



DECISIONS, NOTICES AND ORDERS

Friday, May 30, 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.

REHEARINGS

The Court took the following action on petitions for rehearing:

Kenneth Edward Chance, Jr. v. Patrick Morrissey, Attorney General, No. 13-0593
(Kanawha 13-MISC-158)
Petition refused (5-0)

In Re: I.T., No. 13-0004 (Raleigh 10-CIGR-2)
Petition refused (5-0)

State of West Virginia v. Curtis Joseph Kimble, No. 13-0144 (Mason 12-F-20)
Petition refused (4-1) Chief Justice Davis would grant

Glen Phillips and Alice Phillips v. James W. Davis, Jr., No. 13-0632 (Hancock 04-P-53)
Petition refused (5-0)

Judith T. v. Steven T., No. 13-0633 (Kanawha 02-D-2143)
Petition refused (5-0)

MEMORANDUM DECISIONS

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

In Re: Jimmy W., No. 13-0762 (Randolph 12-P-34)
Affirmed (3-2) (Chief Justice Davis and Justice Ketchum dissenting)

Kanawha County Board of Education v. Jill Kimble, No. 13-0810 (Kanawha 09-AA-205)
Affirmed, in part, Reversed, in part (4-0) (Justice Workman disqualified)

CashCall, Inc. and J. Paul Reddam, President and CEO of CashCall, Inc. v. Patrick Morrissey, Attorney General, No. 12-1274 (Kanawha 08-C-1964)
Affirmed (5-0)

ORDER LIST

May 30, 2014

Page 2

Wendi Whitmore v. Dorothy Brown, No. 13-1082 (Cabell 12-C-71)
Affirmed (3-2) (Chief Justice Davis and Justice Workman dissenting)

State of West Virginia v. Jeffrey Allen Nolte, No. 13-0774 (Ohio 12-F-59)
Affirmed (4-1) (Chief Justice Davis dissenting)

State of West Virginia v. James C., No. 13-0969 (Marion 12-F-55)
Affirmed (5-0)

David Ballard v. David Lee Hurt, No. 13-0283 (Pocahontas 09-C-07)
Affirmed (5-0)

State of West Virginia v. Ruben C., No. 13-0341 (Berkeley 12-F-168)
Affirmed (5-0)

Joseph John v. Richard Ringer, No. 13-0676 (Monongalia 11-C-78)
Affirmed (5-0)

Andrea Roberts v. State Farm Mutual Automobile Insurance Company, No. 13-0743
(Kanawha 11-C-430)
Affirmed (4-1) (Chief Justice Davis dissenting)

Charles Lee Burkhamer, Jr. v. City of Montgomery, No. 13-0930 (Fayette 12-C-289)
Affirmed (5-0)

Leonard E. McWhorter v. Karen L. McWhorter, No. 13-1062 (Ohio 05-D-226)
Affirmed (3-2) (Justices Benjamin and Workman dissenting)

Katelyn Thorn v. Larry J. Casey, II, No. 13-0961 (Wood 11-C-539)
Affirmed (4-1) (Chief Justice Davis dissenting)

Charles L. Anania v. Snowshoe Mountain, Inc., No. 13-0406 (Pocahontas 06-C-53)
Affirmed (3-2) (Justices Benjamin and Ketchum dissenting)

Sierra Club v. Patriot Mining Company and Thomas L. Clarke, Director of the Division of Mining and Reclamation, West Virginia Department of Environmental Protection, No. 13-0256
(Kanawha 12-AA-102, 12-AA-104)
Affirmed in part, Vacated in part (3-2) (Justices Benjamin and Workman dissenting)

State of West Virginia v. Anthony Q. Powell, No. 13-0674 (Monongalia 11-F-296)
Affirmed (5-0)

State of West Virginia v. John E. Mathena, No. 13-0714 (Monroe 12-F-20)
Affirmed (5-0)

John Michael Schweizer v. The West Virginia Racing Commission, No. 13-0976 (Ohio 13-CAP-6)
Affirmed (5-0)

