

**SUPREME COURT OF KENTUCKY  
DISCRETIONARY REVIEW GRANTED  
(Pending Cases Only)**

Last Updated: 3/4/25

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 3/15/2023**

Commonwealth of Kentucky v. Wayne Riley, Administrator for the Estate of Archimedia Deleara Riley, et al., 2022-SC-0505-DG

Sovereign Immunity. Discovery. Questions include whether an order compelling the Commonwealth to turn over discovery materials it has already collected and turned over constitutes a “suit” for purposes of sovereign immunity.

Thompson, J., not sitting.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 6/7/2023**

Louisville & Jefferson County Metropolitan Sewer District v. Jennifer Albright, Individually and as Administratrix of the Estate of David K. Albright, 2023-SC-0079-DG  
Immunity. Claims Against Local Government Act. Special Districts. Questions include: (1) whether the Metropolitan Sewer District is a “special district” (and, therefore, a “local government”) pursuant to the Claims Against Local Government Act and (2) if so, were the relevant actions or inactions ministerial or discretionary in nature?

Oral Argument Held: June 6, 2024

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 8/16/2023**

Timothy S. Hart, MD P.S.C. D/B/A Hart Family Care v. Commonwealth of Kentucky, Kentucky Unemployment Insurance Commission, et al., 2023-SC-0117-DG

Administrative Law. Unemployment Benefits. Misconduct. Issues include whether a medical office terminated a receptionist for misconduct when: (1) the receptionist interrupted a conversation between the employer and the office manager regarding potential problems with the phone system; (2) the receptionist gave a sarcastic response to the employer’s confrontational question.

Goodwine, J., not sitting.

Oral Argument Scheduled: February 12, 2025

Rendered: Order Affirming Equally Divided Court

Professional Home Health Care v. Commonwealth of Kentucky, Cabinet for Health and Family Services, et al., 2023-SC-0226-DG

Administrative Law. Medicaid. Home and Community Based Waiver. Safety Net Provider. 907 KAR 1:170. Issues include whether the Cabinet overpaid PHHC, a safety net provider, for case management services when: (1) the HCBW regulation includes case management services in the list of reimbursable services; (2) the safety net regulation does not include case management services in the list of services eligible for enhanced reimbursement; (3) a Cabinet employee incorrectly informed PHHC that case management services were covered by the safety net regulation; and (4) the Cabinet paid PHHC over \$1 million in enhanced reimbursements for case management services.

Oral Argument Scheduled: March 12, 2025

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 8/16/2023  
AND CROSS-MOTION GRANTED WITH ORAL ARGUMENT 1/10/2024**

Board of Education of Paris, Kentucky v. Jason Earlywine, 2023-SC-0142-DG;  
Earlywine v. Board of Education of Paris, Kentucky, 2023-SC-0383-DG  
Contracts. Education Law. Sovereign Immunity. KRS 45A.245. Questions include: (1) whether a teacher may sue a school board for breach of contract or if, instead, the school board is immune from suit; (2) whether such a suit, if allowed, must be brought in Franklin Circuit Court; and (3) whether the Court of Appeals' application of KRS Chapter 161 was proper at this venture or, rather, the issues on appeal should have been limited to questions concerning immunity?

Oral Argument Scheduled: February 13, 2025

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 9/20/2023**

Iola Capital v. LG&E, 2023-SC-0216-DG; and  
Muerdter v. LG&E, 2023-SC-0234-DG  
Property. Eminent Domain. Right to Take. Public Use. Issues include whether LG&E can use eminent domain to take private property for construction of a gas line that, according to the property owners, will primarily benefit a private business and only marginally benefit the citizens of Bullitt County.

Goodwine, Thompson, JJ., not sitting.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 10/18/2023**

Commonwealth of Kentucky v. Darryl Ellery, 2023-SC-0228-DG  
Criminal Law. Probation Revocation. Jurisdiction. Fugitive Tolling Doctrine. Equity. Questions include whether the trial court lost jurisdiction when it failed to extend Ellery's probation at his first appearance after his warrant for failure to comply with the terms of his probation was served. The Commonwealth seeks application of the "Fugitive Tolling Doctrine" to toll the running of the probationary period while an individual is a fugitive from justice.

Oral Argument Scheduled: February 12, 2025

Bill Dunn, McCracken County PVA v. The Solomon Foundation, 2023-SC-0235-DG;  
Department of Revenue v. The Solomon Foundation, 2023-SC-0236-DG  
Taxation. Real Property. KY Constitution § 170. Institutions of Religion. Owned and Occupied. Issues include: (1) whether a nonprofit corporation that loans money and leases property to Restoration Movement churches is an institution of religion; and (2) whether the same institution of religion must both own and occupy the property to qualify for § 170's tax exemption.

