant)(Justice Workman not participating)(Justice McHugh disqualified)

State of West Virginia v. Jesse Aaron Blevins, No. 12-0104 (Cabell 10-C-253)
Petition for post-conviction bond refused (4-0)(Justice Workman not participating)

Lawyer Disciplinary Board v. Richard L. Lancianese, No. 11-0667 (Lawyer Disciplinary)
Law license suspended for a period of three years(4-0)(Justice Workman not participating)

Carmen E. v. Danette D. and Judith E., No. 11-0532 (Kanawha 94-G-13)
Dismissed (4-0)(Justice Workman not participating)

SER Tammy Adkins v. Lori Nohe, Warden, No. 11-1755 (Original Habeas)
Dismissed without prejudice (4-0)(Justice Workman not participating)