KENTUCKY LAW UPDATE 2026

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Kentucky Supreme Court Update

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I. CIVIL

A. *Professional Home Health Care v. Cabinet for Health and Family Services,* 730 S.W.3d 813 (Ky. 2025). Opinion of the Court by Justice Keller. All sitting. Conley, Goodwine, and Nickell, JJ., concur. Bisig, J., dissents by separate opinion in which Lambert, C.J., joins. Thompson, J., dissents by separate opinion.

The Department for Medicaid Services ("Department") promulgated 907 KAR 1:170, authorizing it to reimburse certain safety net providers at enhanced rates not available to other Medicaid providers. The regulation outlined a list of services eligible for enhanced reimbursement. Notably absent from this list was the provision of case management services. Although the Department had not included case management services in the list of "revenue code service[s]" eligible for enhanced reimbursement in 907 KAR 1:170 §1(19), Professional Home Health Care ("PHHC") continued to provide its case management services to Medicaid recipients throughout the early 2010s, and the Department actually began to reimburse PHHC for those services at the enhanced rate available to safety net providers. The Department discovered that it had erroneously overpaid PHHC for its case management services and indicated its intent to recoup $1,062,171. The Department exercises the authority to recoup funds it has overpaid a Medicaid provider pursuant to 907 KAR 1:671 §2.

After failing to reach an agreement with the Department at a dispute resolution meeting, PHHC requested a formal administrative hearing pursuant to 907 KAR 1:170 §9. An administrative hearing officer within the Cabinet for Health and Family Services ("Cabinet") determined that the Department was within its regulatory authority to recoup over $1 million that it had "erroneously" paid to reimburse PHHC for healthcare services that PHHC had provided to Kentucky Medicaid recipients over the course of three fiscal years. The Secretary of the Cabinet issued a Final Order adopting the hearing officer's recommended order. PHHC thereafter sought judicial review of the agency's determination in Franklin Circuit Court, and the circuit court affirmed the Secretary's final order. PHHC subsequently appealed to the Court of Appeals, which affirmed the circuit court.

This appeal asked the Supreme Court to interpret the Department's administrative regulations and to decide whether the Department was authorized and required to reimburse PHHC for the healthcare services it rendered. The Court affirmed the Court of Appeals, holding that as a matter of law, the Department did not have the regulatory authority to reimburse PHHC for "case management" units because "case management" was not a "revenue code service" as that term was defined in 907 KAR 1:170 §1(19). The Supreme Court further held that the doctrine of equitable estoppel did not preclude the Department from recouping its overpaid funds from

PHHC and that the equitable doctrine of laches was inapplicable against the Department in this instance.

Bisig, J., dissented. She argued that legislative intent must override the strict text of a regulation when an obvious scrivener's error occurs, emphasizing that the Cabinet's extensive actions and representations clearly prove they intended to reimburse case management services. Consequently, Justice Bisig concluded the Cabinet should be equitably estopped from recouping fees it willingly paid to the provider for eight years.

Thompson, J., dissented. Justice Thompson would hold that the Cabinet committed a gross inequity by attempting to claw back years of enhanced payments it had knowingly promised and paid to PHHC for essential rural case management services. Concluding that the initial exclusion of these services from the enhanced rate regulation was merely a drafting error, the dissent asserts that equitable estoppel should prevent the government from effectively stealing services provided in good-faith reliance on those agreed-upon rates.

B. *City of Paintsville v. Haney,* 718 S.W.3d 812 (Ky. 2025). Opinion of the Court by Justice Thompson affirming in part, reversing in part, and remanding. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. Bisig, Conley, Keller, and Nickell, JJ., concur. Lambert, C.J., concurs in result only. Goodwine, J., not sitting.

Donald Prater, Jr., died after fleeing a hospital naked from the waist down and resisting arrest. Law enforcement officers attempted to restrain Prater with gradually escalating force. After being handcuffed, Prater died. Prater's estate filed a wrongful death suit against various governmental entities and first responders, arguing that they used excessive force against Prater. The trial court granted summary judgment to the government entities and first responders. The Court of Appeals affirmed the dismissal of the county and fire department but reversed the dismissal of the city and police department on the basis that they had no immunity and could be liable for the actions of the officers. It also reversed the dismissal of the officers for consideration of whether they owed Prater a duty of care based on the special relationship arising from arresting him.

The Supreme Court affirmed in part the Court of Appeals' opinion which upheld the dismissal of some governmental defendants on immunity grounds but reversed the remainder of the Court of Appeals' decision. The Supreme Court determined that summary judgment had been appropriately granted to all the defendants. The Court concluded that summary judgment was not prematurely granted because sufficient time was provided for the completion of discovery and even with all factual issues resolved, the estate could not prevail. The officers owed Prater a duty, but qualified immunity shielded them from liability because they could not be legally responsible under the circumstances. The officers had grounds to arrest Prater, they acted appropriately in their efforts to subdue him, their escalation in force was proportionate to his resistance, and there was no medical evidence to establish they used excessive force against him. Because the officers could not be legally responsible for Prater's death, their employers could not be legally responsible, and dismissal was properly granted to all defendants.

C. *Lexington Alzheimer's Investors, LLC v. Norris,* 718 S.W.3d 795 (Ky. 2025). Opinion of the Court by Chief Justice Lambert. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. All concur. Goodwine, J., not sitting.

A wife was made her husband's conservator pursuant to a Tennessee court order which was never registered in a Kentucky court pursuant to KRS 387.842 and KRS 387.848. The wife obtained the husband's admission into a Kentucky nursing home that reviewed the Tennessee paperwork and had his wife sign a mandatory arbitration agreement on his behalf as a condition of admission. After the husband's death, the wife filed suit against the nursing home, and the nursing home sought to enforce the arbitration agreement by arguing that it was a "health care decision" pursuant to KRS 311.631 of the Kentucky Living Will Directive Act and the seminal decisions of *Jackson v. Legacy Health Servs., Inc.*, 640 S.W.3d 728 (Ky. 2022), *Ping v. Beverly Enters., Inc.*, 376 S.W.3d 581 (Ky. 2012), and *LP Louisville E., LLC v. Patton*, 651 S.W.3d 759 (Ky. 2020).

The Kentucky Supreme Court held that signing the mandatory arbitration agreement was not a health care decision under KRS 311.631. The Court recognized that *Ping*, *Patton*, and *Jackson* hold that signing an arbitration agreement can be a health care decision if it is mandatory for admission into a nursing home. However, in *Ping* and *Patton*, the individual signing the arbitration agreement was the patient's attorney-in-fact and in *Jackson* the signee had been appointed the patient's legal guardian. In contrast, in the instant action, the husband had not executed a power of attorney or living will, and the wife had not been appointed as his guardian. Thus, KRS 311.631 was the only possible source of authority the wife had to bind the husband to the arbitration agreement. That statute explicitly defines "health care decision" as "consenting to or withdrawing consent for any medical procedure, treatment, or intervention." The Court held that because signing a mandatory arbitration agreement is not a medical procedure, treatment, or intervention, the wife lacked the authority to bind the husband to it pursuant to KRS 311.631, rendering the agreement invalid. The Court additionally held that its interpretation of KRS 311.631 did not violate the U.S. Supreme Court's holding in *Kindred Nursing Center, L.P. v. Clark*, 581 U.S. 246 (2017).

D. *Long v. Department of Revenue*, 718 S.W.3d 868 (Ky. 2025). Opinion of the Court by Justice Bisig. Lambert, C.J., Keller, and Nickell, JJ., concur. Conley and Thompson, JJ., each concur in part and dissent in part by separate opinion. Goodwine, J., not sitting.

This matter involved two cases filed in Franklin Circuit Court alleging problems in the methods for collecting medical and educational debts owed to public entities. In the first case, the plaintiffs brought suit alleging the University of Kentucky unlawfully referred plaintiffs' alleged medical debt to the Kentucky Department of Revenue ("Department") for collection, and that the Department exceeded its statutory authority in collecting those debts. In the second case, the plaintiffs brought similar claims regarding alleged educational debts owed to various public colleges and universities that had been referred to and collected by the Department. The Circuit Court concluded the governmental defendants in both cases were not entitled to sovereign immunity. In two separate interlocutory appeals, the Court of Appeals affirmed in part and reversed in part, concluding that sovereign immunity barred the plaintiffs' claims for monetary relief, but not for declaratory relief. The Supreme Court granted discretionary review and affirmed in part, reversed in part, and remanded. The Supreme Court first held that while the medical debt defendants failed to file a timely interlocutory appeal of the trial court's sovereign immunity ruling, the issue could nonetheless be considered in the course of those defendants' separate timely interlocutory appeal of a class certification ruling. The Supreme Court then found that a statutory amendment rendered the plaintiffs' requests for prospective declaratory relief moot but their requests for retrospective declaratory relief remain viable and are not within the scope of sovereign immunity. As for the plaintiffs' monetary claims, the Supreme Court concluded that sovereign immunity bars those claims to the extent they seek refunds of funds in the State Treasury that were due to the state but does not bar claims seeking refunds of funds from the State Treasury that were never due to the state. Finally, the Supreme Court held the governmental defendants do not enjoy sovereign immunity from the plaintiffs' takings claims.

Thompson, J., concurred in part and dissented in part. Justice Thompson would hold that governmental entities must adhere to strict appellate deadlines, in this instance RAP 3(A)(1), and cannot file untimely interlocutory appeals regarding sovereign immunity. Additionally, he asserted the Department of Revenue overstepped its statutory authority by seizing citizens' funds for unliquidated medical and educational debts, concluding that this money was never legally due to the state and must be refunded. Conley, J., concurred in part and dissented in part. Justice Conley agreed with the separate partial dissent of Justice Thompson but emphasized that the failure to timely appeal completely deprives the appellate courts of jurisdiction.

Consequently, the trial court's denial of immunity remains controlling, and the appellate court lacks the legal authority to even comment on the merits of that ruling.

E. *Dunn v. Solomon Foundation*, 723 S.W.3d 711 (Ky. 2025). Opinion of the Court by Justice Nickell. All sitting. Lambert, C.J.; Conley, Goodwine, and Thompson, JJ., concur. Keller, J., concurs in result only. Bisig, J., dissents by separate opinion.

The Solomon Foundation is a Colorado nonprofit corporation organized exclusively to promote the religious purposes of Restoration Movement Christian Churches and Churches of Christ. To further its goal of promoting the Restoration Movement, Solomon generates revenue through gifts, bequests, and the sale of securities, such as notes, bonds, or other indebtedness upon which interest is paid, to fund loans and provide financing to affiliated churches. Solomon applied for an exemption under Section 170 of the Kentucky Constitution which provides in pertinent part, "[t]here shall be exempt from taxation . . . real property owned and occupied by . . . institutions of religion[.]" McCracken County Property Valuation Administrator Bill Dunn denied Solomon's application. The denial of the exemption was affirmed by the McCracken County Board of Assessment Appeals whose decision was subsequently affirmed in turn by the Kentucky Board of Tax Appeals. Upon judicial review, the McCracken Circuit Court reversed the Tax Board and held Solomon was entitled to the exemption. The Court of Appeals affirmed the trial court's opinion and order. On discretionary review, the Supreme Court reversed the Court of Appeals and remanded with instructions to reinstate the denial of the exemption. The Supreme Court interpreted the phrase “institutions of religion” under Section 170 to mean any church, religious sect, society, or denomination. Although Solomon’s motivations may arguably be laudable, benevolent, and religiously motivated or affiliated, as an institution, the Supreme Court concluded that Solomon is not itself a church, religious sect, society, or denomination and does not qualify for a property tax exemption under Section 170.