T-Mobile v. Kentucky Commercial Mobile Radio Service Emergency  
Telecommunications Board, 2023-SC-0245-DG

Government. Regulatory Fees. 911 Services. Prepaid Cell Phones. Common Law Refund. Is a prepaid cell phone provider entitled to a common law refund of statutory 911 fees paid to the CMRS Board when: (1) the provider questioned the statute's applicability to prepaid cellular services from the time it began offering those services in Kentucky; (2) the CMRS Board informed the provider that the 911-fee statute did apply to prepaid cellular services; (3) the provider paid 911 fees for two years, rather than filing a lawsuit to obtain a ruling regarding the statute's applicability; (4) this Court held that the statute did not apply to prepaid cellular providers in *Virgin Mobile*, 448 S.W.3d 241 (Ky. 2014); and (5) the provider promptly requested a refund from the CMRS Board and properly paid 911 fees after the General Assembly amended the statute?

Oral Argument Scheduled: March 12, 2025

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 12/6/2023**

Brandon Blair v. Commonwealth of Kentucky, 2023-SC-0296-DG

Criminal Law. Bail Jumping. KRS 520.070. Double Jeopardy. Issues include whether the defendant was properly charged with five counts of first-degree bail jumping when: (1) the defendant was charged with drug felonies in five separate cases; (2) the defendant was released on bond pending trial of the drug cases; (3) the circuit court scheduled all five drug cases for a single combined hearing; and (4) the defendant failed to appear for the single combined hearing.

Oral Argument Held: February 13, 2025

Douglas Hodge v. Kentucky Parole Board, 2023-SC-0091-DG

Criminal Law. Parole revocation. Kentucky Parole Board. Administrative Law Judge. Due Process. Questions include whether Hodge's due process rights were violated when both his hearings as to parole revocation were held before an Administrative Law Judge (rather than by the Parole Board).

Kentucky Parole Board v. Timothy Shane, 2023-SC-0364-DG

Criminal Law. Parole revocation. Kentucky Parole Board. Administrative Law Judge. Due Process. KRS 439.440. Questions include whether Shane's due process rights were violated when both his hearings as to parole revocation were held before an Administrative Law Judge (rather than by the Parole Board) and whether KRS439.440 mandates the Parole Board conduct the final revocation hearing.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 1/10/2024**

Lexington-Fayette Urban County Government v. Fraternal Order of Police, Bluegrass Lodge #4, 2023-SC-0445-DG

Local Governments. Police. No-Knock Warrants. Collective Bargaining. Arbitration. Preemption. KRS 455.180 et seq. Issues include: (1) whether LFUCG was required to engage in collective bargaining with Lexington police officers before enacting an ordinance banning the use of no-knock warrants; (2) whether LFUCG was required to arbitrate after the police filed a grievance related to the no-knock ordinance; and (3) whether LFUCG had the authority to enact an ordinance banning no-knock warrants after the General Assembly enacted a law setting forth the requirements for issuance of no-knock warrants.

Goodwine, J., not sitting.

Fraternal Order of Police, Bluegrass Lodge #4 v. Lexington-Fayette Urban County Government, 2023-SC-0322-DG

Local Governments. Police. Collective Bargaining. Arbitration. Civil Claims. Duty to Defend. Issues include whether the collective bargaining agreement between LFUCG and Lexington police officers required LFUCG to arbitrate a grievance asserting a dispute regarding LFUCG's duty to defend an officer from a civil lawsuit.

Kimberly Deramos v. Anderson Communities, Inc., 2023-SC-0378-DG

Torts. Negligence. Strict Liability. Dog Bite. KRS 258.235(4). Questions include whether the trial court erred in dismissing tenant's complaint against her landlord for failure to state a claim upon which relief could be granted under CR 12.02(f) when: (1) the tenant was attacked by a dog in a common area at the landlord's apartment complex; (2) the landlord was not strictly liable under KRS 258.235(4) because it is not the dog's "owner"; and (3) the tenant's complaint alleged negligence, not strict liability.

Goodwine, J., not sitting.

Oral Argument Held: December 11, 2024

Rendered: February 20, 2025 (Not Final)

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 2/7/2024**

Blackstone Alternative Asset Mgmt. v. KY Public Pension Authority, 2023-SC-0354-DG  
Government. Retirement Systems. Contract. Ripeness. Issues include: (1) whether proceedings in a separate but related case (that is now dismissed) rendered Blackstone's claims against KPPA unripe; and (2) whether the contracts between Blackstone and KPPA require Blackstone to prove that it acted in good faith as a prerequisite to recovering for KPPA's alleged breach of contract.

