



## DECISIONS, NOTICES AND ORDERS

**Tuesday, February 18, 2014**

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, a memorandum decision was entered in the following case:

Jason Browning v. Evelyn Seifert, Warden, No. 13-0558 (Mingo 10-C-248)  
Affirmed (5-0)

State of West Virginia v. Delmar Shane Parsons, No. 13-0615 (Logan 12-F-40)  
Affirmed (5-0)

Diana N. Kosnoski, et al. v. Mark r. Rogers, et al., No. 13-0494  
(Monongalia 11-C-724, 11-C-725)  
Affirmed (4-1) (Chief Justice Davis dissenting)

State of West Virginia v. Russell Coates, No. 13-0436 (Berkeley 09-F-104)  
Affirmed (5-0)

In Re: S.C. and L.C., No. 13-0784 (Calhoun 12-JA-17, 12-JA-18)  
Affirmed (5-0)

In Re: S.D. and A.D., No. 13-0883 (Pocahontas 12-JA-7, 12-JA-8)  
Affirmed (5-0)

In Re: S.D. and A.D., No. 13-0917 (Pocahontas 12-JA-7, 12-JA-8)  
Affirmed (5-0)

In Re: O.B., M.B., L.B. Jr., and D.B., No. 13-0921 (Gilmer 13-JA-2 through 13-JA-5)  
Affirmed (5-0)

In Re: S.S. No. 13-1040 (Gilmer 12-JA-9)  
Affirmed (5-0)

In Re: K.W. and K.D., No. 13-0887 (Clay 12-JA-102, 12-JA-103)  
Affirmed (5-0)

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In Re: T.H., A.H., and J.R., No. 13-0951 (Raleigh 11-JA-138 through 11-JA-140)  
Affirmed (5-0)

In Re: C.O., No. 13-0986 (Ohio 12-CJA-33)  
Affirmed (5-0)

Roger Lee Rowe v. David Ballard, Warden, No. 13-0223 (Wayne 09-C-071)  
Affirmed (5-0)

Henry Keith Wykle v. David Ballard, Warden, No. 13-0621 (Fayette 06-C-274)  
Affirmed (5-0)

In Re: S.L., No. 13-0912 (Webster 13-JA-4)  
Affirmed (5-0)

In Re: S.M. and M.M., No. 13-0943 (Roane 12-JA-19 and 12-JA-20)  
Affirmed (5-0)

In Re: J.C., No. 13-0956 (Jackson 13-JA-1)  
Affirmed (5-0)

State of West Virginia v. Edward Tyler, No. 13-0199 (Harrison 12-F-145)  
Affirmed (5-0)

Brian H. and Amanda H., No. 13-0238 (Jackson 10-D-232)  
Affirmed (5-0)

In Re: K.L., No. 13-0945 (Wetzel 12-JA-6)  
Affirmed (4-1) (Chief Justice Davis dissenting)

**RULE 19 ARGUMENT GRANTED**

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

State of West Virginia v. Byron Blackburn, No. 13-0270 (Mercer 12-F-30)  
April 9, 2014

In Re: A.C. and C.K., Jr., No. 13-0882 (Webster 13-JA-29, 13-JA-30)  
April 9, 2014

In Re: F.S. and Z.S., No. 13-0918 (Wood 12-JA-68, 12-JA-69)  
April 9, 2014

In Re: K.L., No. 13-0884 (Wetzel 12-JA-6)  
April 9, 2014

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**RULE 20 ARGUMENT GRANTED**

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

In Re: Donald M., No. 13-0653 (Mineral 12-G-5)  
April 8, 2014

State of West Virginia v. David M. Corey, No. 13-0769 (Hampshire 12-F-54)  
April 8, 2014

Roger F. Holt v. West Virginia-American Water Company, No. 13-0744 (Kanawha 13-C-656)  
April 8, 2014

Quicken Loans, Inc. v. Lourie Brown and Monique Brown, No. 13-0764 (Ohio 08-C-36)  
April 8, 2014

Commonwealth of Pennsylvania and Pennsylvania Fish and Boat Commission v. Consol Energy, Inc. and Consolidation Coal Company, No. 13-0885 (Monongalia 11-C-556)  
April 8, 2014

State of West Virginia v. Carlos Angle, No. 13-0574 (Marion 09-F-83)  
State of West Virginia v. Carlos Angle, No. 13-0575 (Marion 11-F-171)  
April 8, 2014 – Consolidated

Schoolhouse Limited Liability Company v. Creekside Owners Association, et al., No. 13-0812 (Pocahontas 12-C-33)  
April 8, 2014

**ORDERS**

Orders of note were entered in the following cases:

SER Marshall Justice and Caitlin O'Dell v. Eugene White, Director of the West Virginia Office of Miners' Health, Safety, and Training; and West Virginia Board of Coal Mine Health and Safety and Joel Watts, Administrator, No. 13-1281 (Original Mandamus)  
Petition refused as premature (4-1) (Justice Ketchum would refuse the petition on its merits)

Randy G. Whetstone v. West Virginia Department of Education, No. 13-1100 (Kanawha 09-C-2137)  
Dismissed (5-0)

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Bituminous Casualty Corporation v. J.A. Street & Associates, Inc. and Thundering Herd Development, LLC, No. 13-0909 (Certified Question – Cabell 08-C-623)

Certified Question:

Whether there is coverage and/or a duty on the part of Bituminous Casualty Corporation to defend J.A. Street & Associates, Inc. against the claims alleged by Thundering Herd Development, LLC in the Amended Complaint filed in the underlying action under the standard commercial general liability insurance policies issued by Bituminous to J.A. Street.

The Court declines to docket the certified question for hearing. (5-0)

SER Keith Molineaux Jr. v. David Ballard, Warden, No. 13-1002 (Original Habeas)  
Petition refused (5-0)

SER Courtney S. Wallace v. Dennis Dingus, Warden, No. 13-1093 (Original Habeas)  
Petition refused (5-0)

SER Monique Nicole Weldon v. Lori Nohe, Warden, No. 13-1254 (Original Habeas)  
Rule to show cause issued returnable to circuit court for appointment of counsel and the filing of an amended habeas petition. (4-1) (Justice Loughry would refuse)

SER Joseph Eugene Howard v. David Ballard, Warden, No. 13-1318 (Original Habeas)  
Petition refused (5-0)

In Re: I.H. and H.H., No. 13-0816 (Clay 12-JA-144, 12-JA-145)  
Remanded with directions to enter an adjudicatory order (5-0)

SER William LaRue v. David Ballard, Warden, No. 14-0006 (Original Habeas)  
Petition refused (5-0)

SER Donald Good v. David Ballard, Warden, No. 13-1031 (Original Mandamus)  
Petition refused (5-0)

SER Thomnas Welch v. Hon. Jennifer Bailey, Judge, No. 13-1127 (Original Mandamus)  
Petition refused as moot (5-0)

SER Mark Weekly v. Hon. Mark Karl, Judge, No. 13-1185 (Original Mandamus)  
Grant rule to show cause unless sooner mooted by entry of an order appointing counsel and scheduling the matter for an omnibus hearing. (5-0)