F. *Lexington-Fayette Urban County Government v. Fraternal Order of Police, Bluegrass Lodge #4*, 723 S.W.3d 742 (Ky. 2025). Opinion of the Court by Justice Conley. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. Lambert, C.J.; Nickell, and Thompson, JJ., concur. Keller, J., dissents by separate opinion in which Bisig, J., joins in part. Bisig, J., dissents by separate opinion. Goodwine, J., not sitting.

In a 4-2 decision authored by Justice Conley, the Supreme Court held LFUCG’s ordinance prohibiting Lexington Police Department officers from seeking or executing a no-knock warrant is void as being in conflict with statutory law. The General Assembly passed SB 4 in April 2021. This statute regulates when no-knock warrants can be issued in the Commonwealth, principally imposing a clear and convincing evidentiary standard as opposed to the probable cause standard and restricting the availability of no-knock warrants to only those people suspected of or who have previously committed violent crimes. There must also be clear and convincing evidence of a danger to life or destruction of evidence, and no-knock warrants may only be executed between 6:00 a.m. and 10:00 p.m. absent exigent circumstances. LFUCG passed an ordinance banning no-knock warrants in June 2021. Fraternal Order of Police, Bluegrass Lodge #4 brought suit challenging the ordinance on several grounds. The trial court held there was no express or implied conflict between the ordinance and SB 4 but dismissed the lawsuit for other reasons. The Court of Appeals reversed but also did not explicitly hold there was a conflict, remanding for further discovery. The Supreme Court reversed the Court of Appeals and affirmed the trial court’s dismissal but only on the grounds that the ordinance conflicts with the statute. Under an implied preemption analysis, if it is impossible to simultaneously enforce both laws then there is a conflict. LFUCG conceded at oral argument that a police officer who seeks a no-knock warrant pursuant to the statute would be in violation of the ordinance. The Supreme Court made clear that an implied preemption analysis requires the judiciary to ask, “can the class of persons affected by these laws comply with both simultaneously?” Compliance with the statute must not entail a violation of the ordinance and compliance with the ordinance must not entail violation of the statute. If either occurs, there is a conflict, and the ordinance must be struck down as void. Since the former occurs here, the ordinance conflicts with the statute and must be struck down.

G. *Georgetown Chicken Coop, LLC v. Grance Insurance Company*, 723 S.W.3d 793 (Ky. 2025). Opinion of the Court by Justice Goodwine. Lambert, C.J.; Bisig, Conley, Goodwine, Keller, and Nickell, JJ., sitting. All concur. Thompson, J., not sitting.

This was an insurance policy interpretation action that arose out of a motor vehicle accident tort claim. The issue was whether an umbrella policy provided liquor liability coverage under the appellant's theory that an endorsement to the liquor liability clause was ambiguous. The Supreme Court affirmed the Court of Appeals in holding that the endorsement was unambiguous and precluded liquor liability coverage. The endorsement plainly states the original liquor liability clause was "replaced by" the new provision in the endorsement. When an endorsement policy acts to delete language from a policy, a court must not engage in judicial editing by considering the deleted language in its interpretation. Otherwise, the endorsement would be meaningless.

H. *Wheeler v. City of Pioneer Village*, 723 S.W.3d 764 (Ky. 2025). Opinion of the Court by Justice Keller. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting.

Adam Wheeler sought discretionary review by the Supreme Court of a decision by the Court of Appeals in a wage and hour dispute. Wheeler was employed by the City of Pioneer Village during a period when officers would be paid for 40 hours each workweek while working 36 hours one week and 44 hours the next without overtime compensation under circumstances which violated KRS 337.285. After a timely claim for overtime compensation and a four-day bench trial, the circuit court found in favor of Wheeler on lost wages, vacation time, and attorney's fees, but denied the remaining claims. The Court of Appeals affirmed the trial court's awards of vacation and overtime pay, as well as its denial of liquidated damages, sick leave wages, and retirement pay. The Court of Appeals reversed only as to the reconsideration of interest and attorney's fees, remanding for reconsideration on those issues. The Supreme Court affirmed the Court of Appeals with additional explanation and direction holding (1) the correction of a miscalculation per CR 59.05 based on the actual evidence submitted at trial was not an abuse of discretion, sick leave was properly denied upon the appropriate application of the existing ordinance, and retirement hazardous duty pay is distinguishable from wages under KRS 337.010; (2) the trial court's denial of liquidated damages under KRS 337.385 was not clearly erroneous; (3) statutory interest per KRS 360.040 is applicable to Wheeler's claim from the date of the original judgment; and (4) the Court has adopted the "lodestar" method for assessing reasonable attorney's fees and fee-shifting in employee compensation claims which should be applied upon remand.

I. *Smith v. Apex Fund Services for Ceres Tax Receivables, LLC,* 724 S.W.3d 698 (Ky. 2025). Opinion of the Court by Justice Thompson. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. Bisig, Conley, Keller, and Nickell, JJ., concur. Lambert, C.J.; dissents without separate opinion. Goodwine, J., not sitting.

In a dispute between tax lienholders, where the proceeds from the master commissioner's sale of the land were insufficient to satisfy the tax liens, the first-in-time lienholders who also purchased the property were not entitled to priority over the other lienholders. The Court concluded the General Assembly, through its statutory enactments, exempted tax liens from the common law rule of "first in time, first in right." The General Assembly instead mandated a *pro rata* distribution if the proceeds from the master commissioner's sale are insufficient to pay the tax liens and associated costs. Other categories of lienholders continue to be governed by the common law rule of "first in time, first in right" as codified by statute and will be given priority according to the ordinary race-notice rule.

J. *Braun v. Bearman Industries, LLC,* 2024-SC-0277-DG, 2025 WL 2998495 (Ky. Oct. 23, 2025). Opinion of the Court by Justice Bisig. All sitting. All concur.

Braun filed a products liability suit in the Fayette Circuit Court alleging that he was injured by a firearm manufactured by Utah-based Bearman Industries and distributed in Kentucky by a third-party distributor. The trial court dismissed the claim, concluding that it could not exercise personal jurisdiction over Bearman. The Court of Appeals affirmed. The Supreme Court granted discretionary review and reversed in part and remanded. The Court first concluded the evidence was sufficient to bring Bearman within the long-arm statute. More particularly, the Court noted the evidence showed at least 60 firearms manufactured by Bearman were available for purchase in the Commonwealth on a single day, and that Bearman thus derived substantial revenue from the use of its firearms in Kentucky. The Court further found that an assertion of personal jurisdiction over Bearman would not offend due process if Bearman was not only aware its firearms would be distributed in Kentucky but also engaged in further conduct showing a specific intent or purpose to serve the Commonwealth, such as an agreement with a distributor to specifically distribute Bearman's firearms in the Commonwealth. The Court concluded, however, that Bearman's failures to meet its discovery obligations had prevented Braun from having an ample opportunity to make such a showing, and therefore remanded the matter to the trial court to provide Braun with such an opportunity.

K. *Torian v. City of Paducah*, 2023-SC-0395-DG, 2025 WL 3768934 (Ky. Dec. 18, 2025). Opinion of the Court by Justice Conley. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. Lambert, C.J.; Bisig, Nickell, and Thompson, JJ., concur. Keller, J., dissents by separate opinion. Goodwine, J., not sitting.

At issue was whether members of the Paducah Fire Department are "emergency medical service first response providers" under KRS 311A.027(1). If so, then Torian contended the City of Paducah could not impose a residency requirement on the firefighters of Paducah. The trial court and Court of Appeals held the firefighters were not subject to KRS 311A.027(1). The Supreme Court affirmed. In contrast to the pithy analysis offered by the trial court and Court of Appeals, the Supreme Court wrestled with the language of the statute to determine what the General Assembly meant by "emergency medical service first response providers." Torian argued the firefighters, individually, qualified as such or that the Paducah Fire Department institutionally qualified as such. The Supreme Court held individual firefighters were not covered by the language. The statute lists three other things: public agencies, tax districts, and licensed ambulance services. Accordingly, the Court determined the statute refers to institutions, not individuals. Because Torian was not a public agency, tax district, or licensed ambulance service unto himself, he also was not an emergency medical service first response provider. Second, the Court held the Paducah Fire Department also did not qualify as an applicable institution. The Court determined there was a latent ambiguity in the phrasing of the statute when applied to the Paducah Fire Department. By resorting to the applicable regulations, the Court concluded an "emergency medical service first response provider" in the statute was analogous to "medical first response agencies" in the regulations. Notably, the latter phrase occurs in conjunction with the phrase "ambulance providers" in a comprehensive regulatory scheme. The Court concluded, therefore, that a medical first response agency had to provide ambulance services as it would be absurd to subject such agencies to the same regulations as ambulance providers if they did not. Because the Paducah Fire Department does not provide an ambulance service, the Court held it is not a medical first response agency under the regulations and, ergo, is not an emergency medical service first response provider under the statute.

L. *Coleman v. Westport Insurance Company*, 727 S.W.3d 371 (Ky. 2025). Opinion of the Court by Justice Goodwine. All sitting. All concur.

In a unanimous decision authored by Justice Goodwine, the Supreme Court held the plain terms of Westport's insurance policies unambiguously excluded coverage for Coleman's claims. William Virgil, who is now deceased, was incarcerated for 28 years for a murder that DNA evidence later proved he did not commit. He was released from prison in 2015 and soon after filed a 42 U.S.C. §1983 action against the City of Newport, and past and present employees of the Newport Police Department in federal court, alleging several claims, including malicious prosecution. Westport insured Newport from July 1, 1997, to July 1, 2000, through three consecutive one-year policies, each of which included a law enforcement liability endorsement. Westport initiated the underlying action in Campbell Circuit Court to determine whether it had a duty to defend or indemnify Newport. The circuit court granted summary judgment in Westport's favor, holding that Virgil's claims did not trigger its policies. The Court of Appeals affirmed. The Supreme Court affirmed the Court of Appeals because Virgil's alleged personal injury did not occur during the Westport policy period. The Court held the Westport policy was an occurrence-based policy because coverage was triggered by personal injuries that occurred during the policy period. For coverage to be triggered, Virgil's injury had to occur between July 1, 1997, and July 1, 2000. Under the policies, "occurrence" was defined as any "personal injury" arising out of an enumerated offense, including malicious prosecution. The Court looked to other jurisdictions to determine that the tort of malicious prosecution "occurs" for insurance coverage purposes at the time the underlying criminal charges are filed. Because the charges against Virgil were filed in 1987, his alleged personal injury occurred more than a decade before Westport's coverage period. The Court distinguished this case from *St. Paul Guardian Ins. Co. v. City of Newport, Ky.*, 804 F. App'x 379 (6th Cir. 2020), which also arose out of Virgil's federal lawsuit but involved an insurance policy with different terms. The Court also contrasted this case with *Travelers Indem. Co. v. Mitchell*, 925 F.3d 236, 241 (5th Cir. 2019), to hold that damages alone, such as continued imprisonment, did not trigger coverage.

M. *Coleman v. Jefferson County Board of Education*, 733 S.W.3d 302 (Ky. 2024); modified Dec. 19, 2025. Opinion of the Court by Justice Bisig. All sitting. Goodwine, Keller, and Thompson, JJ., concur. Nickell, J., dissents by separate opinion in which Lambert, C.J.; and Conley, J., join.

