



## DECISIONS, NOTICES AND ORDERS

**Tuesday, November 26, 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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### MEMORANDUM DECISIONS

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

In Re: H.V., K.V., R.V. and L.V., No. 13-0568 (Kanawha 11-JA-235 through 11-JA-241)  
Affirmed (5-0)

In Re: N.C. and B.B., No. 13-0605 (Cabell 09-JA-67, 09-JA-68)  
Affirmed (5-0)

In Re: K.S., L.S. and E.S., No. 13-0620  
(Wood 11-JA-22, 11-JA-23, 12-JA-132 through 12-JA-135)  
Affirmed (5-0)

In Re: J.M. III, G.M., T.M. and T.M., No. 13-0669 (Mercer 12-JA-184 through 12-JA-187)  
Affirmed (5-0)

In Re: R.M., No. 13-0696 (Mercer 12-JA-190)  
Affirmed (5-0)

In Re: J.A., J.S. and J.S., No. 13-0704 (Kanawha 11-JA-235 through 11-JA-241)  
Affirmed (5-0)

In Re: S.R., J.R., A.D. and K.D., No. 13-0731 (Putnam 11-JA-39 through 11-JA-42)  
Affirmed (5-0)

In Re: K.R., A.R. and A.R., No. 13-0814 (Monongalia 11-JA-7 through 11-JA-9)  
Affirmed (5-0)

Lisa Tenney v. West Virginia Department of Health and Human Resources and William R. Sharpe, Jr. Hospital, No. 13-0091 (Kanawha 12-AA-117)  
Affirmed (3-1) (Justice Davis dissenting) (Justice Workman disqualified)

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Joseph Brown v. Jim Rubenstein, Commissioner, No. 12-1245 (Summers 11-C-6)  
Affirmed (5-0)

In Re: J.H. and R.D., No. 13-0523 (Kanawha 12-JA-263 and 12-JA-264)  
Affirmed (5-0)

In Re: T.R., No. 13-0582 (Raleigh 12-JA-102)  
Affirmed (5-0)

In Re: M.G., M.G., M.G. and M.G., No. 13-0611 (Kanawha 11-JA-229 through 11-JA-232)  
Affirmed (5-0)

In Re: K.R., No. 13-0634 (Webster 13-JA-14)  
Affirmed (4-1) (Justice Ketchum dissenting)

In Re: T.L. and T.W., No. 13-0650 (Preston 12-JA-21 and 12-JA-22)  
Affirmed (5-0)

In Re: D.B., No. 13-0654 (Roane 11-JA-17)  
Affirmed (5-0)

In Re: C.D. and H.D., No. 13-0703 (Mingo 12-JA-77 and 12-JA-78)  
Affirmed (5-0)

In Re: L.M. and L.S., No. 13-0783 (Calhoun 13-JA-2 and 13-JA-3)  
Affirmed (5-0)

State of West Virginia v. Stacy Creed Hatten, No. 12-1310 (Wayne 11-F-807)  
Affirmed (5-0)

In Re: R.W., No. 13-0507 (Wood 12-JA-145)  
Affirmed (5-0)

In Re: S.D., R.D. and L.D., No. 13-0606 (Raleigh 10-JA-14, 10-JA-16 and 10-JA-17)  
Affirmed (5-0)

In Re: S.D., R.D. and L.D., No. 13-0665 (Raleigh 10-JA-14, 10-JA-16 and 10-JA-17)  
Affirmed (5-0)

In Re: B.L., T.L. and V.L., No. 13-0686 (Calhoun 11-JA-27, 11-JA-30 and 11-JA-31)  
Affirmed (5-0)

In Re: J.S., S.C., A.C. and K.S., No. 13-0417 (Nicholas 12-JA-68 through 12-JA-71)  
Affirmed (5-0)

In Re: B.C., H.C. and K.C., No. 13-0547 (Kanawha 12-JA-185 through 12-JA-187)  
Affirmed (5-0)

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In Re: M.H. and K.H., No. 13-0647 (Mineral 12-JA-25 and 12-JA-26)  
Affirmed (5-0)

In Re: C.B., C.B. and D.G., No. 13-0670 (Fayette 12-JA-64 through 12-JA-66)  
Affirmed (4-1) (Justice Ketchum dissenting)

In Re: R.J., A.L., A.J. and L.L., No. 13-0697 (Fayette 12-JA-47 through 12-JA-50)  
Affirmed (5-0)

Heather B. v. Hon. Michele W. Good, Family Court Judge and Pamela B., No. 12-1540  
(Randolph 12-D-184)  
Affirmed (5-0)

State of West Virginia v. Teresa E. Adkins, No. 12-1543 (Wayne 09-F-117)  
Affirmed (5-0)

State of West Virginia v. Lacy Earl Workman, No. 13-0133 (Mercer 12-M-AP-23)  
Affirmed (3-2) (Chief Justice Benjamin and Justice Davis dissenting)

In Re: J.H., No. 13-0165 (Ohio 12-CJA-76)  
Affirmed (3-2) (Chief Justice Benjamin and Justice Davis dissenting)