City of Paintsville v. Haney, 2023-SC-0361-DG.

Civil Law. Torts. Battery. Wrongful Death. Negligence. Negligent Hiring, Training, and Retention. Governmental Immunity. Qualified Official Immunity. Claims Against Local Governments Act. Issues include: (1) whether the circuit court erred by granting qualified official immunity to police officers without considering the potential existence of a "special relationship" between the officers and a suspect who was under the influence

of methamphetamine; and (2) whether the circuit court erred by granting summary judgment on claims of negligent hiring, training, and retention based on a lack of underlying intentional or tortious acts.

Goodwine, J., not sitting.

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 2/7/2024**

Commonwealth v. Moore, 2023-SC-0433-DG. Criminal Law. Violent Offender. Domestic Violence Exception. Parole Eligibility. KRS 439.3401(5). Issues include whether the circuit court erred by ruling that the defendant was not eligible for the domestic violence exception to the violent offender statute when: (1) the circuit court found that the defendant had been subjected to domestic abuse by her boyfriend, the victim; and (2) the circuit court found the defendant's testimony that she shot the victim "with regard to" those acts of domestic violence not to be credible.

Goodwine, J., not sitting.

### **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 3/6/2024**

Torian v. City of Paducah, 2023-SC-0395-DG

Local Governments. Firefighters. Residence Requirements. Emergency Medical Services Providers. KRS 311A.027. Issues include: (1) whether KRS 311A.027, which prohibits publicly funded emergency medical service first response providers from imposing residence requirement upon employees, applies to firefighters employed by the City of Paducah; and (2) assuming the statute applies, whether KRS 311A.027's "on call" exception, which allows employers to impose response-time requirements on employees who are off duty but on call to respond to work, allows the City to impose a 45-minute response-time requirement upon Paducah firefighters.

Goodwine, J., not sitting.

Lemaster v. Stiltner, 2023-SC-0454-DG

Family Law. Custody. Intervention. De Facto Custodian. KRS 403.270. Did the family court err by denying the child's custodian's partner's motion to intervene in the custody action between the custodian and the child's biological mother when: (1) the partner's motion to intervene was filed soon after the custodian died; and (2) the custody action had been pending for six years at the time of the partner's motion? Additionally, did the family court err by ruling that the custodian's partner was not a de facto custodian because he cared for the child alongside the custodian?

Conley, J., not sitting.

Coleman, Attorney General v. Jefferson County Board of Education, et al., 2023-SC-0498-DG

Declaratory Judgment. Special and Local Legislation. Equal Protection. Standing. Necessary Party. CR 19.01. Issues include: (1) whether certain provisions of Senate Bill 1, codified at KRS 160.370, violate the Kentucky Constitution's prohibition against special and local legislation under the test set forth in *Calloway County Sheriff's Department v. Woodall*, 607 S.W.3d 557 (Ky. 2020); (2) whether the Jefferson County Board of Education had standing to bring suit; and (3) whether the Superintendent was a necessary party.

Oral Argument Held: August 14, 2024

Rendered: December 19, 2024 (Not Final)

Erie Insurance Exchange v. Johnson, 2024-SC-0018-DG

Declaratory Judgment. Motor Vehicle Reparations Act. KRS 304.39-210(1) and KRS 304.39-241. Excess Interest. KRS 304.39-210(2). Attorney's Fees. KRS 304.39-220. Issues include: (1) whether insured may direct priority of insurer's payment to medical providers; and (2) what constitutes a "reasonable foundation" for an insurer's delay in making payment for purposes of awarding excess interest and attorney's fees to insured.

Goodwine, J., not sitting.

Oral Argument Held: December 11, 2024

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 3/6/2024**

Commonwealth v. McKinney, 2023-SC-0457-DG

Criminal Law. CR 60.02. Sentencing. Life-Plus-Years Sentence. Retroactivity. Issues include whether the defendant is entitled to retroactive application of *Bedell v. Commonwealth*, which held that KRS 532.110(1)(c) prohibits courts from running any sentence consecutive to a life sentence, when: (1) the defendant was sentenced to life plus 35 years in a capital case; (2) at the time of defendant's sentencing, *Commonwealth v. Rackley* held that a life-plus-years sentence was permissible in capital cases; and (3) KRS 532.110(1)(c) remained unchanged between *Rackley* and *Bedell*.

Thompson, J., not sitting.

### **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 4/12/2024**

Colemon v. Westport Insurance, 2023-SC-0497-DG

Local Governments. Contracts. Insurance. Injury Policy. Wrongful Incarceration. Issues include whether the injury resulting from wrongful conviction occurs solely at the time of conviction or is ongoing throughout the individual's wrongful incarceration.