As a general matter, public school boards in the Commonwealth exercise control and management over the public schools in their respective districts. In 2022, the General Assembly enacted SB 1 providing that in a county school district in a county with a consolidated local government – of which the Jefferson County Public Schools are the only such district in the state – the superintendent rather than the school board would have exclusive authority over the general conduct of the district's public schools. The statute also provided the superintendent in such a district with greater ability to implement rules, regulations, bylaws and policy statements and greater purchasing power. The statute also forbade the school board in such a district from meeting more than once every four weeks. The Jefferson County Board of Education filed suit, and the Jefferson Circuit Court and the Court of Appeals declared the statute unconstitutional special legislation in violation of the Kentucky Constitution. On discretionary review, the Supreme Court agreed. The Court applied the long-standing test for such challenges and thus considered whether there was a natural, distinctive, and reasonable relationship between the class drawn by the legislature and the problem the statute seeks to address. The Court concluded the Board made a *prima facie* showing that there was no rational reason only a superintendent in a county school district in a county with a consolidated local government should have the unique powers granted under SB 1, nor was there any rational reason such powers should not be granted to superintendents in other school districts. The Court also concluded no contrary showing had been made by the government, nor could the Court independently conceive of such a reason for the class drawn by the statute. Thus, the Court – while acknowledging its duties to respect the separation of powers and maintain judicial modesty – concluded the statute was unconstitutional special legislation in violation of Section 59 of the Kentucky Constitution.

N. *Missionaries of Saint John the Baptist, Inc. v. Frederic*, 727 S.W.3d 400 (Ky. 2025). Opinion of the Court by Chief Justice Lambert. All sitting. Bisig, Conley, Goodwine, Keller, and Nickell, JJ., concur. Thompson, J., dissents by separate opinion.

This appeal addressed (1) whether the conditional use permit and setback variance granted by the City of Park Hills Board of Adjustment were impermissible under the city's zoning ordinance; (2) the correct standard for evaluating Religious Land Use and Institutionalized Persons Act (RLUIPA) cases in Kentucky; and (3) whether denial of the proposed construction of a grotto constitutes a "substantial burden" on religious exercise under RLUIPA. The Supreme Court determined the denial of a church's request to build an outdoor grotto did not violate RLUIPA, affirming the Court of Appeals. The case originated when the Park Hills Board of Adjustment granted a conditional use permit and variances for the church to construct a grotto on adjacent leased property. The Frederics, neighbors to the church, challenged the permit. The Kenton Circuit Court granted summary judgment in favor of the church, finding the Board did not act arbitrarily under the *American Beauty* test, and the Board otherwise provided sufficient due process and that its decision was supported by substantial evidence. The Frederics appealed to the Court of Appeals, which reversed the circuit court, holding that enforcing the zoning ordinance to prohibit the grotto did not violate RLUIPA because, while the restriction might make practicing religion more difficult, the ordinance itself was "not inherently inconsistent" with Catholic religious beliefs. The church appealed to the Supreme Court, which affirmed the Court of Appeals. The Court adopted the Sixth Circuit's *Livingston* framework to determine whether the zoning ordinance imposed a "substantial burden" on the church's religious exercise. Applying this test, the Court found no substantial burden existed. The church had a feasible alternative to build a smaller grotto on its own existing property. Further, the Court held the ordinance did not violate RLUIPA's "equal terms" provision. The zoning code treated religious and nonreligious assemblies equally, requiring secular institutions to also be located on arterial streets. Ultimately, the permit for the grotto was vacated.

Thompson, J., dissented by separate opinion arguing the majority opinion should not be interpreted to restrict the authority of local boards of adjustment to exercise their discretionary authority. The planned grotto was not an unlawful extension or enlargement of the nonconforming church and was properly the subject of a variance because it is analogous to building a patio rather than expanding a structure.

O. *Jackson v. Mayfield KY OPCO, LLC,* 733 S.W.3d 345 (Ky. 2025). Opinion of the Court by Chief Justice Lambert. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. Conley, Nickell, and Thompson, JJ., concur. Keller, J., dissents by separate opinion in which Bisig, J., joins. Goodwine, J., not sitting.

This appeal addressed the novel issue of the scope of KRS 39A.275,[1] which provided immunity to various entities for alleged negligent acts during the COVID-19 pandemic. The Supreme Court determined the circuit court applied KRS 39A.275 too broadly in granting summary judgment for Mayfield Health, reversing the Court of Appeals. The case involved a wrongful death and negligence lawsuit filed by Hollie Jackson following the death of his mother, Emma Hayes, who died shortly after being found unresponsive in Mayfield's dedicated COVID-19 unit. The Graves Circuit Court dismissed the suit, concluding Mayfield was shielded by KRS 39A.275 because Hayes's death certificate listed COVID-19 as a cause of death. The family appealed to the Court of Appeals, which affirmed the circuit court, reasoning that under KRS 39A.275, an individual did not necessarily need to actually contract COVID-19; even the "alleged" or "possible exposure" to the virus was enough to trigger immunity. The Supreme Court reversed, holding that summary judgment was improper because the immunity statute does not provide blanket protection for any injury occurring during the pandemic. Instead, it requires a strict causal connection; the injury must "arise from" the contraction of COVID-19 or from specific pandemic countermeasures. Here, Jackson presented expert medical testimony arguing that COVID-19 was not a substantial factor, and that Hayes's death resulted from Mayfield's nearly five-hour delay in seeking medical intervention. Such evidence, as well as other claims that

[1] Editor's note: KRS 39A.275 was repealed effective December 31, 2023.

lacked a causal connection to COVID-19, created a genuine issue of material fact that made summary judgment inappropriate.

P. *Baptist Healthcare System, Inc. v. Kitchen,* 727 S.W.3d 362 (Ky. 2025). Opinion of the Court by Justice Bisig. Lambert, C.J.; Bisig, Conley, Goodwine, Keller, and Thompson, JJ., sitting. Lambert, C.J.; Conley, Goodwine, and Keller, JJ., concur. Thompson, J., concurs in result only. Nickell, J., not sitting.

Gelanie Jones was admitted to Baptist Healthcare System, Inc.'s ("Baptist's") Paducah facility. She fell during her stay, resulting in a fractured hip. Jones brought a medical negligence claim against Baptist. During discovery, Jones propounded discovery requests to Baptist seeking "any and all incident reports" regarding her fall. Baptist identified an eight-page incident report and a 40-page root cause analysis as responsive. However, Baptist refused to produce those documents on grounds of both the patient safety work product privilege set forth in the federal Patient Safety & Quality Improvement Act (PSQIA), and Kentucky's peer review privilege set forth in KRS 311.377(2). The McCracken Circuit Court concluded that neither the incident report nor the factual portions of the root cause analysis fell within the scope of these privileges and therefore ordered that information produced. Baptist petitioned the Court of Appeals for a writ prohibiting the trial court from enforcing its order. The Court of Appeals agreed with the trial court that the incident report was not privileged. However, the Court of Appeals held the trial court erred in requiring Baptist to produce the factual portions of the root cause analysis, and thus issued a writ prohibiting the trial court from requiring production of that information. Baptist appealed to the Supreme Court. The Supreme Court held that Baptist had shown the entirety of the root cause analysis fell within the federal patient safety work product privilege, and that there was no exception to that privilege for factual portions of a record. The Court further held the incident report was not within the scope of the federal privilege because it consisted of incident information Baptist was regulatorily required to maintain. Finally, the Court held that the incident report was also not within the state peer review privilege because that document was not created for the purpose of a retrospective review and evaluation of the competency of conduct by health care personnel, but rather simply to record the factual circumstances of Jones' fall. The Supreme Court therefore affirmed the Court of Appeals.

Q. *Commonwealth ex rel. Coleman v. Council for Better Education, Inc.* 730 S.W.3d 787 (Ky. 2025). Opinion of the Court by Justice Keller. All sitting. All concur. Lambert, C.J., also concurs by separate opinion which Thompson, J., joins.

House Bill 9, which authorized the creation and public funding of charter schools, violates Sections 183, 184, and 186 of the Kentucky Constitution. Affirming the Franklin Circuit Court, the Court concluded that charter schools, as structured under HB 9, do not qualify as "common schools" or "public schools" within the meaning of the Constitution and therefore cannot receive public education funds absent voter approval. Relying on the constitutional framework articulated in *Rose v. Council for Better Education*, the Court emphasized that Kentucky's constitution establishes a mandatory, uniform, and efficient system of common schools, which the General Assembly is solely responsible for maintaining and supervising. The Court further explained that public education funds are constitutionally restricted to that system and may not be diverted to institutions outside it unless authorized through a voter-approved tax under Section 184. Applying this framework, the Court determined that charter schools created under HB 9 fall outside the common school system because they are not subject to the same structural requirements as traditional public schools including accountability to local school authorities. The statutory scheme's exemptions from key regulatory and governance provisions, as well as its reliance on independent authorizers, demonstrated that charter schools operate as a separate, parallel system rather than as part of the constitutionally required common school system. Because HB 9 authorized the expenditure of public funds on schools outside the common school system without voter approval, the Court held the statute unconstitutional. The Court declined to address additional arguments, resolving the case solely on constitutional grounds.

R. *Minova USA, Inc. v. Jolly*, 2024-SC-0169-DG, 2026 WL 491752 (Ky. Feb. 19, 2026). Opinion of the Court by Justice Nickell. All sitting. Lambert, C.J.; Conley, Goodwine, and Keller, JJ., concur. Thompson, J., concurs in part and dissents in part by separate opinion which Bisig, J., joins.

The Supreme Court granted discretionary review to determine whether a manufacturer who contracts for the delivery and transportation of raw materials qualifies as a "contractor" entitled to "up-the-ladder" immunity from tort liability under the exclusive liability provisions of KRS 342.610(2)(b) and KRS 342.690 for an injured worker's work-related claims. Minova USA, Inc., manufactures resin capsules and other products for use in the mining, construction, and energy industries at its plant located in Kentucky. Minova sourced its limestone filler from a company in Tennessee. To transport the limestone from Tennessee, Minova entered into a transportation services agreement with Trimac Transportation. Tom Jolly was employed by Trimac and made frequent deliveries to Minova. On one occasion, Jolly was severely injured by an unsecured rolling cart at Minova's facility. Jolly obtained workers' compensation benefits from Trimac and filed suit against Minova for negligence in Scott Circuit Court. The trial court entered summary judgment in favor of Minova, concluding Minova was entitled to "up-the-ladder" immunity under KRS 342.610(2)(b) because the delivery of raw materials was a "regular or recurrent" part of Minova's business. The Court of Appeals reversed. The Supreme Court reversed the Court of Appeals and reinstated the trial court's judgment. After reviewing the record and case law, the Supreme Court concluded the relationship between Minova and Jolly, on behalf of Trimac, involved regular or recurrent work assumed by contract in the form of substantial services exceeding those normally incident to an agreement of purchase and sale. Thus, no genuine issue of material fact existed and Minova was entitled to judgment as a matter of law.

Thompson, J., dissented, stating his disagreement that Minova qualifies as a contractor entitled to up-the-ladder immunity in this case, thus entitling Minova to receive immunity despite paying nothing toward insuring Trimac's employees. Minova does not qualify as a contractor and hence a statutory employer entitled to immunity. Instead, it is simply a purchaser of raw material which is a needed component of a product it produces who contracted with a common carrier to deliver this material from the seller's mine.

S. *Schulkers v. Lape*, 730 S.W.3d 903 (Ky. 2026). Opinion of the Court by Justice Thompson. All sitting. Lambert, C.J.; Bisig, and Conley, JJ., concur. Conley, J., also concurs by separate opinion which Lambert, C.J., and Thompson, J., join. Goodwine, J., concurs in result only. Nickell, JJ., dissents by separate opinion in which Keller, J., joins.

The Supreme Court reversed the Court of Appeals' denial of a writ of prohibition brought pursuant to CR 81 to bar the enforcement of an order disqualifying Mary Schulkers's court appointed counsel on the basis that the lawyer was a potential witness. The Supreme Court held that Schulkers qualified for a "second-class" writ as she established that there is no adequate remedy by appeal, and she would suffer great and irreparable injury in being deprived of her right to counsel of choice given the knowledge her counsel had acquired during a long course of representation. It was inappropriate for the trial court to grant the motion to disqualify the attorney based on the remote possibility that the attorney might decide to call herself to testify on behalf of Schulkers.