In Re: J.B., No. 13-0390 (Barbour 12-JA-19)  
Affirmed (3-2) (Chief Justice Benjamin and Justice Davis dissenting)

Earl Whittington v. Steven O. Dale, Acting Commissioner, West Virginia Department of Motor Vehicles, No. 12-1243 (Kanawha 12-AA-152)  
Dismiss as premature (5-0)

SER Joseph R. Fluharty v. Michael D. Riley, West Virginia Insurance Commissioner,  
No. 11-0737 (Original Mandamus)  
Writ denied (4-1) (Justice Davis dissenting)

In Re: S.R. and S.R., No. 13-0626 (Clay 12-JA-62 and 12-JA-63)  
Affirmed (5-0)

State of West Virginia v. Scott L. Davis, No. 12-1294 (Boone 11-F-66)  
Affirmed (4-1) (Justice Davis dissenting)

In Re: S.G. and J.P., No. 13-0349 (Mercer 11-JA-76 and 11-JA-77)  
Affirmed, in part, and Reversed (5-0)

Jonathan Cook v. Marvin Plumley, Warden, No. 12-1348 (Clay 10-P-12)  
Affirmed (5-0)

James Allen Smith v. David Ballard, Warden, No. 12-0374 (Raleigh 10-C-1013)  
Affirmed (4-1) (Justice Davis dissenting)

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State of West Virginia v. William Echard II, No. 12-1386 (Harrison 10-F-23)  
Affirmed (5-0)

**RULE 19 ARGUMENT GRANTED**

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

State of West Virginia v. J.S., No. 13-0890 (Barbour 13-JD-1, 13-JD-11)

In Re: I.T., No. 13-0004 (Raleigh 10-CIGR-2)

State of West Virginia v. Thomas Fitzwater, No. 12-1487 (Fayette 12-F-87)

In Re: J.B., No. 13-0728 (Greenbrier 11-JA-37)

**ORDERS**

Orders of note were entered in the following cases:

In Re: Dennie S. Morgan Jr., No. 13-0114 (Lawyer Disciplinary)  
Law license reinstated with conditions (5-0)

P.C. DiMagno Engineers-Surveyors v. Monsoon, LLC, City National Bank of West Virginia, and Branch Banking and Trust Company, No. 13-0906 (Berkeley 08-C-358)  
Dismissed (5-0)

Richard Batholomew, et al. v. Hager Construction, LLC, No. 13-0939 (Cabell 08-C-369)  
Dismissed (5-0)

Lisa Ballard v. C.O. Crawford and the West Virginia Division of Corrections, No. 13-1099  
(Kanawha 13-C-1275)  
Dismissed (5-0)

Tracy Jividen v. C.O. Anderson and the West Virginia Division of Corrections, No. 13-0974  
(Kanawha 12-C-690)  
Dismissed (5-0)

Penny Connard v. C.O. Cochran, C.O. Reese, and the West Virginia Division of Corrections,  
No. 13-1098 (Kanawha 13-C-1146)  
Dismissed (5-0)

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Tara Eplion v. West Virginia Division of Corrections, No. 13-0979 (Kanawha 10-C-2059)  
Dismissed (5-0)

SER Cove Bond Taylor v. Patrick Mirandy, Warden, No. 13-0855 (Original Habeas)  
Petition refused (5-0)

SER Ethan Chic Colbert v. Jim Rubenstein, Commissioner, No. 13-0898 (Original Mandamus)  
Petition refused (5-0)

SER Keith D. v. Michael Francis, Administrator, No. 13-0904 (Original Habeas)  
Petition refused (5-0)

SER James Franklin Pipes v. Hon. John C. Yoder, Judge, No. 13-0042 (Original Mandamus)  
Petition refused (5-0)

SER Jeffrey Stewart v. Hon. Gary Johnson, Judge, No. 13-0043 (Original Mandamus)  
Petition refused as moot (5-0)

SER Ronald D. Render v. Hon. James C. Stucky, Judge, No. 13-0124 (Original Mandamus)  
Petition refused as moot (5-0)

SER Don Galloway v. Hon. Robert A. Irons, Judge, No. 13-0268 (Original Mandamus)  
Petition refused as moot (5-0)

SER Eric D. Hardie v. Jim Rubenstein, Commissioner, No. 13-0450 (Original Mandamus)  
Petition refused as moot (5-0)

SER John H. Shifflett v. Mildred Bateman Hospital, No. 13-0465 (Original Habeas)  
Petition refused (5-0)

SER Lisa Marie Barr v. Lori Nohe, Warden, No. 13-0476 (Original Habeas)  
Petition refused (5-0)

SER Jeffrey D. Johnson v. Jim Rubenstein, Commissioner, No. 13-0563 (Original Mandamus)  
Petition refused (5-0)

SER Stevie Bailey v. Hon. Rudolph J. Murensky II, Judge, No. 13-0902 (Original Mandamus)  
Petition refused as premature (5-0)