Schneider Electric v. Williams, 2023-SC-0436-DG; and  
Union Carbide v. Schneider Electric, 2023-SC-0440-DG

Tort. Negligence. Products Liability. Asbestos. Take-Home Exposure. During the mid-1960s to late-1970s, did an employer that used asbestos-containing molding compound to create its products have a duty to prevent employees' household members from being exposed to asbestos fibers taken home in employees' clothing? Did the manufacturer of the asbestos-containing molding compounds used by the employer owe a duty to prevent employees' household members from being exposed to asbestos fibers taken home in employees' clothing?

Nickell, J., not sitting.

Lexington Alzheimer's Investors v. Norris, 2023-SC-0510-DG

Contract. Arbitration. Nursing Homes. Healthcare Surrogate. KRS 311.631. Issues include whether a nursing home admittee's statutory healthcare surrogate can execute a binding arbitration agreement on behalf of the admittee when execution of the agreement is a mandatory condition of admission to the nursing home.

Goodwine, J., not sitting.

Commonwealth v. Strunk, 2023-SC-0518-DG

Criminal Law. Post-Conviction. CR 60.02. Illegal Sentence. Plea Agreements. Remedies. Preservation. Issues include whether the Court of Appeals erred by vacating the portion of the defendant's sentence that exceeds the statutory maximum when: (1) the defendant's convictions and illegal sentence resulted from a plea agreement under which the Commonwealth agreed to dismiss and reduce charges; (2) this Court's opinion in *McClanahan* provides that the proper remedy under similar facts is to set aside the plea agreement, reinstate the original charges, and allow the defendant and Commonwealth to restart the case in circuit court; (3) throughout the post-conviction proceedings, the defendant insisted that he did not want to set aside his plea and wished to vacate the excess portion of his sentence; and (4) the Commonwealth did not request the remedy provided by *McClanahan* until it petitioned for rehearing in the Court of Appeals.

#### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 4/12/2024**

Ford v. Commonwealth, 2024-SC-0008-DG

Jail Fee Reimbursement. KRS 441.265. Issues include what constitutes sufficient evidence of a jail fee reimbursement policy as required by *Capstraw v. Commonwealth*, 641 S.W.3d 148 (Ky. 2022).

#### **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 6/5/2024**

Hartsfield v. Commonwealth, 2024-SC-0044-DG

Criminal Law. Evidence. Admissibility. Police Body Camera Footage. Issues include whether body camera footage from a police officer who responded to the scene of an alleged rape and strangulation is admissible at trial when the footage shows the officer telling a colleague that he did not believe the victim's story.

Smith v. Apex Fund Services, 2023-SC-0336-DG

Property. Foreclosure. Property Tax Liens. Certificates of Delinquency. Priority. When the proceeds from a foreclosure sale are insufficient to pay all the property tax lienholders in full, do the lienholders divide the proceeds on a pro rata basis or is priority to the sale proceeds established by the order in which the lienholders filed their liens?  
Goodwine, J., not sitting.

Georgetown Chicken Coop, LLC v. Grange Insurance Co., 2023-SC-0522-DG

Summary Judgment. Contracts. Insurance Law. Issues include: (1) whether the language of the Commercial Umbrella Policy was ambiguous; (2) whether the Commercial Umbrella Policy excluded liquor liability coverage; and (3) whether an umbrella policy may exclude additional coverage for certain claims covered by a primary policy.  
Thompson, J., not sitting.

Missionaries of Saint John the Baptist, Inc. v. Frederic, 2024-SC-0006-DG

Zoning Ordinance. Conditional Use Permit. Free Exercise of Religion. Religious Land Use and Institutionalized Persons Act (RLUIPA). Issues include: (1) whether the conditional use permit and setback variance granted by the City of Park Hills Board of Adjustment were impermissible under the city's zoning ordinance; (2) the correct standard in evaluating RLUIPA cases in Kentucky; and (3) whether denial of the proposed construction of a grotto constitutes a "substantial burden" on religious exercise under RLUIPA.

Held v. Hitachi Automotive Systems Americas, Inc., 2024-SC-0043-DG

Class Action. Employment Law. Kentucky Wages and Hours Act ("KWA"), KRS 337.010 *et seq.* Issues include: (1) proper "salary basis" analysis for KWA claims given recent decision in *Helix Energy Sols. Grp., Inc. v. Hewitt*, 598 U.S. 39 (2023), which addresses virtually identical provisions contained in the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*; (2) whether employees are exempt from the overtime mandate of KRS 337.285(1); and (3) the burden of proof under the KWA.

