



## DECISIONS, NOTICES AND ORDERS

**Friday, August 30, 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.

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### REHEARINGS

The Court took the following action on petitions for rehearing:

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

Ricky Vincent Pendleton v. David Ballard, Warden, No. 12-0653 (Berkeley 10-C-670)  
Refused (5-0)

Thomas Lauderman v. Associated Specialists, Inc., No. 12-0390 (Harrison 11-C-20)  
Refused (5-0)

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

State of West Virginia v. Jesse Aaron Blevins, No. 12-0438 (Cabell 10-F-253)  
Refused (5-0)

Leetta Beachum v. Timothy Joseph White, No. 11-1469 (Kanawha 09-C-1703)  
Refused (5-0)

### MEMORANDUM DECISIONS

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

The Health Plan of the Upper Ohio Valley, Inc. v. Thomas G. Wack, M.D., No. 12-1338 (Marshall 11-C-1)  
Affirmed (4-1)(Justice Davis dissenting)

Nicholas Ray Bryant v. The City of Fairmont, No. 12-1391 (Marion 11-C-280)  
Affirmed (5-0)

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**RULE 19 ARGUMENT GRANTED**

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

Jackie L. Brown II v. The City of Montgomery and James F. Higgins, Jr., Mayor, No. 12-1534 (Fayette 12-C-211)  
January 15, 2014

State of West Virginia v. John Eugene Anderson, No. 12-0512 (Wood 10-F-93)  
January 15, 2014

State of West Virginia v. Roy Franklin Hillberry II, No. 12-1183 (Marion 12-F-83)  
January 15, 2014

State of West Virginia v. Orban Henry Schlatman, Jr., No. 12-1249 (Fayette 10-F-41)  
January 15, 2014

Paul W. Lightner v. WV Insurance Commissioner, Citifinancial, Inc. and Triton Insurance Company, No. 12-0566 (Kanawha 10-AA-76)  
January 15, 2014

State of West Virginia v. Robert R., No. 12-0791 (Mineral 10-F-147)  
January 15, 2014

State of West Virginia v. Ray Cook, No. 12-0836 (Jefferson 11-F-88)  
January 15, 2014

State of West Virginia v. Kimberly S., No. 12-1270 (Wood 12-M-3)  
January 15, 2014

State of West Virginia v. Nicholas Ryan Robey, No. 12-1413 (Harrison 10-F-122)  
January 22, 2014

In Re: B.H. and S.S., No. 13-0342 (Wood 11-JA-145, 11-JA-146)  
January 15, 2014

In Re: S.W., No. 13-0362 (Berkeley 12-JA-6)  
January 15, 2014

State of West Virginia v. Roger P., No. 12-0792 (Raleigh 05-F-217)  
January 22, 2014

**RULE 20 ARGUMENT GRANTED**

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

Vicky Lou Hughes v. WV University, Jeanette Motsch and Mary Roberta "Bobbie" Brandt, No. 12-1506 (Monongalia 12-C-321)  
October 11, 2013 – consolidated with Weimer v. Sanders, No. 12-0477

SER Skyline Corporation and AAA Mobile Homes Inc. of New Martinsville v. Hon. Timothy L. Sweeney, Judge; Thomas Likens; and Lori Likens, No. 13-0562 (Original Prohibition)  
January 14, 2014

United Services Automobile Association v. Kimberly Lucas, No. 12-1500 (Cabell 08-C-528)  
January 14, 2014

Commissioner of the WV Division of Motor Vehicles v. James Odum, No. 12-1403 (Kanawha 12-AA-12)  
Commissioner of the WV Division of Motor Vehicles v. Chad Doyle, No. 12-1509 (Kanawha 12-AA-6)  
Consolidated – January 14, 2014

John W. v. Erica W., No. 12-1261 (Mercer 10-D-2)  
January 14, 2014  
State of West Virginia v. James Scott Yocum, No. 12-1309 (Marshall 12-F-47)  
January 14, 2014

**ORDERS**

Orders of note were entered in the following cases:

Office of Disciplinary Counsel v. Mark A. Bramble, No. 12-1394 (Lawyer Disciplinary)  
Petition for immediate suspension granted (5-0)

SER Aviva Insurance Company v. Honorable David W. Hummel, Jr., Judge et al., No. 13-0597 (Original Prohibition)  
Petition refused (5-0)

SER Robert Smith, M.D. v. Honorable Carrie L. Webster, Judge, et al., No. 13-0629 (Original Prohibition)  
Petition refused (5-0)

SER National Fire Insurance Company v. Honorable Phillip D. Gaujot, Judge, et al., No. 13-0618 (Original Prohibition)  
Petition refused (4-1)(Justice Davis would grant)

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SER Charles Town Horsemen's Benevolent and Protective Association, Inc. v. The Cabinet Secretary of the West Virginia Department of Revenue, Director of the West Virginia Lottery Commission, and Executive Director of the West Virginia Racing Commission, No. 13-0673 (Original Mandamus)  
Petition refused (5-0)

SER David Dickey v. Hon. Russell Clawges, Judge of the Circuit Court of Monongalia County; and Shuman, Inc., No. 13-0707 (Original Prohibition)  
Petition refused (5-0)

State of West Virginia v. Eric L. Counts, No. 12-1132 (Kanawha 10-F-208)  
Remanded (5-0)

SER Christopher T. Smith v. Hon. Jack Alsop, Judge, No. 13-0327 (Original Prohibition)  
Petition refused (5-0)

SER Kenny Drew Sayre v. Patrick Mirandy, Warden, No. 13-0413 (Original Habeas)  
Petition refused (5-0)

SER Calvin Gray v. Hon. Paul Zakaib, Judge, No. 13-0453 (Original Mandamus)  
Petition refused (4-1)(Justice Davis would grant)

SER Jason Terrell v. James E. Rubenstein, Commissioner, No. 13-0449 (Original Mandamus)  
Petition refused (5-0)

SER Jimmy Dale Mitchem v. Debra Minnix, Warden, No. 13-0580 (Original Habeas)  
Returnable to circuit court for appointment of counsel and the filing of an amended petition for writ of habeas corpus. (4-1)(Justice Loughry would refuse)

SER Robert F. Neunz v. Hon. James P. Mazzone, Judge, No. 13-0584 (Original Mandamus)  
Petition refused (5-0)

SER Ellis R. Bailey v. Hon. H.L. Kirkpatrick III, Judge, No. 13-0451(Original Mandamus)  
Petition refused (5-0)

SER Jermaine M. Johnson v. James E. Rubenstein, Commissioner, No. 13-0579 (Original Mandamus)  
Petition refused (5-0)

SER Matthew Wade v. David Ballard, Warden, No. 12-1451 (Original Mandamus)  
Petition refused (5-0)

SER Jack Green v. Hon. Michael Thornsburry, Judge, No. 13-0473 (Original Mandamus)  
Petition refused (5-0)