



DECISIONS, NOTICES AND ORDERS

Friday, June 28, 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.

MEMORANDUM DECISIONS

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

In Re: C.W., D.W., S.W., X.W. and I.W., No. 13-0172
(Wood 09-JA-50 through 09-JA-53, 10-JA-71)
Affirmed (5-0)

In Re: M.A., No. 13-0228 (Taylor 12-JA-11)
Affirmed (5-0)

In Re: M.A., No. 13-0229 (Taylor 12-JA-11)
Affirmed (5-0)

Thomas Talbert v. David Bllard, Warden, No. 12-0798 (Cabell 07-C-751)
Affirmed (5-0)

State of West Virginia v. Christopher Shane Colin, No. 11-1387 (Greenbrier 10-F-17)
Affirmed (5-0)

State of West Virginia v. Larry Butterworth, No. 12-0571 (Mercer 11-F-167)
Affirmed (5-0)

In Re: J.H., H.H., T.H., D.H., D.H., D.H., D.H. and K.B., No. 13-0007 (Wood 10-JA-21 through 10-JA-28)
Affirmed (5-0)

In Re: A.D. and T.S., No. 13-0236 (Mingo 12-JA-63, 12-JA-64)
Affirmed (5-0)

William A. Larue v. David Ballard, Warden, No. 12-0743 (Fayette 12-C-132)
Affirmed (5-0)

Paul White v. Adrian Hoke, Warden, No. 12-0999 (Webster 11-P-11)
Affirmed (5-0)

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State of West Virginia v. James A. Peronti, No. 12-0879 (Jackson 09-F-69)
Affirmed (5-0)

State of West Virginia v. Christopher T. Wolfe, No. 12-1120 (Ritchie 12-F-20)
Affirmed (5-0)

In Re: J.R. and D.R., No. 13-0242 (Ohio 12-JA-55, 12-JA-56)
Affirmed (5-0)

Eli Wayne Freeland v. David Ballard, Warden, No. 12-1244 (Mason 11-C-60)
Affirmed (5-0)

In Re: S.C., No. 12-1515 (Wood 11-JA-52)
Affirmed (5-0)

In Re: T.S. and C.S., No. 13-0167 (Hardy 12-JA-02, 12-JA-03)
Affirmed (5-0)

Exploration Energy Partners, LLC v. Mountaineer Gas Transmission, Inc., et al., No. 12-0706
(Pleasants 12-C-4)
Affirmed (3-2) (Justices Davis and Workman dissenting)

Richard T. McFall v. Michael D. Skinner and Linda Catherine Skinner, No. 12-0709
(Summers 10-C-19)
Affirmed (5-0)

Deborah L. Hale v. WV Department of Transportation, Division of Highways and Kristen Cook,
No. 12-0776 (Kanawha 11-AA-95)
Affirmed (3-1) (Justice Davis dissenting) (Justice Workman disqualified)

Edward R. Kohout v. Metro Towers, LLC, et al., No. 12-1062 (Monongalia 11-C-558)
Affirmed, in part. Reversed, in part (3-2) (Justices Ketchum and Loughry concurring, in part,
dissenting, in part)

Gloria Allen v. Greenbrier County Sheriff's Department, No. 12-1088 (Greenbrier 11-C-16)
Affirmed (5-0)

Ryan P. v. Vicky P. and Elias P., No. 12-1060 (Wayne 12-A-003)
Affirmed (3-2) (Chief Justice Benjamin and Justice Davis dissenting)

State of West Virginia v. Brent Boggs, No. 12-1057 (Clay 11-F-22)
Affirmed (5-0)

John MacDougall v. Renda Osburn, No. 12-0175 (Monongalia 11-CAP-2)
Affirmed (5-0)

State of West Virginia v. Harold Wayne Nice, No. 12-0701 (Ohio 12-F-20)
Affirmed (5-0)

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Christine A. Stefanko v. WV Bureau of Employment Programs, et al., No. 12-0773
(Kanawha 10-AA-97)
Affirmed (5-0)

