



DECISIONS, NOTICES AND ORDERS

Monday, February 3, 2020

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:

Arvind Patel v. Village of Bethlehem, No. 18-0992 (Ohio 18-MAP-1)
Petition refused (5-0)

Jonathan Lind v. Donnie Ames, Superintendent, No. 18-0701 (Kanawha 16-P-37, 18-P-210)
Petition refused (5-0)

State of West Virginia v. Douglas N., No. 18-0380 (Cabell 15-F-371)
Petition refused (5-0)

Banbury Holdings v. Robert May, No. 18-0550 (Berkeley 17-C-5)
Petition refused (5-0)

Raymond H. v. Cammie H., No. 18-0875 (Mercer 15-D-24)
Petition refused (5-0)

State of West Virginia v. Benny W., No. 18-0349 (Ritchie 17-F-8)
Petition refused (5-0)

S.U. v. C.J., No. 18-0566 (Mason 16-D-233)
Petition refused (5-0)

Jerry Cochran v. River Road Public Service District, No. 18-0302 (Monongalia 17-C-430)
Petition refused (4-1) (Justice Workman)

MEMORANDUM DECISIONS

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

Thomas White v. Donnie Ames, Superintendent, No. 18-0892 (Cabell 16-C-322)
Affirmed (5-0)

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State of West Virginia v. Joshua Moore, No. 18-0786 (Berkeley CC-02-2017-F-231)
Affirmed (5-0)

Percy and Diane Clay v. J.W. Ruby Memorial Hospital, et al., No. 18-0983
(Monongalia 18-C-166)
Affirmed (4-0) (Justice Walker disqualified.)

Mitchell Brozik v. Olga Shmeleva, No. 18-1021 (Monongalia 18-P-330) AND State ex rel. Olga Shmeleva v. Hon. Debra Scudiere, Judge, et al., No. 19-0871 (Original Prohibition)
Affirmed and Refused (5-0)

Everett Frazier, Commissioner WV Division of Motor Vehicles v. Charles Hussing, Jr.,
No. 19-0056 (Kanawha 18-AA-230)
Reversed and remanded (5-0)

Steve and Marietta Torrico v. Chase Cappellari, No. 18-1022 (Raleigh 17-C-64)
Affirmed (5-0)

Orban S. v. Charles Williams, Superintendent, No. 18-0532 (Fayette 16-C-165)
Affirmed (5-0)

State of West Virginia v. Brandon Greiner, No. 18-0989 (Wood 18-F-144)
Affirmed (5-0)

State of West Virginia v. Michael Cain, No. 19-0017 (Calhoun 18-F-2 and 18-M-4)
Affirmed (5-0)

RULE 19 ARGUMENT GRANTED

The following cases will be scheduled for Rule 19 oral argument:

State ex rel. Nationwide Property & Casualty Insurance Company v. Hon. Tod J. Kaufman, Judge, et al., No. 19-0955 (Original Prohibition)

State ex rel. S.W., N.W., and M.W. v. Hon. Patrick N. Wilson, Judge, et al., No. 19-1078
(Original Prohibition)

Christopher McKenzie v. Donald Sevier, No. 19-0010 (Marion CC-24-2016-C-160)

Stonerise Healthcare, LLC v. Susan Oates, Executor, No. 19-0215 (Mineral 17-C-76)

Leonard Carr, et al. v. Lysle Veach, et al., No. 19-0216 (Grant 16-C-1)

SWN Production Company v. Corey Conley, et al., No. 19-0267 (Brooke 14-C-75)

Toby Bell and Janice Johnson v. Lee Perkins, et al., No. 19-0019 (Pocahontas 16-C-13)

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Monongahela Power Company v. Michael Buzminsky, et al., No. 19-0228
(Kanawha 18-C-500)

Everett Frazier, Commissioner of the WV Division of Motor Vehicles v. John Fouch, III,
No. 19-0350 (Kanawha 18-AA-223)

RULE 20 ARGUMENT GRANTED

The following cases will be scheduled for Rule 20 oral argument:

State ex rel. National Union Fire Insurance Company of Pittsburgh, et al. v. Hon. David W. Hummel, Jr., et al., No. 19-0978 (Original Prohibition)

State ex rel. Surnaik Holdings of WV, LLC v. Hon. Thomas A. Bedell, Judge, et al.,
No. 19-1006 (Original Prohibition)

State of West Virginia v. Christopher Mills, No. 18-1132 (Mingo 18-F-82)

Marissa Shaffer, et al. v. William Bragg, M.D., et al., No. 19-0305 (Kanawha 17-C-343)

WV Regional Jail and Correctional Facility and Joshua David Zombro v. The Estate of Cody Lawrence Grove, Nos. 18-1076 and 18-1083 (Berkeley 17-C-529)
Consolidated

State of West Virginia v. Harry Lee Smith Jr., No. 19-0143 (Mercer 18-F-172)

Roof Service of Bridgeport v. Robert and Charlotte Trent, No. 19-0200
(Harrison 16-C-333-1)

Martin Sheehan, Trustee v. WEI Mortgage Corporation, et al., No. 19-1082
(Certified Question – United States Bankruptcy Court for the Northern District of West Virginia No. 18-bk-712, Adversary No. 18-ap-51)

Question certified:

Does a creditor have a perfected security interest in a manufactured home that has been affixed to real estate based on the factors in *Snuffer v. Spangler*, 79 W.Va. 628, 92 S.E.2d 106 (1917) when it properly records a deed of trust that describes both the real estate and the manufactured home, even though the manufactured home has an active certificate of title issued by the West Virginia [Division] of Motor Vehicles pursuant to W.Va. Code § 17A-3-12, which certificate of title 1) has not been cancelled pursuant to W.Va. Code § 17A-3-12b and 2) does not show the creditor's lien on its face, particularly in light of W.Va. Code § 46-9-303(b) to cause the manufactured home to be treated as a fixture?

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ORDERS

Orders of note were entered in the following cases:

State ex rel. Bayer Corporation, et al. v. Hon. Jeffrey D. Cramer, et al., No. 19-0943
Petition refused (4-1) (Justice Workman would issue a rule to show cause.)

State ex rel. Perry DeChristopher, Prosecuting Attorney v. Hon. Phillip D. Gaujot, Judge,
No. 19-1059 (Original Prohibition)
Petition refused (3-2) (Chief Justice Armstead and Justice Hutchison would issue a rule to
show cause.)

State ex rel. AmerisourceBergen Drug Corporation, et al. v. Honorable Alan D. Moats, et al.,
No. 19-1051 (Original Prohibition)
Petition refused (5-0)

Lawyer Disciplinary Board v. Courtney L. Ahlborn, Nos. 18-0344 and 18-0589
(Lawyer Disciplinary)
License to practice law suspended for 6 months, with the 6-month suspension deferred while
respondent is placed on a two-year probationary period. (4-0) (Chief Justice Armstead not
participating)

In the Matter of: Alton L. Skinner, II, Former Magistrate of Gilmer County, No. 19-0586
(Judicial Disciplinary)
Respondent censured, fined, and precluded from ever seeking public office again. (5-0)

In the Matter of: Roger D. Clem, Jr., Former Magistrate of Lewis County, No. 19-0587
(Judicial Disciplinary)
Respondent censured, fined, and precluded from ever seeking public office again. (5-0)