



DECISIONS, NOTICES AND ORDERS

Friday, January 9, 2015

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:

RMLL Enterprises, Inc. v. Mark W. Matkovich, Acting Commissioner, West Virginia State Tax Department, No. 13-1275 (Ohio 13-CAP-10)
Petition refused (5-0)

Donald Good v. David Ballard, Warden, No. 14-0859 (Fayette 14-C-106)
Petition refused (5-0)

State of West Virginia v. Robert Frazier, No. 13-1122 (Cabell 09-F-203)
Petition refused (3-2) (Justices Davis and Benjamin)

In Re: Tobacco Litigation, No. 13-1204 (Kanawha 00-C-5000)
Petition refused (3-2) (Chief Justice Workman and Justice Davis)

Larry A. Clement v. David Ballard, Warden, No. 13-1173 (Fayette 10-C-63)
Petition refused (5-0)

State of West Virginia v. Orville Massey, Jr., No. 13-1159 (Fayette 01-F-108)
Petition refused (5-0)

Thomas W. Smith, et al. v. Chestnut Ridge Storage, LLC, et al., No. 14-0136 (Monongalia 11-C-457)
Petition refused (4-1) (Justice Davis)

MEMORANDUM DECISIONS

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

Randy G. Whetstone v. South Branch Career and Technical Center and the West Virginia Department of Education, No. 13-0751 (Kanawha 12-AA-68)
Affirmed (4-0) (Chief Justice Workman disqualified)

ORDER LIST
January 9, 2015
Page 2

State of West Virginia v. Ordie Rogers, No. 14-0373 (Calhoun 13-F-6)
Affirmed (4-1) (Justice Benjamin dissenting)

State of West Virginia v. Benjamin Lobb, No. 14-0198 (Ohio 13-F-67)
Affirmed (4-1) (Justice Davis dissenting)

Jason F. Uhl v. Steven O. Dale, Acting Commissioner of the West Virginia Division of Motor Vehicles, No. 14-0259 (Kanawha 13-AA-116)
Affirmed (3-2) (Chief Justice Workman and Justice Davis dissenting)

RULE 19 ARGUMENT GRANTED

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

In Re: A.J.D., No. 14-0896 (Braxton 14-JA-3)
Rule to show cause in contempt against attorney Bernard R. Mauser, returnable February 25, 2015.

Carol Elaine Warren v. Todd D. Garland, No. 14-0429 (Webster 12-D-60)
March 10, 2015

Douglas B. and Devonda B. v. Johnny R., Jr., No. 14-0403 (Mingo 12-CIG-2)
February 25, 2015

G. Thomas Bartlett, III v. Mary Louise Lipscomb, No. 14-0278 (Taylor 12-C-27)
March 10, 2015

Charles J. Evans and Cynthia B. Evans, et al. v. United Bank, Inc., Stan McQuade, and Thelma McQuade, No. 14-0291 (Monroe 09-C-94)
March 10, 2015

Lewis County Board of Education v. Tonya Bohan, No. 14-0521 (Kanawha 13-AA-142)
March 11, 2015

RULE 20 ARGUMENT GRANTED

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

SER J.C. v. Honorable James P. Mazzone, Presiding Judge Mass Litigation Panel, No. 14-1189
(Original Prohibition)
March 11, 2015

Rebuild America, Inc. and REO America, Inc. v. Mark and Tammy Davis, No. 14-0432 and
Mark Davis v. Rebuild America, Inc. and REO America, Inc., No. 14-0281
(Kanawha 08-C-1058) (Justice Davis disqualified)
March 11, 2015

ORDER LIST
January 9, 2015
Page 3

AMFM, LLC, et al. v. Peggy Sue Davis, No. 14-0319 (Kanawha 13-C-1279)
March 11, 2015

Schumacher Homes of Circleville, Inc. v. John Spencer and Carolyn Spencer, No. 14-0441
(Mason 13-C-116)
March 11, 2015

David Ballard, Warden v. Richard Lee Hunt, No. 14-0146 (Calhoun 06-C-22)
March 10, 2015

Highland Mining Company v. West Virginia University School of Medicine, No. 14-0370
(Monongalia 12-C-275)
March 4, 2015 at West Virginia University College of Law

ORDERS

Orders of note were entered in the following cases:

SER Kevin S. Ford v. Honorable Timothy Sweeney, Judge, No. 14-1181 (Original Prohibition)
Petition refused (5-0)

SER Jackson Kelly PLLC v. Hon. H. L. Kirkpatrick, Judge, No. 14-1207 (Original Prohibition)
Petition refused (5-0)

State of West Virginia v. Brian C., No. 14-1247 (Bail)
Petition refused (5-0)

SER Terry Abbott v. Hon. Robert Waters, Judge; and Courtney Ahlborn, No. 14-1292
(Original Mandamus)
Rule to show cause issued. (5-0)

Fabian Boltralik v. Teresa Seymour, No. 14-0840 (Raleigh 10-D-268)
Dismissed (5-0)

Elizabeth Darragh v. Laura Duncan, No. 14-0765 (Wyoming 14-C-42)
Dismissed (5-0)

State of West Virginia v. Stephanie W., No. 14-1176 (Wood 11-P-32)
Dismissed (5-0)

In Re: Petition of Kenneth E. Chance, Jr., No. 14-1010 (Fayette 13-P-19)
Summarily Affirmed (5-0)

Thai Han v. Diana Mey, No. 14-1256 (Ohio 11-C-165)
Interlocutory appeal not docketed. (5-0)

ORDER LIST
January 9, 2015
Page 4

Lawyer Disciplinary Board v. Ronald S. Rossi, No. 13-0508 (Lawyer Disciplinary)
Respondent Ronald Rossi denied participation in oral argument, pursuant to Rule 10(j), R.A.P., due to the failure to file a brief. (5-0)
Motion to intervene denied. (5-0)

Lawyer Disciplinary Board v. April D. Conner, No. 13-0522 (Lawyer Disciplinary)
Respondent April Conner denied participation in oral argument, pursuant to Rule 10(j), R.A.P., due to the failure to file a brief. (5-0)

In Re: Petition of Stephen L. Hall to voluntarily resign from The West Virginia State Bar, No. 14-1257
Petition granted. (5-0)

Office of Disciplinary Counsel v. Robert M. Losey, a deceased member of The West Virginia State Bar, No. 14-1274
Petition seeking appointment of attorney as trustee granted. (5-0)

Office of Disciplinary Counsel v. Stephen D. Paesani, No. 14-1301 (Lawyer Disciplinary)
Petition seeking temporary suspension of license to practice law and appointment of trustee granted. (5-0)

Lawyer Disciplinary Board v. Michael F. Niggemyer, No. 14-0776 (Lawyer Disciplinary)
License to practice law annulled. (5-0)

In Re: Jamison T. Conrad, Mental Hygiene Commissioner, No. 14-0036 (Judicial Disciplinary)
Motion to lift stay granted, probable cause not found, and case dismissed. (5-0)

Lyle Bowyer v. Seventeenth Street Associates, No. 14-0931 (Cabell 12-C-701)
Dismissed for failure to timely and properly perfect the appeal (5-0)

Howard Blyler, et al. v. Craig A. Griffith, State Tax Commissioner, No. 14-0760 (Kanawha 13-C-2175)
Dismissed for failure to timely and properly perfect the appeal (5-0)

Customers of Scotts Run Public Service District v. Public Service Commission, et al., No. 14-1201 (Public Service Commission)
Dismissed for failure to timely and properly perfect the appeal (3-2) (Justices Benjamin and Ketchum would refuse the motions to dismiss.)