KY Dept. of Fish and Wildlife Resources Commission v. KY Open Government Coalition, Inc., 2023-SC-0524-DG

Civil Law. Open Records Act. Public Records. Private Accounts. Private Devices. Issues include: (1) whether records concerning public business sent or received by public officials and employees are exempt from disclosure under the Open Records Act when they were sent, received, or stored on a nongovernmental email account or electronic device such as a personal cell phone; and (2) whether there is any distinction between emails and text messages concerning public business sent from, received by, or stored on nongovernmental systems.



**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 6/5/2024**

Louisville Historical League, Inc. v. Louisville/Jefferson Co. Metro Government, 2024-SC-0005-DG

Administrative Law. Appeals. Jurisdiction. Complaint. Injured-and-Agrieved Requirement. Issues include whether the Louisville Historical League's complaint satisfied the ordinance's requirements for appeal by alleging that the organization was injured and aggrieved by Metro's decision not to designate Liberty Hall as a historic landmark.

Opinion Rendered: February 20, 2025(Not Final)

Buechele v. Commonwealth, 2024-SC-0007-DG

Criminal Law. Fourth Amendment. Seizure. Investigative Stop. Reasonable and Articulable Suspicion. KRS 189.570(14). Issues include: (1) whether the officer had a reasonable suspicion, based on objective and articulable facts, that criminal activity has occurred, is occurring, or is about to occur when he seized the defendant after seeing the defendant violate KRS 189.570(14) by walking down the middle of the street; and (2) if so, whether this case is distinguishable from prior Court of Appeals precedent, *Commonwealth v. Wilson*, 625 S.W.3d 252 (Ky. App. 2021).

Hill v. State Farm Mutual Automobile Insurance Co., 2024-SC-0054-DG

Civil Law. Insurance Contract. Resident Relative. Minor. Issues include whether a minor who is living with a relative outside his father's home at the time of an accident is still deemed to be a resident relative "primarily residing" with his father who has legal custody of the minor.

Goodwine, J., not sitting.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 8/14/2024**

G.G. v. Cabinet for Health and Family Services, 2024-SC-0143-DGE

Family Law. Joint Adoption. KRS 199.470. Unmarried Cohabitants. Issues include whether the adoption statutes permit an unmarried couple to jointly adopt a child.

Oral Argument Held: February 12, 2025

Daniel Boone Fund, LLC v. Commonwealth, 2024-SC-0093-DG;

PAAMCO Prisma, LLC v. Commonwealth, 2024-SC-0095-DG; and

Blackstone Alternative Asset Management L.P. v. Commonwealth, 2024-SC-0096-DG

State Government. Public Pensions. Immunity. Contracts. State Constitutional Law. §§ 50 and 177. Indemnity Clause. Issues include: (1) whether the Kentucky Public Pension Authority is immune from contract claims filed in another state's courts; and (2) whether the indemnity clauses in the contracts between KPPA and three alternative investment companies violate the constitutional provisions prohibiting state government from binding the Commonwealth to pay a debt from future general revenue and from extending credit.

KKR & Co., Inc. v. Commonwealth, 2024-SC-0094-DG

Evidence. Judicial Notice. KRE 201. Personal Jurisdiction. Did the circuit court act within its authority when it: (1) conducted its own extensive internet research into KKR & Co.'s connections to the Commonwealth; and (2) based on that research, issued an order ruling against KKR & Co. without providing the company notice and an opportunity to contest the "judicially noticed" internet facts?

Minova USA, Inc. v. Jolly, 2024-SC-0169-DG

Workers' Compensation. Up-the-Ladder Employer. Contractor. Immunity. KRS 342.610(2). Issues include whether a company is a "contractor" pursuant to KRS 342.610(2) and immune "employer" pursuant to 342.690(1); if so, the employer is immune from recovery outside the Workers' Compensation Act.

Cabinet for Health and Family Services v. K.O., 2024-SC-0188-DGE

Family Law. Dependency, Abuse, and Neglect. KRS 600.020(1)(a). Marijuana Exposure. Issues include whether the trial court relied on substantial evidence in holding child was at risk of being harmed under the circumstances of this case.

Goodwine, J., not sitting.

Oral Argument Scheduled: December 12, 2024

Opinion Rendered: February 20, 2025 (Not Final)

Kentucky Department of Fish and Wildlife Resources Commission v. Kentucky Open Government Coalition, Inc., 2023-SC-0524-DG; and

Kentucky Open Government Coalition, Inc. v. Kentucky Department of Fish and Wildlife Resources Commission, 2024-SC-0275-DG

Open Records Act. Public Records. Private Accounts. Private Devices. Issues include: (1) whether records concerning public business sent or received by public officials and employees are exempt from disclosure under the Open Records Act when they were sent, received, or stored on a nongovernmental email account or electronic device such as a personal cell phone; (2) whether there is any distinction between emails and text messages concerning public business sent from, received by, or stored on nongovernmental systems; (3) whether, on remand, the Commission should get another chance to meet its burden concerning the unreasonableness of requiring government employees to search their private cell phones for text messages related to public work; and, (4) whether the Fish and Wildlife Commission willfully violated the Open Records Act.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 8/16/2024**

Brock v. Hinkel, 2024-SC-0154-DG

Negligence. Summary Judgment. Qualified Official Immunity. Issues include (1) whether EMS workers were entitled to qualified official immunity; and (2) the extent to which a causation analysis factors into the ministerial versus discretionary determination.