State of West Virginia v. Gabriel Heater, No. 12-0814 (Kanawha 12-F-227)
Affirmed (3-2) (Chief Justice Benjamin and Justice Workman dissenting)

Daryoush Hooshyar and Farzaneh Hassani, M.D. v. Carole Sovastion and Jennifer D. Sovastion,
No. 12-0822 (Mononglia 10-C-653)
Affirmed (5-0)

State of West Virginia v. Christopher Keller Lewis, No. 12-0830 (Jefferson 11-M-AP-5)
Affirmed (5-0)

State of West Virginia v. Shawn Pethel, No. 12-0838 (Ohio 99-F-72)
Affirmed (5-0)

Katherine L. McGlinchey v. Woodrow A. Potesta, No. 12-0889 (Marion 11-C-162)
Affirmed (5-0)

State of West Virginia v. Tony Lewis, No. 12-0920 (Taylor 11-F-16)
Affirmed (5-0)

Cacapon East Property Owners Association v. Terri Freiheit and Laurence Freiheit, No. 12-0922
(Morgan 12-C-19)
Affirmed (5-0)

Beverly Saunders v. Frank Jezioro, Director, WV Division of Natural Resources, No. 12-0924
(Summers 11-C-40)
Affirmed (5-0)

State of West Virginia v. James William Allport, No. 12-0954 (Marion 10-F-168)
Affirmed (5-0)

Jesse Howard Weaver Jr. v. David Ballard, Warden, No. 12-0944 (McDowell 10-C-216)
Affirmed (4-1) (Justice Ketchum dissenting)

Keithann Widner v. WV Bureau of Employment Programs, et al., No. 12-0964
(Kanawha 11-AA-53)
Affirmed (5-0)

John T. Lemon and Pamela Lemon v. Dennis Stilwell Jr., No. 12-0990 (Kanawha 12-C-482)
Reversed and Remanded (5-0)

Dale Wallace v. I.L. Long Construction and Akers Paving, No. 12-1089 (Wayne 09-C-094)
Affirmed (5-0)

Posie and Ethel Phillips v. Bryce and Pauline Phillips, No. 12-0292 (Wyoming 01-C-137)
Affirmed (5-0)

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Kevin Phillips v. Evelyn Seifert, Warden, No. 12-1430 (Hardy 12-C-02)
Affirmed (5-0)

State of West Virginia v. Brent Radabaugh, No. 12-1461 (Wood 10-F-243)
Affirmed (5-0)

James Eisentrout v. Preston County Board of Education and the WV Department of Education,
No. 12-1464 (Kanawha 10-AA-77)
Affirmed (4-0) (Justice Workman disqualified)

ORDERS

Orders of note were entered in the following cases:

SER Jason William Holstein v. Hon. Jennifer F. Bailey, No. 13-0022 (Original Mandamus)
Writ granted, as moulded, returnable to circuit court with directions. (5-0)

SER David Eilola v. Patrick Mirandy, Warden, No. 13-0053 (Original Habeas)
Rule to show cause issued returnable to circuit court for appointment of counsel and an
omnibus habeas proceeding (5-0)

SER Walter F. Agee v. Honorable Phil Jordan, Judge, No. 13-0085 (Original Mandamus)
Petition refused (5-0)

SER Bobby Eugene Roddy v. Hon. Michael Thornsby, Judge, No. 13-0166
(Original Mandamus)
Petition refused (5-0)

SER James Dale Duncan v. David Ballard, Warden, No. 13-0287 (Original Habeas)
Petition refused (5-0)

SER Kevin Ray Fowler Jr. v. David Ballard, Warden, No. 13-0128 (Original Habeas)
Petition refused (5-0)

SER David Alan Fortney v. Hon. Russell M. Clawges, Jr., Judge, No. 13-0368
(Original Prohibition)
Petition refused (5-0)

SER Michael S. Gorbey v. Hon. Russell M. Clawges, Jr., Judge, No. 13-409
(Original Mandamus)
Petition refused (5-0)

SER Jason Foley v. Hon. William J. Sadler, Judge, No. 12-1297 (Original Mandamus)
Petition refused with leave to the petitioner to file a direct appeal within thirty days (5-0)