



DECISIONS, NOTICES AND ORDERS

Friday, March 29, 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 a petition for rehearing:

State of West Virginia v. James Wilkerson, No. 11-1123 (Ohio 09-F-10)
Refused (5-0)

MEMORANDUM DECISIONS

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

David Taylor v. David Ballard, Warden, No. 11-1529 (Berkeley 11-C-681)
Affirmed (5-0)

Robert Lee Lewis v. David Ballard, Warden, No. 12-0137 (Kanawha 12-MISC-04)
Remanded (5-0)

Stephen M. Burks v. David Ballard, Warden, No. 12-0148 (Raleigh 10-C-606)
Affirmed (5-0)

Kevin Cart v. Evelyn Seifert, Warden, No. 12-0342 (Putnam 11-C-267)
Affirmed (5-0)

William A. LaRue v. David Ballard, Warden, No. 12-0453 (Fayette 12-C-97)
Affirmed (5-0)

Wayne Miller and Dorothy Miller v. Clear Mountain Bank, Inc. and Trustee Keith Pappas,
No. 11-1430 (Preston 11-C-11)
Affirmed (5-0)

State of West Virginia v. Brandon S., No. 12-0631 (Preston 12-JD-14)
Affirmed (5-0)

Orville G. v. David Ballard, Warden, No. 11-1696 (Wayne 99-C-029)
Affirmed (5-0)

ORDER LIST
March 29, 2013
Page 2

State of West Virginia v. John F., Jr., No. 11-1776 (Monongalia 10-F-10)
Affirmed (5-0)

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

State of West Virginia v. John Franklin Smith, No. 12-0160 (Raleigh 11-F-57)
Affirmed (5-0)

Evanston Insurance Company v. Powell Construction Company, Inc., No. 12-0208
(Logan 11-C-49)
Affirmed (4-1) (Justice Ketchum dissenting)

Tilhance Creek Investments, LLC and Court House Square Investments, LLC v. BCBank Inc. and Donald J. Epperly, as trustee for BCBank, Inc., No. 12-0290 (Berkeley 11-C-688)
Affirmed (3-2) (Justices Davis and Workman dissenting)

Robert J. Copson, Jr. v. West Virginia State Police and Ret. Col. D.L. Lemmon, No. 11-1238
(Kanawha 08-C-1440)
Affirmed (4-0) (Justice Benjamin not participating)

Mitchell Barker v. The City of Bluefield, No. 12-0296 (Mercer 08-C-388)
Affirmed (4-1) (Justice Davis dissenting)

Hillard Dolin and Evelyn Dolin v. Timothy Nunn and Violet Nunn, No. 12-0298
(Greenbrier 07-C-341)
Affirmed (5-0)

Richard A. Robb v. West Virginia Consolidated Public Retirement Board, No. 11-1650
(Kanawha 09-MISC-352)
Affirmed (5-0)

RULE 19 ARGUMENT GRANTED

The following cases will be scheduled for Rule 19 oral argument on the date stated; or on a date to be determined later:

Lawyer Disciplinary Board v. Michael S. Santa Barbara, No. 12-0608 (Lawyer Disciplinary)
September 10, 2013

Gary Caudill v. CSX Transportation, Inc., No. 12-0420 (Mingo 10-C-304)

Dreama Bowden, Administratrix of the Estate of Lowell Bowden v. Monroe County Commission and Patricia Green, No. 12-0614 (Monroe 11-C-18)

Ferdinand Sorongon v. WV Board of Physical Therapy, No. 12-0422 (Kanawha 11-AA-119)

Lee Trace, LLC v. Gearly Raynes, Assessor, Nos. 12-0638 and 12-0992 (Berkeley 11-AA-2)

ORDER LIST
March 29, 2013
Page 3

Freda Bradley v. Farmers & Mechanics Mutual Insurance Company of West Virginia, No. 12-0769 (Logan 10-C-269)

RULE 20 ARGUMENT GRANTED

The following cases will be scheduled for Rule 20 oral argument on the date stated; or on a date to be determined later:

SER Discover Financial Services, Inc., et al. v. Hon. David W. Nibert, Judge, No. 13-0086 (Original Prohibition)
May 14, 2013

Joseph Kubican v. The Tavern, LLC and Shaffer Amusement Company, LLC, No. 12-0507 (Harrison 11-C-231-2)

Psychological Assessment & Intervention Services, Inc. v. WV Employers' Mutual Insurance Company, No. 12-0044 (Kanawha 10-C-1443)

State of West Virginia v. Joseph Frederick Horn, No. 12-0534 (McDowell 10-F-08)

Ally Financial, Inc. v. Catherine A. Smallwood, No. 12-0636 (Raleigh 10-C-771)

Daniel W. Thomas and Angela Y. Thomas v. William Ray McDermitt and State Farm Mutual Automobile Insurance Company, No. 12-0688 (Mason 11-C-81)

Kimberly Landis and Alva Nelson v. Hearthmark, LLC, Wal-Mart Stores, Inc., C.K.S. Packaging, Inc., Packaging Service Company, Inc. and Stull Technologies, Inc., No. 13-0159 (Certified Question – U.S. District Court for the Northern District of West Virginia)

ORDERS

Orders of note were entered in the following cases:

SER Ray Toney v. Hon. James C. Stucky, Judge; and Citynet LLC, No. 13-0140 (Original Mandamus/Prohibition)
Petition refused (5-0)

SER Sara Lynette Bryan Cantrell v. Hon. J.C. Pomponio, Judge, No. 13-0160 (Original Prohibition)
Petition refused (5-0)

Office of Disciplinary Counsel v. Michael V. Marlow, No. 13-0284 (Lawyer Disciplinary)
Law license administratively suspended (5-0)