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 8/14/2024**

Baum v. Aldava, 2024-SC-0182-DGE

Domestic Violence Order. Custody. Personal Jurisdiction. KRS 403.725. Issues include (1) whether DVO violated defendant's due process rights; and (2) whether trial court has jurisdiction to adjudicate custody issues.

Jackson v. Mayfield KY OPCO, LLC d/b/a Mayfield Health and Rehabilitation, 2024-SC-0180-DG

COVID-19 Immunity. Gross Negligence. Issues include whether the trial court granted summary judgment prematurely, thus preventing party from developing evidence of gross negligence, which would obviate application of immunity statute.

Goodwine, J., not sitting.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 9/18/2024**

Long v. Dept. of Revenue, 2024-SC-0229-DGE;

Dept. of Revenue v. Long, 2024-SC-0230-DGE

Class Action. Sovereign Immunity. Agency-Referred Debt Collection. KRS 131.130(12). KRS 45.111. Issues include (1) ripeness and application of sovereign immunity to claims for monetary relief flowing from a declaratory judgment; (2) whether sovereign immunity bars the non-declaratory relief claims; (3) the exercise of appellate jurisdiction over trial court's immunity ruling; (4) the proper venue for this action; (5) whether the enactment of KRS 131.130(2) renders the class plaintiffs' claims moot; (6) whether KRS 45.111 waives immunity for wrongful collection claims; and (7) the constitutionality of the KRS Chapter 45 referral and collection scheme.

Goodwine, J., not sitting.

Oral Argument Scheduled: March 13, 2025

Bennett v. Kentucky Community & Technical College System, 2024-SC-0231-DG;

Dept. of Revenue v. Bennett, 2024-SC-0240-DG;

Kentucky Community & Technical College System v. Lawrence, 2024-SC-0243-DG

Putative Class Action. Sovereign Immunity. Agency-Referred Debt Collection. KRS 418.055. Issues include (1) ripeness and application of sovereign immunity to claims for monetary relief flowing from a declaratory judgment; (2) whether sovereign immunity bars the non-declaratory relief claims; (3) exhaustion of administrative remedies; (4) whether KRS 418.055 waives sovereign immunity; and (5) the constitutionality of the KRS Chapter 45 referral and collection scheme.

Goodwine, J., not sitting.

Oral Argument Scheduled: March 13, 2025

**CROSS- MOTION FOR DISCRETIONARY REVIEW GRANTED 9/18/2024**

Haney v. City of Paintsville, 2024-SC-0074-DG

Civil Law. Torts. Battery. Wrongful Death. Negligence. Negligent Hiring, Training, and Retention. Governmental Immunity. Qualified Official Immunity. Claims Against Local Governments Act. Issues include (1) whether the circuit court erred by granting

qualified official immunity to police officers without considering the potential existence of a “special relationship” between the officers and a suspect who was under the influence of methamphetamine; and (2) whether the circuit court erred by granting summary judgment on claims of negligent hiring, training, and retention based on a lack of underlying intentional or tortious acts.

Goodwine, J., not sitting.

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 9/18/2024**

Osborne v. Commonwealth, 2024-SC-0166-DG

Criminal Law. Fourth Amendment. Search and Seizure. Officer Safety. Issues include whether a police officer, who is present on the homeowner’s property to look for stolen goods, violates the Fourth Amendment by demanding that the homeowner empty his pockets to show that he is unarmed.

### **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 10/16/2024**

Harris v. Commonwealth, 2024-SC-0263-DG

Criminal Law. Equal Protection. Jury Selection. Peremptory Strikes. *Batson*. Issues include whether the Commonwealth engaged in purposeful discrimination when: (1) it used a peremptory strike to remove the sole black juror from the panel; (2) the stated race-neutral reason for the strike was provided by the law enforcement representative, a corrections officer; and (3) the corrections officer testified that the black juror stared at him during *voir dire* and had the same name as a former inmate housed in the corrections officer’s jail.