Conley, J., concurred. The Commonwealth could not use the attorney's statements as adoptive admissions of Schulkers pursuant to KRE 801A(b). Nickell, J., dissented. Schulkers did not qualify for the writ because she had an adequate remedy by appeal.

T. *Hodge v. Kentucky Parole Board*, 2023-SC-0091-DG, 2023-SC-0364-DG, 2026 WL 886630 (Ky. Mar. 19, 2026). Opinion of the Court by Justice Bisig. All sitting. Lambert, C.J.; Nickell, and Thompson, JJ., concur. Bisig, J., concurs in part and dissents in part by separate opinion. Goodwine, J., dissents by separate opinion which Conley, J., joins. Keller, J., dissents by separate opinion.

Douglas Hodge and Timothy Shane were each convicted of crimes and ultimately granted parole. Each was then accused of violating the conditions of parole, Hodge by absconding and Shane by consuming alcohol. ALJs, who make findings but not final decisions regarding parole revocation, determined after evidentiary hearings that each had violated the conditions of parole. The Parole Board adopted the ALJs' findings and revoked the parole of Hodge and Shane, though without holding an evidentiary hearing. Hodge and Shane then filed actions for declaratory relief asserting that the Parole Board's adoption of the ALJ findings without holding an evidentiary hearing deprived them of due process. Both Circuit Courts denied the requested relief. In Hodge's case, a panel of the Court of Appeals affirmed. However, in Shane's case a separate panel of the Court of Appeals reversed, concluding the Parole Board must hold its own hearing when considering whether to revoke parole. The Supreme Court granted discretionary review and consolidated the resulting appeals. The Court concluded that due process did not require the Parole Board to hold its own evidentiary hearing when considering whether to revoke parole. Rather, when an ALJ has conducted an evidentiary hearing, the Parole Board may rely upon that record in deciding whether to revoke parole. The Court noted that parolees receive two full hearings before an independent ALJ prior to a third review and final decision by the Parole Board. The Court further held, however, that due process does require an opportunity for parolees to file exceptions to an ALJ's findings. Thus, because Hodge and Shane were not afforded such an opportunity, the Court reversed the Court of Appeals' decision in Hodge's appeal and affirmed the Court of Appeals' decision in Shane's appeal.

U. *Schneider Electric USA, Inc. v. Williams,* 733 S.W.3d 180 (Ky. 2026). Opinion of the Court by Justice Keller. Lambert, C.J.; Bisig, Conley, Keller, and Thompson, JJ.; and Special Justice Adrian Mendiondo and Special Justice Julie Tennyson, sitting. Lambert, C.J.; Bisig, Conley, and Keller, JJ.; and Special Justice Mendiondo and Special Justice Tennyson, concur. Thompson, J., concurs in part and dissents in part by separate opinion.

The Estate of Vickie Williams brought negligence and products-liability claims against Schneider Electric USA, Inc. (Square D) and Union Carbide Corporation alleging that Williams developed mesothelioma from household ("take-home") asbestos exposure caused by asbestos fibers carried home on her father's work clothing from Square D's Lexington manufacturing facility, where asbestos-containing molding compounds supplied by Union Carbide were used. The Fayette Circuit Court granted summary judgment to both defendants, concluding that no duty existed as a matter of law and limiting the testimony of the Estate's expert witness. The Court of Appeals reversed the summary judgment rulings, vacated the expert-limitation order, and affirmed the trial court's denial of Square D's workers' compensation exclusivity defense.

The Supreme Court affirmed the Court of Appeals and held that: 1) summary judgment was improper because the record contained evidence, including scientific literature, expert testimony, and evidence of industry awareness, from which a reasonable factfinder could infer that secondary asbestos exposure to household members was foreseeable; 2) the Court's holding was narrow and limited to claims involving alleged regular and repeated domestic contact with asbestos-contaminated clothing, and did not recognize a universal "take-home asbestos" duty; 3) the Workers' Compensation Act did not bar the claims because the alleged injury arose from non-occupational exposure rather than from the decedent's brief employment at the facility; and 4) the trial court abused its discretion in limiting the plaintiff's expert testimony absent a showing of prejudice. The case was remanded for further proceedings.

Thompson, J., concurred in part and dissented in part to the extent that the matter was allowed to go forward as to Schneider Electric USA, Inc. F/K/A Square D as Williams's injury as a household member was not reasonably foreseeable based on what was generally known at the time of her alleged exposure based on ordinary negligence. He concurred to the extent there was evidence to conclude that Union Carbide was legally responsible for producing a hazardous product based on its own actual knowledge during the relevant time frame.

V. *Kentucky Department of Fish and Wildlife Resources Commission v. Kentucky Open Government Coalition, Inc.*, 733 S.W.3d 377 (Ky. 2026). Opinion of the Court by Justice Thompson. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. Lambert, C.J.; Bisig and Conley, JJ., concur. Nickell, J., dissents by separate opinion which Keller, J., joins. Goodwine, J., not sitting.

In resolving this open records request, the Supreme Court concluded that private records in the exclusive ownership and control of volunteer members and former volunteer members of the Kentucky Department of Fish and Wildlife Resources Commission (the Commission) on their private cell phones and in their private email accounts are not "public records" held by a "public agency" for purposes of the Open Records Act (ORA), KRS 61.870 *et. seq.* which must be disclosed in response to an open records request. Volunteer commission members could not be considered "inferior officers" pursuant to Section 93 of the Kentucky Constitution and, therefore, could not be considered "public agencies" pursuant to KRS 61.870 which are responsible for maintaining records. Accordingly, where the Commission did not possess such records, the Commission could not be required to disclose what was not in its possession. Nickell, J., dissenting: Public records in the possession of private individuals do not thereby cease to be public records.

W. *HMB Professional Engineers, Inc. v. Ives*, 733 S.W.3d 246 (Ky. 2026). Opinion of the Court by Justice Bisig. All sitting. Lambert, C.J.; Conley, Goodwine, and Keller, JJ., concur. Nickell, J., dissents by separate opinion which Thompson, J., joins.

Dudley Ives was traveling on Interstate 65 during a period of intense rainfall. The vehicle in which he was traveling hydroplaned and collided with a tractor-trailer, resulting in Ives's death. Years before, several engineering firms had contracted with the Commonwealth to provide designs for a widening of that portion of Interstate 65. Ives's widow sued the engineers, alleging their design was negligent, caused water to pool on the roadway, and thus increased the risk of hydroplaning incidents. The Fayette Circuit Court granted summary judgment to the engineers on sovereign immunity grounds and also held the claims were federally preempted. The Court of Appeals reversed. The Supreme Court granted discretionary review and affirmed the Court of Appeals. The Supreme Court first held the Commonwealth's sovereign immunity does not extend to entities contracting with the Commonwealth simply by virtue of that contractual relationship. The Court next held that while case law recognizes a contractor may enjoy immunity from claims arising from work the contractor was mandated to perform by the Commonwealth, summary judgment was not appropriate because genuine issues of material fact remained as to whether the Commonwealth mandated the designs employed by the engineers. Finally, the Court concluded that the state tort law claims also were not preempted by federal highway design standards because there was no evidence that Kentucky law required a higher standard. Federal preemption would only exist if the negligence claims at issue sought to impose a higher standard than national highway requirements. Here, the Court determined they did not.

X. *Burton v. Kentucky State Police/Commonwealth*, 733 S.W.3d 229 (Ky. 2026). Opinion of the Court by Justice Goodwine. All sitting. Bisig, Conley, Keller, and Nickell, JJ., concur. Thompson, J., dissents by separate opinion which Lambert, C.J.; joins.

In an opinion authored by Justice Goodwine, the Supreme Court affirmed the Kentucky Court of Appeals' decision reversing and remanding for a new trial, finding the trial court erroneously instructed the jury on the requirements of the Kentucky Whistleblower Act (KWA). On discretionary review, the plaintiffs argue only that KSP waived any error in the jury instructions. First, the Court held the plain language of CR 51(3) allows a party to preserve its objection to a jury instruction by any one of three methods: 1) by offering a proposed instruction; 2) by moving for an instruction; or 3) by objecting before the court instructs the jury. The Court found KSP's proposed instructions sufficient to preserve its argument because they fairly and adequately presented KSP's position under the requirements of *Sand Hill Energy, Inc. v. Smith*, 142 S.W.3d 153 (Ky. 2004). The Court also rejected Appellants' argument that a single statement by counsel that KSP would not object to the final instructions after lengthy conferencing among the trial judge and parties amounted to a waiver of any argument to the instructions. Furthermore, KSP argued the jury should have been instructed on whether it took "materially adverse employment actions" against Appellants. The trial court's decision not to instruct the jury was erroneous. Relying on the Court's decision in *Harper v. University of Louisville*, 559 S.W.3d 796 (Ky. 2018), and adopting the standard for personnel actions under the Kentucky Civil Rights Act, the Court held Appellants were required to show, and the trial court must instruct the jury on, "materially adverse" personnel actions. The Court relied on its prior decision in *Norton Healthcare, Inc. v. Deng*, 487 S.W.3d 846 (Ky. 2016), to find that under the KWA, a materially adverse personnel action is one which "might well have dissuaded a reasonable worker from making or supporting" a claim. The dissent argued that KSP clearly and affirmatively waived its previously preserved objection and is bound by such waiver. As such, the dissent would reverse the Court of Appeals and reinstate the judgment.

II. CRIMINAL

A. *Hollingsworth v. Commonwealth,* 718 S.W.3d 738 (Ky. 2025). Opinion of the Court by Justice Thompson. All sitting. All concur.

Shawn Hollingsworth was convicted of murder and first-degree assault and received a life sentence. He appealed alleging the Commonwealth had improperly introduced expert witness testimony from a detective who had not been declared an expert pursuant to KRE 702 despite the fact that the detective relied upon specialized training and utilized specialized software as part of his investigation. Here, the detective had mapped the approximate locations of Hollingsworth's cell phone using call detail records (CDR) which are records obtained from cell phone service providers showing the locations of cell phone towers with which a person's cell phone had connected at various times.

The Supreme Court affirmed Hollingsworth's convictions concluding that CDR mapping testimony does not violate the prohibition found in KRE 701(c) against lay witnesses testifying on matters "based on scientific, technical, or other specialized knowledge within the scope of Rule 702," as long as the testimony and presentation is limited and does not go beyond the mapping of coordinates. Additionally, the Court determined that disclosure of CDR mapping witnesses must fully comport with RCr 7.24(1)(c) regarding "the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications." Hollingsworth's other arguments on appeal regarding jurors hearing comments made by a deputy, potential juror intimidation, and the introduction of jail phone recordings were found to be without merit.

B. *Simpson v. Commonwealth,* 718 S.W.3d 900 (Ky. 2025). Opinion of the Court by Justice Goodwine. All sitting. Lambert, C.J.; Bisig, Conley, Nickell, and Thompson, JJ., concur. Keller, J., concurs in result only.

In an opinion authored by Justice Goodwine, the Supreme Court reversed Simpson's conviction and remanded the case for a new trial on two grounds. First, the trial court abused its discretion by simultaneously denying Simpson's motion to continue the trial and granting his motion for funding to hire an expert witness. Simpson filed both of his motions after the deadline imposed by the court's trial order. Without a continuance, Simpson was left with only a week to retain an expert prior to trial. No expert testified on his behalf at trial. The Supreme Court held the trial court's finding that an expert was necessary to Simpson's defense was in conflict with its denial of the motion to continue because the denial essentially prevented Simpson from hiring such an expert. This abuse of discretion mandated reversal. Second, the Supreme Court held the Commonwealth improperly cross-examined Simpson at trial. The Commonwealth first asked Simpson to comment on the truthfulness of other witnesses on three occasions. Relying on *Moss v. Commonwealth*, 949 S.W.2d 579 (Ky. 1997), the Court held the Commonwealth erroneously asked Simpson whether the other witnesses, including a police detective, were lying. The Court held there was a distinct likelihood that the Commonwealth's questions cast Simpson in a bad light and undermined his testimony before the jury. The Court further held the Commonwealth's questioning was not harmless error because jurors may have been swayed by it.

