



DECISIONS, NOTICES AND ORDERS

Friday, May 17, 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:

Lawyer Disciplinary Board v. Barry J. Nace, No. 11-0812 (Lawyer Disciplinary)
Refused (5-0)

MEMORANDUM DECISIONS

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

Jerome E. Heinemann v. Pocahontas County Commission, No. 12-0610 (Pocahontas 12-P-18)
Affirmed (5-0)

Shawn Pullen v. Carolyn S. Wilson Collin, No. 12-0744 (Upshur 11-C-99)
Affirmed (5-0)

Thomas Shrader v. State of West Virginia and McDowell County Circuit Court, No. 12-0982
(McDowell 11-C-186)
Affirmed (5-0)

Clark D. v. Charlene D., No. 12-1125 (Roane 02-D-20)
Affirmed (5-0)

Michael A. Lanick III v. Amtower Auto Supply, Inc. and Amcox Dream Team, LLC, No. 12-0207
(Harrison 11-C-85)
Affirmed (5-0)

Thomas Lauderman v. Associated Specialists, Inc., and Saad Mossallatti, individually and as President of Associated Specialists, Inc., No. 12-0390 (Harrison 11-C-20)
Affirmed (5-0)

Roy Toler and Martha M. Toler v. Daniel E. Merritt and Frances Merritt, No. 12-0394
(Logan 09-C-215)
Affirmed (5-0)

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Troy Company, Inc. v. Craig Griffith, State Tax Commissioner, No. 12-0521
(Kanawha 11-AA-93)

Affirmed (5-0)

Matthew A. Hardesty v. Dennis Dingus, Warden, No. 12-0931 (Berkeley 11-C-163)

Affirmed (5-0)

State of West Virginia v. Larry Allen Hayes, Jr., No. 11-1641 (Kanawha 11-F-41)

Affirmed (4-1) (Justice Davis dissenting)

Astar Abatement, Inc. v. Marshall University Board of Governors and Stephanie Smith, Director of Purchasing, No. 12-0135 (Cabell 11-C-264)

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

State of West Virginia v. Steven S., No. 12-0136 (Mineral 10-F-143)

Affirm, Remand for resentencing (Justices Workman and Loughry would affirm without remand)

James L. Teed v. Mary Ann C. Teed, No. 12-0232 (Kanawha 09-D-2373)

Affirmed (4-0) (Chief Justice Benjamin not participating)

Mary Ann C. Teed v. James L. Teed, No. 12-0421 (Kanawha 09-D-2372)

Affirmed (4-0) (Chief Justice Benjamin not participating)

State of West Virginia v. Wendy Thomas, No. 12-0561 (Wood 09-F-53)

Affirmed (5-0)

State of West Virginia v. Charles B., No. 11-1779 (Roane 09-F-61)

Affirmed (5-0)

State of West Virginia v. Daniel F. Slonaker, No. 12-0127 (Monongalia 10-F-108)

Affirmed (5-0)

State of West Virginia v. Matthew Moore, No. 12-0186 (Monongalia 11-F-144)

Affirmed (5-0)

Jane Ellen Stover v. WV Division of Corrections and WV Division of Personnel, No. 12-0434
(Kanawha 11-AA-139)

Affirmed (4-0) (Justice Workman disqualified)

M.J.P. v. M.E.P., No. 12-0449 (Putnam 12-DV-16)

Affirmed (5-0)

Mid-Ohio Valley Transit Authority v. Amalgamated Transit Union Local 1742, AFL-CIO,
No. 12-0635 (Wood 11-C-159)

Affirmed (5-0)

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Tammy Combs, next friend of Lauren W., a minor child v. National Union Fire Insurance Company of Pittsburgh, PA, No. 12-0295 (Summers 10-C-46)
Affirmed (5-0)

AA RV, Inc. v. William Nalls and Nationwide Mutual Insurance Company, No. 12-0478 (Berkeley 11-C-498)
Dismissed as Moot (5-0)

Margaret E. McDonald v. Drew C. Britton, No. 12-0654 (Harrison 11-C-12)
Affirmed (5-0)

Paula K. Silver v. Howard F. Fell, No. 12-0772 (Brooke 11-C-45)
Affirmed (5-0)

John A. Rizzo, Jr., Mary Frances Rizzo Wright, Melanie Rizzo Cavalier and Johnna Marie Rizzo v. Margaret J. Rizzo, Executrix of the Estate of John A. Rizzo, No. 12-0966 (Marion 11-P-166)
Affirmed (3-2) (Chief Justice Benjamin and Justice Workman dissenting)

Bradley Earl Hacker v. David Ballard, Warden, No. 11-1427 (Kanawha 10-MISC-604)
Affirmed (5-0)

State of West Virginia v. Kenneth M., No. 12-0233 (Gilmer 10-F-18)
Affirmed (5-0)

State of West Virginia v. Shawn M. Tant, No. 12-0252 (Wood 10-F-257)
Affirmed (5-0)