Diagnostic X-Ray Physicians v. Lloyd, 2024-SC-0216-DG;

Slone v. Lloyd, 2024-SC-0224-DG

Medical Malpractice. Retained Foreign Objects. Expert Testimony. Standard of Care. Res Ipsa Loquitur Doctrine. Summary Judgment. Issues include (1) whether a medical expert must know and establish the applicable standard of care to survive summary judgment and (2) whether the plaintiff was required to present expert testimony based on the *res ipsa loquitur* doctrine and its two exceptions to the expert witness requirement.

Goodwine, J., not sitting.

Damron v. Commonwealth, 2024-SC-0300-DG

Criminal Law. Driving Under the Influence. Blood Test. Implied-Consent Warning. Issues include whether a driver suspected of DUI voluntarily consented to a blood test when: (1) at the accident scene, the driver agreed to undergo a blood test without being given the implied-consent warning; and (2) later at the hospital, the driver again agreed to the blood test after an officer gave the implied-consent warning informing the driver that she would be subject to harsher penalties if she declined the blood test.

J.S. v. Commonwealth, 2024-SC-0308-DG

Criminal Law. Expungement. Felony. Misdemeanor. KRS 446.110. Issues include whether an amendment to a criminal statute downgrading a crime from a felony to a misdemeanor may be considered for purposes of expungement such that a crime that was a felony at the time of its commission may be considered for misdemeanor expungement if it has since been downgraded.

**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 12/11/2024**

Troutt v. The Bail Project, 2024-SC-0311-DG

Tort Law. Negligence. Duty of Care. Charitable Bail Organization. Issues include whether a charitable bail organization has: (1) a duty to investigate a criminal defendant's circumstances before posting his/her bail; and/or (2) a duty to monitor the defendant's conduct following his/her release.

Goodwine, J., not sitting.

Braun v. Bearman Industries, 2024-SC-0277-DG

Civil Procedure. Constitutional Law. Personal Jurisdiction. Due Process. Minimum Contacts. Does Kentucky have personal jurisdiction over a Utah gun manufacturer when: (1) a gun made by the manufacturer injured a Kentucky resident by firing with the safety engaged; (2) the manufacturer sells its guns to distributors in Texas, Louisiana, Alabama, Florida, and Tennessee, who sell the guns to Kentucky gun dealers; and (3) the manufacturer does not advertise in Kentucky or provide regular advice or assistance to Kentucky consumers.

Commonwealth v. H.M., 2024-SC-0271-DG;

H.M. v. Commonwealth, 2024-SC-0273-DG

Involuntary Commitment. KRS Chapter 202C. Insanity Defense. Demonstrated History of Criminal Behavior. Issues include: (1) whether the circuit court correctly found that the respondent, who was delusional at the time of the crime, could conform his conduct to the requirements of law because he owned a baseball bat for months before using it to kill his caretaker; and (2) whether the crime that prompted the commitment proceedings is sufficient to prove a demonstrated history of criminal behavior, one of the necessary elements for commitment.

Goodwine, J., not sitting.

Lynch v. Commonwealth, 2024-SC-0432-DGE

Criminal Law. Driving Under the Influence. Horizontal Gaze Nystagmus Test. Expert Testimony. Stimulant Intoxication. Issues include whether the Commonwealth must present expert testimony to establish that the horizontal gaze nystagmus test is an accurate, scientifically accepted test for stimulant intoxication.

King-Crete Drilling, Inc. v. Whitley County Fiscal Court, 2024-SC-0232-DG

Contracts. Sovereign Immunity. Breach of Contract. Counties. Statutory Waiver. KRS 45A.245(1). Issues include whether: (1) counties enjoy sovereign immunity from suits for breach of contract; or (2) such immunity has been waived.

Goodwine, J., not sitting.

HMB Professional Engineers, Inc. v. Ives, 2024-SC-0284-DG;

HDR Engineering, Inc. v. Ives, 2024-SC-0289-DG;

WSP USA Inc. v. Ives, 2024-SC-0291-DG;

HMB Professional Engineers, Inc. v. Copley, 2024-SC-0295-DG

Torts. Negligence. Automobile Accident. Highway Design. National Highway System. Issues include whether remedies otherwise available pursuant to Kentucky tort law are preempted by federal laws concerning highway design.

### **DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 12/11/2024**

Wheeler v. City of Pioneer Village, 2024-SC-0350-DG

Employment Law. Overtime Pay. Liquidated Damages. KRS 337.385. Issues include whether: (1) an employer *must* pay liquidated damages if it pays its employee less wages and overtime compensation than the employee is owed; or (2) the trial has discretion to award such damages.

Goodwine, J., not sitting.