The Commonwealth also erroneously asked Simpson a hypothetical question demanding a legal conclusion. Specifically, the prosecutor posed a hypothetical in which Simpson shot a victim in the face after the victim had just been shot in the stomach by someone else. The prosecutor then asked Simpson if he would be "culpable" for murder under those circumstances. This hypothetical was entirely fictional and not based on any evidence in the record. The Supreme Court held that questioning a defendant on his own culpability elicits a legal conclusion. The Court held the Commonwealth's question neither conformed with the requirements for lay witness testimony under KRE 701, nor met the requirements for hypothetical questions set out in *Thomas v. Commonwealth*, 170 S.W.3d 343 (Ky. 2005). The Court further held this question was not harmless when it could have only been asked to either give the jury the impression Simpson was admitting guilt for the murder if he answered in the affirmative, or elicit an emotional response from jurors if Simpson testified he did not think he would be culpable for shooting someone in the face. The

Court further held the trial court did not err by denying Simpson's motion for directed verdict and declined to address the merits of Simpson's remaining arguments.

C. *Commonwealth v. Strunk*, 718 S.W.3d 758 (Ky. 2025). Opinion of the Court by Justice Conley. All sitting. Lambert, C.J.; Bisig, Goodwine, and Keller, JJ., concur. Thompson, J., concurs in part and dissents in part by separate opinion in which Nickell, J., joins.

This appeal asked the Court to consider the proper remedy to be applied in instances where a defendant has been sentenced to an impermissible term after pleading guilty pursuant to a plea deal. Darrell Strunk was arrested for two robberies that occurred in Fayette County and indicted separately. Strunk agreed to a plea deal that reduced the charges against him in exchange for serving a total of 30-years' incarceration. Although the legality of the sentence was questioned during sentencing, Strunk was sentenced in accordance with the agreement. Eight years later, Strunk challenged his sentence via CR 60.02, arguing it violated KRS 532.110(1)(c). The trial court denied relief, finding the sentence to be legal. The Court of Appeals reversed, finding the sentence was illegal and remanding for imposition of the remaining legal portion of the sentence, 20-years' imprisonment. The Supreme Court affirmed, holding Strunk's sentence violated KRS 532.110(1)(c) because both robberies were sentenced at the same time meaning Strunk could only have been sentenced to a maximum of 20 years, the longest extended term which would be authorized by KRS 532.080. The Court further held that because Strunk sought review of only his sentence, the proper remedy was remand for imposition of the remaining legal portion of the sentence, 20 years' imprisonment. The Court explained there are two remedial paths, one to be followed where solely the sentence is under appeal and one where the conviction and sentence are appealed. As to the former, the proper remedy is vacating the illegal portion of the sentence and resentencing to the legal remainder. In the latter case, the proper remedy is remand for the opportunity to withdraw the plea and for full resentencing.

Justice Thompson concurred in part and dissented in part. He argued that merely reducing the defendant's illegal 30-year sentence unfairly rewards him, because the original plea agreement spared him from charges that carried a potential life sentence. Justice Thompson concluded the entire plea agreement must be declared void, returning both parties to their pre-plea positions to either renegotiate or proceed to trial.

D. *Buechele v. Commonwealth*, 718 S.W.3d 807 (Ky. 2025). Opinion of the Court by Justice Thompson affirming. All sitting. All concur.

An officer observed Jon Buechele jaywalking and ordered him to come to the officer. Buechele refused. The officer approached Buechele and guided Buechele back to his patrol car to issue him a citation. The officer observed Buechele discard drugs under the patrol car. Buechele filed a motion to suppress on the basis that he could not physically be seized for a minor violation and, therefore, the discovery of the drugs was fruit of the poisonous tree. The Supreme Court affirmed the Court of Appeals, which had affirmed the denial of Buechele's motion to suppress. The Supreme Court held that the officer did not violate the Fourth Amendment by using minimal force to carry out the lawful purpose of issuing Buechele a citation when he failed to voluntarily obey the officer's commands. Suppression was inappropriate where the officer had probable cause to believe a violation had occurred and had not yet issued the citation before Buechele discarded the drugs. At that point, the officer had probable cause to arrest Buechele.

E. *Brown v. Commonwealth*, 718 S.W.3d 776 (Ky. 2025). Opinion of the Court by Justice Keller affirming. All sitting. Conley, Goodwine, Nickell, and Thompson, JJ., concur. Bisig, J., concurs in result only by separate opinion in which Lambert, C.J., joins.

Isaiah Brown was convicted of murder (complicity) and first-degree robbery (complicity). He was sentenced to 22 years' imprisonment. On appeal, the Supreme Court was asked to apply KRE 803(17), the market reports exception to the hearsay prohibition, for the first time. After review, the Court affirmed Brown's convictions and held: (1) KRE 803(17) did not apply to permit a testifying detective to rely on Accurint-supplied information contained in a report to identify phone number "356" as belonging to Brown and other cell phone numbers contained within the phone's call logs as belonging to other unnamed individuals; however, the error in allowing this testimony was harmless; (2) the Commonwealth established a sufficient foundation for the introduction of text messages from the "356" phone number; (3) although the trial court erred in allowing a testifying detective to express his opinion as to the credibility of another witness's prior statements, the error did not result in manifest injustice; (4) the trial court did not abuse its discretion in admitting Brown's text message exchange with another individual pursuant to KRE 801A(b)(5); and (5) reversal is not required under the cumulative error doctrine.

Justice Bisig concurred in result only. She agreed with affirming the defendant's conviction but disagreed with the majority's conclusion that the detective's database-derived testimony regarding a phone number was hearsay. Justice Bisig argued that a computer-generated data point is not an out-of-court statement made by a human declarant and is therefore admissible and properly subject to cross-examination.

F. *Shackles v.* Commonwealth, 730 S.W.3d 832 (Ky. 2025). Opinion of the Court by Justice Keller. All sitting. Conley, Goodwine, and Nickell, JJ., concur. Bisig, J., concurs in result only by separate opinion, in which Lambert, C.J., and Thompson, J., join. Thompson, J., dissents by separate opinion.

Raiantez Shackles was convicted of two counts of first-degree assault, six counts of first-degree wanton endangerment, possession of a handgun by a felon, and of being a first-degree persistent felony offender after Shackles shot two individuals standing in the area immediately outside of their home. The Court affirmed Shackles' convictions and held: (1) the trial court did not err in declining Shackles' request for a self-defense instruction because KRS 503.050 requires that force used in self-defense be in response to "unlawful physical force by the other person," and the shots fired from Shackles' victims were lawfully justified under stand-your-ground laws; (2) while the trial court erred in permitting Sergeant Fox to testify that he obtained a phone number believed to be Shackles' from a prior police report in which a complainant had reported the number as belonging to Shackles, this error was harmless; (3) the trial court did not err in permitting the Commonwealth to play a clip from a responding officer's body camera wherein a victim identified Shackles as the shooter because the statement was an excited utterance under KRE 803(2); (4) the trial court did not err in admitting video and photographic evidence of the crime scene because the probative value of each piece of evidence was not substantially outweighed by its prejudicial effect; (5) the trial court did not err in denying directed verdicts on three charges of first-degree wanton endangerment regarding three children present inside the home at the time of the shootings because there was more than a mere scintilla of evidence to justify the charges; (6) although the trial court erred by polling the jury using gestures instead of individual questioning of each juror, the error did not result in manifest injustice; (7) the trial court did not err in permitting the victim to testify about threats Shackles made in recorded jailhouse phone calls as victim impact evidence during the sentencing phase because the testimony was inherently intertwined with the crimes in question and reflected the impact of this particular crime committed by Shackles on the victim's life.

G. *Baldwin v.* Commonwealth, 723 S.W.3d 676 (Ky. 2025). Opinion of the Court by Justice Lambert. All sitting. Bisig, Conley, and Goodwine, JJ., concur. Keller and Thompson, JJ., concur in result only. Nickell, J., concurs in result only by separate opinion, in which Thompson, J., joins.

Jason Baldwin was convicted of 68 counts of possession of matter portraying a sexual performance by a minor and one count each of first-degree rape, first-degree sodomy, distribution of obscene material to a minor, use of a minor in a sexual performance, and first-degree sexual abuse. Baldwin babysat his neighbors' four-year-old daughter for a few hours one evening. On the same night, the girl told her parents Baldwin showed her an image on his phone of two individuals engaged in oral sex and then sexually assaulted her in the same manner. The girl's parents immediately called the police who confiscated Baldwin's phone on the same night without a warrant. The police then obtained a warrant to search his phone and discovered that it contained dozens of images of child pornography, including images of a nine-year-old boy that lived in Baldwin's home. Further investigation revealed Baldwin had also been sexually assaulting the male child on a regular basis for two years.

The investigating officers were unable to perform a Cellebrite data extraction on Baldwin's cell phone because it was passcode protected. The phone was sent to Cellebrite's headquarters, and a Cellebrite employee was able to extract the raw data from it and send it back to the investigating officers. The officers ran the raw data through a different Cellebrite program that translated the data to a readable format which led to discovery of the child pornography. Baldwin argued that the Commonwealth's failure to call the Cellebrite employee who had extracted the raw data as a witness was a violation of his Sixth Amendment right to confrontation. The Supreme Court rejected that argument based on its conclusion that raw, machine extracted data, in the absence of some sort of human input or conclusion, is not hearsay. The Court reasoned that KRE 801 defines a hearsay "declarant" as "a person who makes a statement," and defines a hearsay "statement" as either "[a]n oral or written assertion" or "[n]onverbal conduct of a person, if it is intended by the person as an assertion." Thus, the machine that extracted the data did not make a hearsay statement because it is not a "person," and the Cellebrite employee that extracted the data did not make a hearsay statement because he or she simply extracted the raw data and returned it to the investigating officers. Accordingly, because the Confrontation Clause is only implicated by testimonial hearsay, Baldwin's right to confrontation was not violated.

The Court further held: (1) Baldwin failed to properly preserve his argument that his Fourth Amendment rights were violated by the police's seizure of his phone because they created the exigent circumstances upon which they relied for the seizure; (2) the photographs extracted from Baldwin's phone were properly authenticated; (3) the prosecuting attorney did not commit prosecutorial misconduct; (4) Baldwin's convictions for use of a minor in a sexual performance and possession of child pornography based on the same image did not violate his right to be free from double jeopardy; (5) Baldwin was not entitled to a directed verdict for first-degree rape; and (6) cumulative error did not occur.

H. *Stinson v. Commonwealth* 727 S.W.3d 336 (Ky. 2025). Opinion of the Court by Justice Keller. All sitting. Lambert, C.J.; Bisig, Goodwine, Nickell, and Thompson, JJ., concur. Conley, J., concurs in result only.

