



DECISIONS, NOTICES AND ORDERS

Friday, June 7, 2013

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:

Rick L. Martin v. CSX Transportation, Inc., No. 12-0040 (Cabell 09-C-621)
Refused (5-0)

Aron Joseph Freeland v. David Ballard, Warden, No. 11-0126 (Monongalia 07-C-237)
Refused (5-0)

MEMORANDUM DECISIONS

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

Patricia Salmons v. State Farm Mutual Automobile Insurance Company and Christi Miller,
No. 12-0891 (Wayne 11-C-204)
Affirmed (5-0)

J.L. v. David Ballard, Warden, No. 12-0431 (Webster 08-P-13)
Affirmed (5-0)

State of West Virginia v. Scott C. Palmer, No. 12-0530 (Fayette 11-F-38)
Affirmed (3-2) (Chief Justice Benjamin and Justice Davis dissenting)

Bobbie Jo R. and Myles R., by his next friend Jennifer P. v. Traci W., No. 11-1753
(Wood 11-D-611)
Affirmed (5-0)

Grady Lee Whitlock, deceased, by Pamela S. Pack, Executrix v. Betty Dianne Williams Whitlock,
No. 12-0332 (Raleigh 98-D-549)
Affirmed (5-0)

Daryoush Hooshyar and Farzaneh Hassani, M.D. v. Dr. Afiakbar Afshari and Dr. Amir Mohammadi, No. 12-0578 (Monongalia 10-C-19)
Affirmed (5-0)

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Andrew Reger v. WV Department of Transportation, Division of Motor Vehicles, No. 11-1704
(Kanawha 11-MISC-395)

Affirmed (4-1) (Justice Ketchum dissenting)

State of West Virginia v. Keith Ross, No. 12-0441 (Mercer 11-F-98)

Affirmed (5-0)

Desmond D. Clark v. David Ballard, Warden, No. 12-0524 (Kanawha 11-MISC-463)

Affirmed (5-0)

Andrew Scott Perry v. David Ballard, Warden, No. 12-0941 (Wayne 10-C-178)

Affirmed (5-0)

Michael J. Kanode, Sr. v. Marvin Plumley, No. 12-0451 (Mercer 10-C-445)

Affirmed (3-2) (Justices Workman and Loughry concurring, in part, and dissenting, in part)

State of West Virginia v. Bradley Scott Smith, No. 12-0599 (Mineral 09-F-47)

Affirmed (5-0)

Robert B. Joseph v. David Ballard, Warden, No. 12-0611 (Kanawha 06-MISC-479)

Affirmed (5-0)

Sheila Ann Rutherford v. Olive V. McClanahan and Kanawha County Commission, No. 12-0655
(Kanawha 03-C-2908)

Affirmed (3-0) (Justice Davis not participating) (Justice Workman disqualified)

Michael Conrad Murray v. Kellie Marie Murray, No. 12-0771 (Kanawha 10-D-1183)

Affirmed (3-2) (Chief Justice Benjamin and Justice Davis dissenting)

CJH, Inc. v. Quadruple S Farms, LLC and Four-S Development, LLC, No. 12-0825
(Putnam 09-C-438)

Affirmed (3-2) (Chief Justice Benjamin and Justice Workman dissenting)

RULE 19 ARGUMENT GRANTED

The following cases will be scheduled for Rule 19 oral argument on
the date stated:

State of West Virginia v. Ethan Chic-Colbert, No. 12-1121 (Kanawha 12-F-320)

October 16, 2013

State of West Virginia v. Kenneth Eugene Carter, No. 12-0777

(Kanawha 11-F-692)

October 16, 2013

Lorraine M. Upchur, Administratrix v. McDowell County 911 and Jane Doe,
Dispatcher, No. 12-0824 (Kanawha 10-C-72)

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SER Steven O. Dale, Acting Commissioner, WV Department of Motor Vehicles v. James C. Stucky, Judge, and Michael Doonan, No. 13-0438 (Original Prohibition)
Wednesday, October 16, 2013

SER Scott Ash, Prosecuting Attorney v. Hon. Derek Swope, Judge, and Chubby Huston,
No. 13-0458 (Original Prohibition)
Wednesday, October 16, 2013

RULE 20 ARGUMENT GRANTED

The following cases will be scheduled for Rule 20 oral argument
on the date stated:

Deborah Kay Harris, Administratrix v. CSX Transportation, et al., No. 12-1135
(Marshall 08-C-171)
October 15, 2013

Johanna Dorsey v. Progressive Classic Insurance Company, No. 12-1254 (Ohio 11-C-95)
October 15, 2013

Gina Young, Administratrix v. Apogee Coal Company, LLC, Patriot Coal Corporation and James Ray Browning, No. 12-0835
(Certified Question – United States District Court for the Southern District of West Virginia)
October 15, 2013

Brian Timmons, Administrator v. Ohio Power Company, No. 12-0968
Ohio Power Company v. Brian Timmons, Administrator, No. 12-1072
(Marshall 08-C-102)
Consolidated – October 15, 2013

ORDERS

Orders of note were entered in the following cases:

SER Teresa Lynn Baker v. Hon. Alfred E. Ferguson, Judge, No. 13-0261 (Original Prohibition)
Petition refused (5-0)

SER Chas M. Sledd Company v. Hon. Ronald E. Wilson, Judge, and First Class Realty, LLC,
No. 13-0381 (Original Prohibition)
Petition refused (3-2) (Chief Justice Benjamin and Justice Ketchum would grant)

David Ballard v. Brian Bush Ferguson, No. 12-1028 (Monongalia 06-C-202)
Motion for stay refused (3-2) (Justices Workman and Loughry would grant)

Lawyer Disciplinary Board v. Adam J. Bullian, No. 13-0029 (Lawyer Disciplinary)
Law license annulled by consent (5-0)

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John Myers, IV v. John L. Pauley, III, No. 12-0718 (Kanawha 09-C-1913)
April 10, 2013 order setting appeal bond vacated (5-0)
Motion to dismiss refused (5-0)

West Virginia Board of Governors and Georgia L. Narsavage, Ph.D., R.N., F.A.A.N., C.P.N.P. v. Janet F. Wang, Ph.D., R.N., F.A.A.N., No. 12-1205 (Monongalia 10-C-638)
Court declined to docket certified question (3-2) (Chief Justice Benjamin and Justice Workman would set for oral argument)