### **DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 2/13/2025**

Beshear v. Coleman, 2024-SC-0228-DG

State Constitutional Law. Executive Branch. Governor. Ky. Const. §§ 27, 28, 69, and 81. Separation of Powers. Executive Branch Ethics Commission. Appointment Power. Removal Power. Supreme Executive. Issues include: (1) whether the Governor's duties as the "supreme executive who must take care that the laws are faithfully executed" require he have appointive power for the majority of the Executive Branch Ethics Commission members and removal for cause power over all members; or (2) whether the General Assembly has the prerogative of withholding executive powers from the Governor by assigning them to the constitutional officers who are not amenable to his supervision and control?

Shell v. Beshear, 2024-SC-0254-DG; and

Beshear v. Shell, 2024-SC-0256-DG

State Constitutional Law. Executive Branch. Governor. Commissioner of Agriculture. Ky. Const. §§ 27, 28, 69, and 81. Separation of Powers. State Fair Board. Appointment Power. Removal Power. Supreme Executive. Issues include: (1) whether the Governor's duties as the "supreme executive who must take care that the laws are faithfully executed" require he have appointive power for the majority of the State Fair Board members and removal for cause power over all members; or (2) whether the General Assembly has the prerogative of withholding executive powers from the Governor by assigning them to the Commissioner of Agriculture?

Emery Law Office v. Franklin, 2024-SC-0306-DG

Contracts. Employment Law. Contingency Fee. Quantum Meruit. SCR 3.130(5.6). Can a law firm have a "break-up" provision in its employment agreement to avoid a quantum meruit analysis when an employee lawyer leaves the firm with contingency-fee clients or does such a clause violate SCR 3.130(5.6)?



Burton v. Kentucky State Police, 2024-SC-0309-DG

Kentucky Whistleblower Act. Jury Instructions. Preservation. Waiver. CR 51(3). Issues include whether Kentucky State Police waived its objection to the jury instructions by stating that it had no objection to the final version of the jury instructions or whether it preserved its objection by tendering *prima facie* case instructions that differed from the final version.

Commonwealth v. Elmore, 2024-SC-0347-DG

Sovereign Immunity. Discovery. Non-party requests. Does sovereign immunity act as a bar to courts ordering the non-party Commonwealth to submit documents in response to discovery requests?

Gonzalez Alvarez v. Allstate, 2024-SC-0348-DG

Auto Insurance. Basic Reparation Benefits. Examination Under Oath. Order of Discovery. KRS 304.39-280. Unlawful Solicitation of Accident Victims. KRS 367.4082. Issues include: (1) whether a BRB claimant must answer the insurance company's questions during an EUO regarding her alleged unlawful solicitation by a chiropractor; and (2) if the BRB claimant refuses to answer questions regarding solicitation during her EUO, whether the insurance company can obtain an order of discovery requiring the claimant to disclose how she selected her medical provider without first requesting the claimant's medical records.

Moberly v. Erie Insurance Exchange, et al., 2024-SC-0389-DG

Insurance. Liability Policy. Exclusion. Pollution. Is an insurance exclusion regarding pollution ambiguous as applied to the inadvertent leakage of gasoline from a gas station storage tank?

**DISCRETIONARY REVIEW GRANTED WITHOUT ORAL ARGUMENT 2/13/2025**

Jones v. Commonwealth, 2024-SC-0399-DG

Bail. RCr 4.00. Kentucky Constitution § 16. RCr 4.02(1). KRS Chapter 431. Issues include: (1) whether the phrase "capital offense" in Kentucky Constitution § 16 means an offense for which death is a possible punishment, or any offense which has merely been labeled by the legislature as "capital"; (2) whether an indigent defendant has a right to counsel in an appeal filed by the Commonwealth and if so, where counsel is not appointed through no fault of the defendant, what is the remedy; and relatedly, (3) what, if any, steps should an appellate court take to ensure that the right to counsel is not violated in this context.



**DISCRETIONARY REVIEW GRANTED WITH ORAL ARGUMENT 10/16/2024  
AND CROSS-MOTIONS GRANTED WITH ORAL ARGUMENT 2/13/2025**

Millers Lane Center v. Morgan & Pottinger, 2024-SC-0268-DG;  
McCrocklin v. Millers Lane Center, 2024-SC-0502-DG; and  
Morgan & Pottinger v. Millers Lane Center, 2024-SC-0505-DG

Torts. Legal Malpractice. Statute of Limitations. Settlement. Bankruptcy. If attorneys commit malpractice while representing clients in a state-court case and the state-court case is settled during the clients' bankruptcy proceedings, when do the clients' malpractice claims accrue? Does the malpractice statute of limitations begin to run: (1) on the date of the settlement agreement's execution; (2) on the date the bankruptcy court approved the settlement agreement; or (3) on the date the state-court case was dismissed as settled?