



DECISIONS, NOTICES AND ORDERS

Friday, January 13, 2012

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:

National City Bank v. Landau Building Company, No. 11-0437 (Monongalia 08-C-219)
Refused (5-0)

Anthony Armstead v. WV Human Rights Commission and Federal Express Corporation,
No. 101590 (Kanawha 09-AA-106)
Refused (5-0)

Katherine "Kit" McGlinchey v. Mark E. Frye, No. 11-0591 (Marion 06-C-344)
Refused (5-0)

PNGI Charles Town Gaming, LLC v. Lawrence Reynolds, et al., No. 101503
(Kanawha 09-C-688)
Refused (3-2)(Chief Justice Ketchum and J. Benjamin)

MEMORANDUM DECISIONS

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

Donald Roger Layne v. Evelyn Seifert, Warden, No. 101278 (Tyler 08-C-56)
Affirmed (5-0)

Richard Smallwood v. Patrick Smallwood, No. 101602 (Marion 07-C-429)
Affirmed (5-0)

Jennifer J. Grafton-Gore v. Centra Bank, Inc., No. 101615 (Berkeley 09-C-774)
Affirmed (5-0)

Robert Sanchez v. Tod Benson, No. 101573 (Jackson 10-C-81)
Affirmed (4-0)(Justice McHugh disqualified)

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Marlon Ferguson v. Nicholas J. Walls, No. 11-0597 (Kanawha 09-C-390)
Affirmed (4-1)(Justice Benjamin dissenting)

Marlon Ferguson v. Kevin Hensel and Hensel & Hensel, No. 11-1209 (Kanawha 09-C-390)
Affirmed (4-1)(Justice Benjamin dissenting)

Jeremy Toler v. Roger W. Goff, No. 11-0911 (Harrison 09-C-345-3)
Affirmed (5-0)

RULE 19 ARGUMENT GRANTED

The following case will be scheduled for Rule 19 oral argument on a date to be determined by the Clerk; unless otherwise stated:

Teresa H. v. Donald K. and Ronald R., No. 11-0110 (Tucker 05-D-32, 02-D-47)

SER Johnson Controls, Inc. v. Honorable Susan B. Tucker, Judge, No. 11-1515
(Original Prohibition)
Rule to show cause issued returnable February 8, 2012 (3-2)(Justices Davis and Benjamin would refuse petition)

Lawyer Disciplinary Board v. Norman L. Folwell, No. 11-1279 (Lawyer Disciplinary)

Constance Lourenda Mayle v. Mark Douglas Mayle, No. 11-0344 (Monongalia 10-D-70)

RULE 20 ARGUMENT GRANTED

The following case will be scheduled for Rule 20 oral argument on a date to be determined by the Clerk; unless otherwise stated:

SER Julie Massanopoli Piper v. Hon. David H. Sanders, Judge, et al., No. 11-1615
(Original Prohibition)
Rule to show cause issued returnable February 8, 2012 (5-0)

Loretta Cline, Executrix v. Kiren Jean Kresa-Reahl, M.D., No. 11-0351 (Kanawha 09-C-2034)

Byron Bowens v. Allied Warehousing Services, Inc., No. 11-0210 (Wayne 08-C-291)

Randy Hammond, et al. v. WV Dept. of Transportation, et al., No. 11-0284 (Kanawha 08-AA-19)

The Burke-Parsons-Bowlby Corp., et al. v. Jerald John Rice, Jr., No. 11-0183 (Jackson 09-C-41)

Craig A. Griffith, Tax Commissioner v. ConAgra Brands, Inc., No. 11-0252 (Berkeley 10-AA-02)

Joe E. Miller, Commissioner v. John B. Epling, No. 11-0353 (Nicholas 10-AA-6)

Joe E. Miller, Commissioner v. David K. Smith, No. 11-0147 (Marion 10-AA-77)
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Joe E. Miller, Commissioner v. Christopher L. Toler, No. 11-0352 (Mercer 10-C-488)
April 11, 2012

State of West Virginia v. Paul Edward Bostic, No. 11-0617 (Pleasants 10-F-4) Certified Questions

ORDERS

Orders of note were entered in the following cases:

SER Gary L. Capriotti, et al. v. Honorable David H. Sanders, Judge, et al., No. 11-1470
(Original Prohibition)
Petition refused (4-1)(Justice Benjamin)

SER Holzer Foundation v. Hon. Louis H. Bloom, Judge, et al., No. 11-1600
(Original Prohibition)
Petition refused (5-0)

SER Baker Installations, Inc. v. Hon. Carrie Webster, Judge, No. 11-1627 (Original Mandamus)
Rule to show cause issued returnable February 8, 2012 unless sooner mooted (5-0)

State of West Virginia v. Brian Keith Hubbard, No. 11-0690 (Raleigh 07-F-342-H)
Motion to stay refused (4-1)(Chief Justice Ketchum)

SER Debra A. v. Hon. John A. Hutchison, Judge, No. 11-1736 (Original Mandamus)
Rule to show cause issued returnable February 8, 2012 unless sooner mooted (5-0)

Lawyer Disciplinary Board v. Martin R. Smith, Jr., No. 11-1068 (Lawyer Disciplinary)
License to practice law annulled by consent (5-0)

Office of Disciplinary Counsel v. John C. Krivonyak, No. 11-1716 (Lawyer Disciplinary)
License to practice law annulled by consent (5-0)

Consolidation Coal Company v. John and Shirley Walt, et al., No. 11-0193
(Marshall Nos. 10-C-32 and 10-C-35)
Dismissed (5-0)

John Rodney Johnson v. David Ballard, Warden, No. 11-0943 (Cabell 07-C-701)
Remanded for entry of an order containing adequate findings (4-1)(Chief Justice Ketchum)