Landon Stinson was convicted of two counts of murder and sentenced to life imprisonment without the possibility of parole. Stinson appealed his convictions as a matter of right, and the Supreme Court held: (1) Stinson failed to meet his burden in proving that the trial court erred by failing to strike three jurors as he was unable to show that any or all of the three jurors would be unable to render a fair and impartial verdict on the evidence in accordance with RCr 9.36(1); (2) the trial court did not abuse its discretion by allowing drug-related evidence to be admitted, including evidence of Stinson's drug use in the days leading up to the murders, evidence that Stinson and one of the victims had planned to purchase drugs together on the day of the murders, and evidence of disagreements between Stinson and one of the victims which occurred only when Stinson was under the influence; (3) Stinson did not invoke his Fifth Amendment right to counsel when he stated, "I think it would probably be safe for me to have a lawyer. I kind of see where this is going."; (4) Stinson failed to meet his burden in proving the trial court abused its discretion in denying Stinson's motion for a new trial following allegations that a detective witness's behavior during witness testimony and closing arguments influenced the jury; (5) reversal is not required under the cumulative error doctrine.

I. *Brown v. Commonwealth*, 723 S.W.3d 667 (Ky. 2025). Opinion of the Court by Justice Bisig. All sitting. All concur.

William P. Brown appealed as a matter of right from a Fayette Circuit Court judgment sentencing him to life in prison on convictions for murder, receiving stolen property, being a felon in possession of a handgun, and being a second-degree persistent felony offender. The Supreme Court reversed, concluding that Brown was unduly prejudiced by the Commonwealth's failure to disclose recorded incriminating jail calls before cross-examining Brown about them. In the calls, Brown referred to a need to admit to the gun charge in order to appear not guilty on the murder charge and also expressed the view that the death of a material witness was a positive development for his case. The Court concluded that the Commonwealth's failure to disclose the calls prejudiced Brown's ability to prepare a defense because Brown 1) may not have agreed to forego bifurcation of the gun charge; 2) may have decided not to testify at trial; or 3) may have anticipatorily addressed the calls during his direct examination had he known the Commonwealth planned to use them. The Court also found that both comments by the prosecutor in *voir dire* predicting that Brown would testify and questioning during cross-examination of Brown as to why he had not previously told his story of the events violated Brown's right to remain silent. Finally, the Court further concluded that the admission of hearsay statements by an out-of-court witness regarding the authorship of a potentially incriminating handwritten note also violated Brown's rights under the Confrontation Clause. The Court therefore reversed Brown's conviction and remanded for a new trial.

J. *Lawless v. Commonwealth,* 724 S.W.3d 679 (Ky. 2025). Opinion of the Court by Justice Thompson. All sitting. Lambert, C.J.; Conley, Goodwine, and Nickell, JJ., concur. Bisig, J., dissents by separate opinion in which Keller, J., joins.

During jury deliberations in a double murder trial, a juror informed the rest of the jury about a television news report stating the presiding judge had arrested the Commonwealth's key witness for perjury. The jury reported this information to the trial court after a different juror indicated they could no longer "make a decision truthfully." One of the affected jurors was ultimately excused by the trial court, an alternate appointed, and Kevon Lawless was convicted of both murders and sentenced to life in prison. The Supreme Court reversed Lawless's convictions determining that the substance of the extra-judicial information received by the jury caused a structural error where prejudice was presumed. The Court also determined that the Commonwealth could not, on retrial, again seek the death penalty against Lawless since the first jury had determined the death penalty was inappropriate, citing to *Brown v. Commonwealth*, 313 S.W.3d 577 (Ky. 2010), wherein the Court adopted the U.S. Supreme Court's ruling in *Bullington v. Missouri*, 451 U.S. 430 (1981). Justice Bisig dissented. She agreed that error occurred but would have affirmed based on the remedial steps taken by the trial court and the totality of the evidence supporting Lawless's conviction.

K. *Sweet v. Commonwealth,* 2024-SC-0002-MR, 2025 WL 2998577 (Ky. Oct. 23, 2025). Opinion of the Court by Justice Keller. All sitting. All concur with the exception of Part II (a) in which Keller, Bisig, and Goodwine, JJ., concur. Conley, J. concurs in result only by separate opinion which Lambert, C.J.; Nickell, and Thompson, JJ., join. Thompson, J., concurs in result only by separate opinion which Conley, J., joins. Review denied and opinion ordered depublished February 19, 2026.

Gary Sweet was convicted of first-degree rape, Class B incest, and being a first-degree persistent felony offender. Sweet appealed his convictions as a matter of right. Issues presented to the Supreme Court included: (1) whether it was error for the jury instructions to include elements that did not constitute the crimes charged and whether Sweet's jury instruction arguments were waived because he submitted jury instructions that contained the same errors he now complains of; (2) whether the trial court abused its discretion when it failed to strike a juror whose answers to *voir dire* questions were ambiguous and open to multiple interpretations; and (3) whether it was reversible error for an intellectually disabled adult victim's grandmother to sit near the witness box during the victim's testimony. Justice Conley, by separate opinion, concurred with the result but argued that the appellant waived the right to challenge the jury instructions by having proposed substantially similar ones at trial. He pointed to a century of Kentucky precedent that firmly establishes this "invited error" doctrine and warns against devolving the Court's approach on this issue to one that forces trial courts to choose between differing lines of jurisprudence. Justice Thompson, by separate opinion, concurred in result only writing that palpable error review was inappropriate for this invited error of incorrect jury instructions, and Sweet still has the option of pursuing a claim of ineffective assistance of counsel through RCr 11.42.

L. *Masters v. Commonwealth*, 724 S.W.3d 751 (Ky. 2025). Opinion of the Court by Justice Conley. All sitting. Lambert, C.J.; and Goodwine, J., concur. Thompson, J., concurs in result only. Nickell, J., concurs in part and dissents in part by separate opinion which Bisig and Keller, JJ., join.

The convictions of Joseph Masters for murder and four counts of unlawful imprisonment were affirmed. The conviction for first degree burglary was reversed. In this case, after being at a party for several hours, Joseph Masters and his wife went home. Upon arriving home, Maters's wife became hysterical and alleged that three men had raped her at the party just before leaving. Masters called two of his friends, and the trio went back to the trailer (which Masters claimed to have leased by oral agreement) whereupon they woke the sleeping occupants, made them strip naked, and Masters began to torture them while demanding they admit to raping his wife. None of the three men admitted to anything. One hostage eventually found an opportunity to attack Masters with a knife. A struggle ensued, and Masters killed the hostage.

The Supreme Court held Masters was not entitled to a self-defense instruction because by going into the trailer and taking hostages at knife and gunpoint, with armed accomplices, and torturing them, he created a dangerous environment with deadly physical force. The hostage was allowed to defend himself with deadly force until the danger was terminated either by the death, subjugation, or flight of all three assailants. Masters created the deadly scenario, and he cannot claim self-defense when he had to fight his way out of it. Second, the Court held there was no palpable error in the testimony of a police detective who testified there was no foreign DNA found on Masters' wife at the hospital the morning after the alleged attack so there was no physical evidence to prove the three hostages had raped her. The parties agreed this testimony was error and the Court affirmed. Nonetheless, because the error was a procedural technicality – the nurse who performed the rape kit should have testified – the Court found no palpable error as the substance of the testimony was not irrelevant and Masters' defense was extreme emotional disturbance, for which he received a jury instruction. Third, the Court reversed the conviction for first-degree burglary as Masters put forth plausible evidence that he had an oral agreement to lease the trailer and, therefore, he had a plausible claim to have a right to enter the property. The Commonwealth sought to counter this argument by submitting a copy of a lease agreement allegedly obtained from the decedent's family purporting to show he had a lease to the trailer. The copy of the lease had incongruous dates and no landlord's signature. The Court held admitting the copy into evidence violated KRE 1001-1004 as the Commonwealth did not demonstrate it had conducted a diligent search for the original lease nor had it demonstrated the landlord was unavailable to testify as to the circumstances of how the original lease was lost. Finally, the Court found no error in the trial court's procedure when it heard Masters' counsel's motion to withdraw. Masters argued case law required the trial court to follow a certain procedure, but the Court clarified that was not true. It affirmed the trial court's denial of the motion to withdraw, finding it was not an abuse of discretion.

Justice Nickell, by separate opinion, argued that the trial court did not abuse its discretion by admitting a copy of a lease because the rules of evidence grant judges broad authority to determine if an original document is adequately proven lost, including through the use of hearsay. Consequently, he concluded that strict common law requirements for proving a document's loss are not absolute and would therefore affirm the defendant's conviction and sentence in full.

M. *Jones v. Commonwealth,* 724 S.W.3d 695 (Ky. 2025). Opinion of the Court by Justice Nickell. All sitting. Lambert, C.J.; Bisig, Conley, and Keller, JJ., concur. Goodwine and Thompson, JJ., concur in result only.

Jones was charged with murder, kidnapping (resulting in the victim's death), abuse of a corpse, and tampering with physical evidence. The Breckenridge Circuit Court granted Jones bail over the Commonwealth's objection. The Court of Appeals reversed and remanded upon concluding Jones was charged with a capital offense and §16 of the Kentucky Constitution and RCr 4.02(1) prohibit the granting of bond to persons so charged. The Supreme Court granted discretionary review to address whether a criminal defendant charged with a capital crime is eligible for bond under our Constitution and criminal rules when a sentence of death is not statutorily available or when the Commonwealth expresses its intent to forego seeking the death penalty. During the pendency of the appeal, Jones accepted a negotiated plea agreement and was sentenced in accordance therewith. The Commonwealth moved to dismiss the appeal as moot. Jones opposed dismissal, asserting the public interest exception to the mootness doctrine applied and urging for a decision on the merits. The Supreme Court analyzed whether to apply the exception using the three-part test set forth in *Morgan v. Getter*, 441 S.W.3d 94, 102 (Ky. 2014). Concluding only two of the three mandatory elements were present, the Court held the exception was inapplicable. Because determination of the question presented on discretionary review was rendered unnecessary when Jones was finally sentenced and any resulting opinion by the Court would be ineffectual and merely advisory, the Supreme Court was constrained to vacate the opinion of the Court of Appeals and dismiss the appeal as moot.

N. *Hernandez Mendez v. Commonwealth*, 733 S.W.3d 332 (Ky. 2025). Opinion of the Court by Justice Nickell. All sitting. Lambert, C.J.; Bisig, Goodwine, Keller, Nickell, and Thompson, JJ., concur. Conley, J., concurs in result only.

Hernandez Mendez was convicted of three counts of sodomy in the first degree, two counts of sexual abuse in the first degree, and one count of distribution of obscene matter to a minor, for crimes committed against his girlfriend's six-year-old daughter. After receiving a sentence of 20 years' imprisonment, he appealed as a matter of right raising four allegations of error. The Supreme Court affirmed. Hernandez Mendez first challenged testimony adduced by two of the Commonwealth's witnesses. He argued the investigating detective was improperly permitted to testify regarding child sexual abuse accommodation syndrome (CSAAS), and the child victim's treating physician exceeded the limits of a fact witness under KRE 701 when she offered medical opinions. The Supreme Court reviewed the testimony and concluded no error occurred. The detective's statements related solely to explaining actions taken during the investigation to rebut the defendant's inferences that the investigation was unreliable or incomplete. The detective's testimony did not compare the victim to others, imply she acted similarly to other victims in similar circumstances, or offer an opinion as to her credibility. Thus, the testimony could not be classified as impermissible CSAAS testimony and was properly admitted.

Likewise, the Supreme Court concluded the physician's testimony was not improper as it was based solely on her personal observations and actions as a treating physician. She was qualified to make the fleeting statements relative to the anatomical makeup of anal tissues and the impact thereof on a physical examination. No medical opinions were given and therefore no violation of KRE 701 occurred. The Supreme Court also rejected Hernandez Mendez's assertion that a failure of proof entitled him to a directed verdict on the charge of distribution of obscene matter to a minor. Although the child victim's description of videos shown to her by Hernandez Mendez was vague, more than a scintilla of evidence was produced that the videos were pornographic and depicted sexual acts similar to those perpetrated upon the victim by Hernandez Mendez. Taken in the light most favorable to the Commonwealth, the evidence was sufficient to overcome a directed verdict motion.