State of West Virginia v. James Paul Bryan, No. 12-0346 (Wood 08-F-190)
Affirmed (5-0)

Raymond A. Hinerman Sr. and Barbara B. Hinerman v. Richard A. Rodriguez and Rita C. Rodriguez, KLM Properties, Inc. and Kathy L. Martin, No. 12-0617 (Monongalia 10-C-896)
Affirmed (5-0)

Frank S. v. Amanda S., No. 12-0620 (Cabell 11-D-486)
Affirmed (4-1) (Chief Justice Benjamin dissenting)

State of West Virginia v. Shirlene Louise Davis, No. 12-0704 (Wood 10-F-18)
Affirmed (5-0)

Jon Fertal and Daniel Campbell v. James P. Campbell, et al., No. 12-0038 (Jefferson 08-C-208)
Affirmed (5-0)

State of West Virginia v. Michael D. Adams, No. 12-0108 (Putnam 11-F-38)
Affirmed (5-0)

State of West Virginia v. Warner Lee H., No. 12-0126 (Wayne 11-F-27)
Affirmed (5-0)

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State of West Virginia v. Lloyd Kendrick Stewart, No. 12-0392 (Gilmer 10-P-44)
Affirmed (3-2) (Chief Justice Benjamin and Justice Loughry dissenting)

State of West Virginia v. Tracy Wolfenbarger, No. 12-0509 (Mineral 07-F-71)
Affirmed (5-0)

Michelle Martin and William Martin v. Charleston Area Medical Center, Inc., No. 12-0710
(Kanawha 12-C-268)
Affirmed (5-0)

State of West Virginia v. Charles Wade Parsons II, No. 12-0760 (Wood 11-F-132)
Affirmed (5-0)

State of West Virginia v. Sara Woods, No. 12-0409 (Berkeley 09-F-103)
Affirmed (5-0)

Gregg A. Tenney v. Morgantown Utility Board, No. 12-0618 (Monongalia 12-C-26)
Affirmed (5-0)

Nestor F. Dans, M.D. v. W. Martin Riggs, No. 12-0633 (Kanawha 09-C-856)
Affirmed (3-2) (Chief Justice Benjamin and Justice Davis dissenting)

Tammy M. Yates v. Chair and Members, Board of Review, Workforce West Virginia and Central
West Virginia Aging Services, Inc., No. 12-1068 (Kanawha 10-AA-175)
Affirmed (5-0)

Joseph E. Swiger v. Purnel L. Jones, JJK Mineral Company, LLC, Venable Royalty, LTD and
Venro, LTD, No. 12-1109 (Monongalia 10-C-807)
Affirmed (3-1) (Chief Justice Benjamin dissenting) (Justice Davis not participating)

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:

In Re: J.F., No. 12-1444 (Tucker 11-JA-7)
June 4, 2013

In Re: S.O., No. 12-1239 (Mingo 11-JA-46)
June 4, 2013

State of West Virginia v. Ronald C. Davis, No. 11-1445 (Jackson 10-F-89)

Commissioner, WV Department of Motor Vehicles v. Amanda Dingess, No. 12-1273
(Boone 11-C-218)

Amanda A. v. Kevin T., No. 12-1276 (Cabell 09-D-462)

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Lawyer Disciplinary Board v. W. Kendrick King, No. 13-0047 (Lawyer Disciplinary)
Law license annulled by consent (5-0)

In Re: Petition for Reinstatement of Geoffrey I. Ekenasi, No. 12-0826 (Lawyer Disciplinary)
Office of Disciplinary Counsel's motion to dismiss granted (5-0)

Lora J. v. Charles J., II, No. 13-0255 (Kanawha 08-D-2104)
Dismissed as interlocutory (4-0) (C.J. Benjamin disqualified)

In Re: Petition for Reinstatement of Douglas Smoot, No.12-1207 (Lawyer Disciplinary)
Petition for reinstatement granted (5-0)

Virdie Allen, et al. v. Monsanto Company, et al., No. 13-0418 (Putnam 04-C-465)
Respondent's motion to dismiss additional petitioners granted (5-0)

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:

Theresa L. Weimer v. Thomas Sanders, C.C. Lester and Pocahontas County Board of Education,
No. 12-0477 (Pocahontas 10-C-54)

State of West Virginia v. William R. Johnson, No. 12-0120 (Wood 08-F-24)

ORDERS

Orders of note were entered in the following cases:

SER Vincent Blackmon v. Honorable Eric H. O'Briant, Judge, No. 13-0360
(Original Prohibition)
Petition refused (5-0)

In Re: I. T., No. 13-0004 (Raleigh 10-CIGR-2)
Motion for stay refused (5-0)

Commissioner, WV Department of Motor Vehicles v. Christina Painter, No. 13-1417
(Certified Question – Putnam 12-AA-3)
Refused (3-2) (Justices Davis and Workman)