ORDER LIST
May 30, 2014
Page 3

Steven T. Adkins v. David Ballard, Warden, No. 13-0753 (Cabell 09-C-614)
Affirmed (5-0)

In the Matter of: Odegua J. Irivbogbe, Applicant to the West Virginia Board of Law Examiners,
No. 13-0709
Affirmed (4-1) (Justice Ketchum dissenting)

RULE 19 ARGUMENT GRANTED

The following cases will be scheduled for Rule 19 oral argument on
the date stated or at a later date to be determined:

Alyssa R. v. Nicholas H., No. 13-0695 (Mineral 12-D-151)
Wednesday, June 11, 2014

Lawyer Disciplinary Board v. John F. Hussell, IV, No. 13-0544 (Lawyer Disciplinary)

SER West Virginia Real Estate Appraiser Licensing and Certification Board v. Hon. Christopher
Chiles, Judge; and David Bunch, No. 14-0233 (Original Prohibition)

General Pipeline Construction, Inc. v. Cora Phillips Hairston, et al., No. 13-0933 AND
Equitable Production Company v. Cora Phillips Hairston, et al., No. 13-0934 (Logan 06-C-238)
Consolidated

Myron Boggess, et al. v. City of Charleston, et al., No. 13-1261 (Kanawha 12-MISC-119)

In Re: The Marriage of Carol Kinsinger v. Todd Pethel, No. 13-0892 (Mason 05-D-110)

Lightning Energy Services, LLC v. Board of Review, Workforce West Virginia, No. 13-1242
(Kanawha 13-AA-77)

Board of Education of Webster County v. Dawn J. Hanna, et al., No. 13-1086
(Kanawha 13-AA-64)

State of West Virginia v. Marcus Patrele McKinley, No. 13-0745 (Mercer 12-F-90)

Steven O. Dale, Acting Commissioner v. Jimmie J. Sizemore, No. 13-0837
(Kanawha 11-MISC-153)

RULE 20 ARGUMENT GRANTED

The following cases will be scheduled for Rule 20 oral argument at
a later date to be determined:

In Re: The Marriage of Mary P. v. Jason L., No. 13-0831 (Wood 05-D-95)

Fidelity and Deposit Company of Maryland v. Franklin W. James, Jr., No. 13-1179
(Certified Question – Berkeley 13-C-4)

ORDERS

Orders of note were entered in the following cases:

In the Matter of: Ward Harshbarger, III, Magistrate, No. 14-0306 (Judicial Disciplinary)
Respondent publicly censured and fined (5-0)

Lawyer Disciplinary Board v. Donna M. Price, No. 13-0478 (Lawyer Disciplinary)
Respondent reprimanded (5-0)

SER Michael Thornsberry v. Hon. Tod J. Kaufman, Judge; and Kimberly Woodruff, No. 14-0271
(Original Prohibition)
Petition refused (5-0)

SER Barry J. Nace v. West Virginia Lawyer Disciplinary Board, Office of Disciplinary Counsel,
No. 14-0358 (Original Mandamus)
Petition refused (5-0)

SER J.H. v. Hon. Mark A. Karl, Judge, No. 14-0350 (Original Prohibition)
Rule to show cause issued returnable to the Circuit Court of Wetzel County for an immediate
evidentiary hearing. (5-0)

Kimberly Toothman and Lisa Parrish v. Hossein Nikzad, and Shoney's of Morgantown, Inc., et
al., No. 13-0944 (Certified Question – Monongalia 12-C-598)
Declined to docket on the basis that review of certified question in absence of a fully-developed
factual record is premature (5-0)

Charles L. v. Sharon L., No. 13-0987 (Greenbrier 13-D-2)
Dismissed as premature (5-0)

Morgantown Mall Associates Limited Partnership and Morgantown Commons Limited
Partnership v. The City of Westover and County Commission of Monongalia County, No. 13-1194
(Monongalia 13-AA-1)
Dismissed as moot in light of pending annexation petition under consideration in the Circuit
Court of Monongalia County (5-0)