For his third allegation of error, Hernandez Mendez asserted the Commonwealth was improperly permitted to introduce inadmissible other bad acts evidence including his physical abuse of the twins and their mother, drugging the mother with a foul-smelling chemical sprayed on a sock, and giving the victim preferential treatment. Specifically, he contended the Commonwealth's notice of its intent to introduce the evidence was untimely and further that none of the evidence was relevant. Here, because the Commonwealth provided the proposed evidence in discovery many months before trial and Hernandez Mendez filed a motion *in limine* challenging its admission, no violation of the "reasonable notice" requirements of KRE 404(c) occurred. In addition, upon review of the evidence, all was deemed relevant as it tended to give the jury a complete and unfragmented picture of the crimes and investigation.

Finally, the Supreme Court determined no error occurred in the trial court's refusal to instruct the jury on sexual abuse in the first degree as a lesser-included offense to two of the sodomy charges. Hernandez Mendez argued the jury could have concluded he merely touched the victim's anus, but no penetration occurred, thereby justifying the additional instructions. The Supreme Court noted penetration is not a requirement under the sodomy statute, and the proof was otherwise insufficient to warrant the giving of the requested lesser-included instructions.

O. *Hartsfield v. Commonwealth*, 730 S.W.3d 878 (Ky. 2025). Opinion of the Court by Justice Thompson. All sitting. Lambert, C.J.; Conley, Goodwine, and Nickell, JJ., concur. Bisig and Keller, JJ., concur in result only without separate opinion.

The Supreme Court concluded it could properly review an evidentiary ruling regarding a police body camera video recording which was not made part of the record because its analysis of a pure legal issue could properly be conducted without reviewing the video. The Court ruled that as a matter of law: "if the statements contained [in such a recording] would not be appropriately admitted if testified to by a sworn witness at trial under our evidentiary rules, they cannot be admissible simply because they were recorded." The Court further ruled that it was improper for a trial court to require admission of a full video recording into evidence for "completeness." If any portion of a recording is requested to be admitted into evidence, the admissibility of the recording must be governed by the Kentucky Rules of Evidence and any portions of the recording that are inadmissible must be excluded.

P. *Hernandez v. Commonwealth*, 730 S.W.3d 923 (Ky. 2026). Opinion of the Court by Justice Nickell. All sitting. Lambert, C.J.; Bisig, Conley, Goodwine, and Thompson, JJ., concur. Keller, J., concurs in result only.

Hernandez entered a conditional guilty plea to two counts of murder and one count of tampering with physical evidence wherein he reserved the right to appeal from the denial of his pretrial suppression motion. He received a negotiated sentence of 25 years' imprisonment and subsequently appealed, raising three allegations of error. The Supreme Court affirmed. Hernandez first asserted his warrantless arrest was purely investigatory, unsupported by probable cause, and was therefore unlawful. He argued the investigating officers had little more than a hunch he was the shooter, so they intentionally bypassed the warrant procedure to avoid scrutiny. The Supreme Court concluded no absolute requirement exists for a police officer, in the absence of exigent circumstances, to procure an arrest warrant before placing a suspect in custody. Indeed, a police officer is statutorily permitted to effectuate a warrantless arrest "when he or she has probable cause to believe that the person being arrested has committed a felony[.]" KRS 431.005(1)(c). The Supreme Court reviewed the evidence adduced at the suppression hearing, concluded the arresting officer possessed sufficient probable cause to arrest Hernandez, and discerned no abuse of discretion by the trial court in so finding. Based upon the holding that Hernandez had been lawfully arrested, the Supreme Court summarily rejected Hernandez's argument relative to the illegality of the search of his person incident to his arrest. The search was constitutionally permissible as it flowed naturally from the lawful arrest, and suppression was unwarranted. Finally, Hernandez contended his confession should have been suppressed as the fruit of an illegal arrest. In the alternative, he argued suppression was required as he did not validly and voluntarily waive his *Miranda* rights. As before, the Supreme Court swiftly rejected the argument grounded on the alleged illegality of Hernandez's arrest. Turning to the voluntariness of his confession, the Supreme Court noted Hernandez was informed of his rights, admitted he understood them, and never requested an attorney before proclaiming to be the shooter. He raised no allegation he was coerced to waive his rights or offer a confession. Rather, he asserted he was not presented with sufficient information by police upon which to make an informed and voluntary decision. Upon review of the record, and based on the totality of the circumstances, the Supreme Court concluded the confession was voluntary, knowing, and intelligent and that no violation of *Miranda* occurred. Because the confession was constitutionally sound, suppression was unwarranted.

Q. *Commonwealth v. Amboree*, 730 S.W.3d 887 (Ky. 2026). Opinion of the Court by Justice Conley. All sitting. Lambert, C.J.; Goodwine, and Thompson, JJ., concur. Nickell, J., dissents by separate opinion in which Bisig and Keller, JJ., join.

In a split decision, the Supreme Court held KRS 218A.1415(2)(a) does not allow any sentence for a conviction under that statute beyond three years. Justice Conley authored the majority opinion and was joined by Chief Justice Lambert, and Justices Goodwine and Thompson. Justice Nickell authored a dissent, joined by Justices Bisig and Keller. Russell Amboree was convicted by a jury of two counts of possession of a controlled substance, first degree under KRS 218A.1415(1). The jury recommended consecutive sentencing for three years each for a total of six years. The trial court imposed the recommended sentence over Amboree's objection that KRS 218A.1415(1) only authorized a three-year sentence. The text of the statute reads: "possession of a controlled substance in the first degree is a Class D felony subject to the following provisions: The maximum term of incarceration shall be no greater than three (3) years, notwithstanding KRS Chapter 532[.]"

The Court held this language was unambiguous and categorically excluded any application of any provision of KRS Chapter 532 if that application would increase the sentence beyond three years. The Court rejected the Commonwealth's argument that consecutive sentencing was authorized under KRS 532.110(1), or that the theoretical maximum sentencing limit was authorized under KRS 532.110(1)(c). Both those provisions are found in KRS Chapter 532 and applying them would increase the sentence beyond three years. The Court summarized its holding thusly: "We simply will not read 'notwithstanding KRS Chapter 532' to mean 'notwithstanding KRS Chapter 532 except for KRS 532.110(1)(c)' as the Commonwealth essentially implores us to do." Amboree's sentence was reversed, and the case was remanded to the trial court for resentencing.

R. *Moore v. Commonwealth*, 730 S.W.3d 868 (Ky. 2026). Opinion of the Court by Justice Nickell. All sitting. All concur.

Moore pled guilty to fourth-degree driving under the influence of drugs, second-degree driving on a DUI-suspended license while under the influence, and of being a second-degree persistent felony offender. The Supreme Court vacated Moore's original sentence and remanded for resentencing.

S. *Commonwealth v. Moore*, 664 S.W.3d 582 (Ky. 2023).

On remand, the trial court resentenced Moore to a total sentence of 20 years' imprisonment. Moore raised two claims of error on direct appeal: (1) he was not competent for resentencing under KRS 504.090; and (2) his 20-year sentence was illegal. After reviewing the record and case law, the Supreme Court held the trial court properly found Moore to be competent for resentencing. The Supreme Court noted medical evidence that he had been restored to competency and had substantial capacity to appreciate the nature and consequences of the resentencing proceedings against him. Moreover, there was no indication that Moore became non-compliant with his medication. Furthermore, Moore's demeanor at the resentencing hearing heavily contrasted with his demeanor at prior proceedings. Relative to the propriety of the sentence, the Supreme Court held the trial court fully complied with the mandate on remand and was not otherwise bound by the terms of the original judgment. Additionally, the Supreme Court observed Moore's total 20-year sentence did not exceed the statutory cap for Class D felonies as set forth in KRS 532.110(1)(c).

T. *Gibbs v. Commonwealth*, 733 S.W.3d 204 (Ky. 2026). Opinion of the Court by Justice Goodwine. All sitting. All concur.

In an opinion authored by Justice Goodwine, the Supreme Court affirmed Gibbs' conviction of various sex crimes. Gibbs argued the trial court abused its discretion by denying his motion to sever the counts related to each of the three victims and by allowing one of the victims, his biological daughter, to testify by closed circuit television. The Court rejected Gibbs' attempt to distinguish his crimes against the three victims and found the similarities among the offenses were sufficient to show a common scheme and logical relationship. Therefore, the trial court did not abuse its discretion by denying Gibbs' motion to sever. The Court also held the trial court did not abuse its discretion by allowing the victim to testify by closed circuit television under KRS 421.350. The victim was 11 years old at the time of Gibbs' crimes and 14 years old at the time of trial. Gibbs argued KRS 421.350 was inapplicable because she was over the age of 12 at the time of trial. In holding that the victim could testify via closed circuit television because she was under 12 at the time of the offenses and remained a minor at the time of trial, the Court reaffirmed the reasoning of *Danner v. Commonwealth*, 963 S.W.2d 632 (Ky. 1998), and overruled *Sparkman v. Commonwealth*, 250 S.W.3d 667 (Ky. 2008), and *Walker v. Commonwealth*, 548 S.W.3d 250 (Ky. 2018), to the extent that they conflict with *Danner*. The Court further found the trial court did not abuse its discretion in finding there was a compelling need for the victim to testify via closed circuit television under KRS 421.350(2).

U. *Commonwealth v. H.M.*, 733 S.W.3d 211 (Ky. 2026). Opinion of the Court by Chief Justice Lambert. Lambert, C.J.; Bisig, Conley, Keller, Nickell, and Thompson, JJ., sitting. Bisig, Conley, Nickell, and Thompson, JJ., concur. Keller, J., concurs in part and dissents in part without separate opinion. Goodwine, J., not sitting.

H.M., who suffered from schizophrenia, was deemed incompetent to stand trial for the murder of his live-in caretaker. He was thereafter involuntarily committed to the Kentucky Correctional Psychiatric Center pursuant to KRS Chapter 202C. On appeal to the Kentucky Supreme Court, H.M. argued the circuit court abused its discretion by not finding him legally insane at the time of the offense at the conclusion of the initial evidentiary hearing permitted by KRS 202C.030. The Court held: 1) the circuit court did not abuse its discretion by finding the opinion of the Commonwealth's expert witness on the issue of insanity to be more credible than the defense's expert witnesses' opinions, as the Commonwealth's expert was the only expert witness that reviewed video footage of H.M. from the day of the offense; 2) the circuit court did not abuse its discretion in refusing to consider two lay witnesses' observations of H.M. close in time to the offense as evidence of insanity; 3) the circuit court did not abuse its discretion by finding that H.M. did not meet either prong of the insanity defense requirements; and 4) any error committed by the circuit court in considering H.M.'s invocation of his Fifth Amendment rights as evidence of his sanity was harmless.

V. *Jones v. Commonwealth*, 733 S.W.3d 292 (Ky. 2026). Opinion of the Court by Justice Conley. All sitting. Lambert, C.J.; Bisig, Goodwine, Nickell, and Thompson, JJ., concur. Keller, J., concurs in result only without separate opinion.

Appellant, Paul Jones, appealed as a matter of right from a Bath Circuit Court judgment convicting him of first-degree trafficking in a controlled substance, first offense, and of being a first-degree persistent felony offender. The Supreme Court reversed and remanded for a new trial, holding that Jones's conviction-related appeal was properly before the Court, and the Commonwealth committed palpable prosecutorial misconduct by violating *Moss v. Commonwealth*, 949 S.W.2d 579 (Ky. 1997), during Jones's cross-examination. The Commonwealth's proof centered on a controlled buy involving a confidential informant who entered Jones's residence and later emerged with methamphetamine. Because police did not observe what occurred inside the residence, the central factual dispute was whether Jones or someone else sold the methamphetamine. Jones testified that he did not sell drugs to the informant, and the defense attacked the informant's credibility based on his DUI arrest, probationary status, apparent possession of a controlled substance, lack of charges arising from that substance, and limited role as an informant. During cross-examination, however, the prosecutor repeatedly required Jones to characterize the informant's testimony as fabricated or untruthful, asking questions such as whether the informant "just made that up" and whether he was "not telling the truth." The Court held that those questions violated *Moss* because they forced one witness to opine directly on another witness's truthfulness. Although the issue was unpreserved, the Court held that the misconduct was palpable under RCr 10.26. The case turned on the credibility contest between Jones and the confidential informant concerning the unobserved transaction inside the residence, and the improper questioning was concentrated in a short cross-examination aimed at that central issue. The Court concluded the misconduct created a substantial possibility that the verdict was affected. Because it reversed the conviction and remanded for a new trial, the Court did not reach Jones's separate argument that the circuit court improperly amended his sentence from 10 years to 20 years.

W. *R.L.P. v. Commonwealth*, 733 S.W.3d 265 (Ky. 2026). Opinion of the Court by Chief Justice Lambert. All sitting. Bisig, Goodwine, Keller, Nickell, and Thompson, JJ., concur. Conley, J., dissents by separate opinion.

R.L.P., who suffers from schizophrenia, was deemed incompetent to stand trial for the murder of his father. He was thereafter involuntarily committed to the Kentucky Correctional Psychiatric Center pursuant to KRS Chapter 202C. On appeal to the Supreme Court, he asserted the KRS Chapter 202C commitment process violated the federal Due Process and Equal Protection Clauses and was passed by the General Assembly in a manner that violated Sections 46 and 51 of the Kentucky Constitution. The Court first held the KRS Chapter 202C commitment process does not violate due process. Although the initial, waivable evidentiary hearing under KRS 202C.030 is not heard by a jury and requires the court to determine the respondent's "guilt" of the underlying offense by a preponderance of the evidence, the ultimate commitment hearing under KRS 202C.040 requires the elements of commitment listed in KRS 202C.050 to be proven beyond a reasonable doubt and can be decided by a jury if the respondent so chooses. Additionally, the elements of commitment in KRS 202C.050 require a finding of dangerousness coupled with a mental condition in accordance with *Kansas v. Hendricks*, 521 U.S. 346 (1997). The Court further rejected R.L.P.'s argument that KRS 202C.030's evidentiary hearing required the adjudication of an incompetent person's guilt of a crime because KRS Chapter 202C is a civil commitment process and not a criminal adjudication. The Court next rejected R.L.P.'s argument that KRS Chapter 202C violates the Equal Protection Clause by creating an aggravated or enhanced commitment system reserved solely for individuals deemed incompetent to stand trial. It reasoned that the precedents he relied upon – *Baxstrom v. Herold*, 383 U.S. 107 (1966), *Jackson v. Indiana*, 406 U.S. 715 (1972), and *Foucha v. Louisiana*, 504 U.S. 71 (1992) – were distinguishable, and the involuntary commitment proceedings under both KRS Chapters 202A and 202B can also be triggered by a defendant's incompetence to stand trial. Last, the Court held the passage of HB 310, which was enacted as KRS Chapter 202C, violated neither the three readings requirement of Section 46 of the Kentucky Constitution, nor Section 51's requirement that a bill's title must relate to its subject matter.

III. FAMILY LAW

Lemaster v. Stiltner, 718 S.W.3d 840 (Ky. 2025). Opinion of the Court by Justice Thompson reversing and remanding. Lambert, C.J.; Bisig, Goodwine, Keller, Nickell, and Thompson, JJ., sitting. Lambert, C.J.; Bisig, and Goodwine, JJ., concur. Nickell, J., dissents by separate opinion in which Keller, J., joins. Conley, J., not sitting.

David Lemaster cohabitated with the child's grandmother Denise, and together they raised child from birth. Child was removed from her parents due to a dependency, neglect, and abuse case, which was resolved when the parents granted Denise permanent custody of the child. Denise also qualified as the child's *de facto* custodian. The child's mother, Kendra Stiltner, engaged in litigation against Denise for several years, and Kendra had been granted unsupervised visitation. After Denise died, Lemaster sought to intervene in the custody case and requested temporary emergency custody and permanent custody of child on the basis that he was child's joint *de facto* custodian along with Denise, and that it was in child's best interest to remain with him. The family court disagreed that Lemaster had standing and awarded custody to Kendra without an evidentiary hearing. The Court of Appeals affirmed on the basis that the motion to intervene was untimely and that Lemaster could not gain *de facto* status alongside Denise.

The Supreme Court reversed, concluding the trial court should have granted Lemaster's motion to intervene, holding that, as a matter of law, Lemaster could gain *de facto* status alongside Denise where they were acting together as child's parents in one household. Based on such potential status and the procedural posture of the custody case, intervention was appropriate. Accordingly, Lemaster sufficiently established he has standing to pursue custody of child and pled a sufficient basis for custody or visitation based on being child's *de facto* custodian. On remand, the family court is required to hold an evidentiary hearing to determine whether Lemaster can establish his status as child's *de facto* custodian, and if so, the family court should consider the type of custody, timesharing, or visitation arrangements that are in the best interest of child.

Justice Nickell dissented. He would have affirmed on the basis that Lemaster's motion to intervene was untimely as a threshold matter. Justice Nickell also opined that the lower courts correctly rejected Lemaster's claim for standing as a *de facto* custodian, albeit for different reasons.

IV. LAWYER DISCIPLINE

A. *In Re Barrett*, 718 S.W.3d 916 (Ky. 2025). Opinion and Order. All sitting. Lambert, C.J.; Conley, Goodwine, Nickell, and Thompson, JJ., concur. Keller, J., concurs in result only. Bisig, J., dissents without separate opinion.

Pursuant to SCR 3.480(2), Barrett moved the Court to enter an order resolving the pending disciplinary proceedings against her by imposing a suspension from the practice of law for 30 days, probated for one year with conditions. The motion was based on Barrett's admitted violations of two counts of SCR 3.130(3.4)(f) and one count of SCR 3.130(8.2)(a). The Court considered Barrett's limited disciplinary history of one private admonition issued in November 2024, her acknowledgment of the wrongfulness of her actions, and the comparable cases of *Kentucky Bar Ass'n v. Blum*, 404 S.W.3d 841, 850 (Ky. 2013) and *Kentucky Bar Ass'n v. Waller*, 929 S.W.2d 181 (Ky. 1996). Based on these considerations, the Court held that the negotiated sanction was adequate and suspended Barrett for 30 days, probated for one year, with conditions.

B. *In Re Myles,* 718 S.W.3d 923 (Ky. 2025). Opinion and Order. All sitting. All concur.

Travis Olen Myles, Jr., applied for reinstatement to practice law after being disciplined in three separate Supreme Court cases, resulting in a total suspension of

393 days from 2009-2014. He did not seek reinstatement until March 2023. These cases involved improper use of his escrow account, failure to adequately respond to clients' requests for information or their files, failure to honor a partnership agreement, and failure to promptly prosecute client claims, including missing important deadlines. Myles testified that when he was in private practice, he was overwhelmed and did not manage his business properly, especially when dealing with clients and cases. Additionally, it was concerning that Myles did not inform his current employer, the Social Security Administration (SSA), of his suspension from practicing law, despite his position requiring bar licensure in good standing. When SSA discovered that he was not in good standing, it issued an immediate order for him to seek reinstatement. Myles ignored this directive for two years and lied to SSA several times about his efforts to seek reinstatement. The Character and Fitness Committee recommended that Myles not be reinstated, and Myles did not file a notice of appeal with the Board of Governors. The Court declined further review and adopted the Committee's recommendation, finding that Myles had failed to demonstrate the necessary character, fitness, and moral qualifications for readmission to practice law, as outlined in SCR 3.503. The Court also determined that even if Myles had met the requirements, his failure to follow this Court's order to repay a former partner's estate prevents his reinstatement.

C. *In Re Miller*, 718 S.W.3d 736 (Ky. 2025). Opinion and Order. All sitting. All concur.

Office of Bar Counsel filed a motion for indefinite suspension of John N. Miller pursuant to SCR 3.167. Miller was paid a $5,000 retainer for his services on August 31, 2023. Two weeks later, on September 13, 2023, Miller's services were terminated with a demand that the retainer be returned. Miller has yet to return the money. Miller represents in his response that he has, since February 2023, been transient due to a divorce and substance abuse disorder and has lived at four different addresses. Since September 2024, he has lived with his father, for whom he provides care due to cancer, and has worked with KYLAP to treat and manage his substance abuse. Nonetheless, Miller accepted responsibility in his response and promised to cooperate with Bar Counsel to resolve this case. Because of the confluence of life-changing factors in Miller's life, as well as his acceptance of responsibility and promise of cooperation, the Court unanimously denied the motion for indefinite suspension. The Court added, however, that a new motion could be entertained if Miller proved uncooperative in the future.

D. *In re Lamb*, 723 S.W.3d 735 (Ky. 2025). Opinion and Order. All sitting. All concur.

Darren Craig Lamb was publicly reprimanded as reciprocal discipline pursuant to SCR 3.435. While in Tennessee, Lamb was the subject of a no-contact order which he repeatedly violated. He filled out a civil warrant form and posted it to his former romantic partner's address, leading that person to falsely believe she was being sued by Lamb. Lamb was then charged for harassment, stalking, and contempt. He pleaded no contest and was granted judicial diversion. Reciprocal discipline of a public reprimand is appropriate for the underlying conduct and consistent with prior disciplinary cases; therefore, a public reprimand was issued against Lamb.

E. *In re Roberts*, 723 S.W.3d 706 (Ky. 2025). Opinion and Order. All sitting. All concur.

Pursuant to SCR 3.480, Roberts moved the Court to enter an order resolving the pending disciplinary proceedings against him by imposing the sanction of a public reprimand with conditions. The proposed sanction was negotiated between Roberts and the Kentucky Bar Association based on his admitted violations of two counts of SCR 3.130(1.16)(d), one count of SCR 3.130(1.5)(f), one count of SCR 3.130(1.5)(b), and one count of SCR 3.130(1.15)(a) and (b). In negotiating the sanction, the KBA considered the aggravating factors of Roberts' prior discipline of a private admonition in 2002 and 2011 and a public reprimand in 2020, his substantial experience in the practice of law, and the vulnerability of his victims. It also considered the mitigating factors of Roberts' full cooperation throughout the disciplinary proceedings, his positive reputation both within and outside of the legal community, his expressed remorse, and the sparseness of his prior discipline over his more than 30-year legal career. It further considered his numerous and worsening medical conditions and his stated intention, due to those medical conditions, to wind down his legal practice and retire. Upon consideration of the facts of the disciplinary action, the aggravating and mitigating factors, and the comparable cases of *Kentucky Bar Ass'n v. Thornton*, 279 S.W.3d 516 (Ky. 2009), *Lutes v. Kentucky Bar Ass'n*, 338 S.W.3d 278 (Ky. 2011), and *Kentucky Bar Ass'n v. Delahanty*, 878 S.W.2d 795 (Ky. 1994), the Court concluded that the proposed sanction was appropriate. It therefore issued a public reprimand with conditions against Roberts.

F. *In re Edmundson*, 723 S.W.3d 739 (Ky. 2025). Opinion and Order. All sitting. Lambert, C.J.; Bisig, Conley, Goodwine, Keller and Nickell, JJ., concur. Thompson, J., concurs in result only.

The Board of Governors recommended Colin Edmundson be suspended from the practice of law for 181 days for misconduct in several underlying cases. Despite being served, Edmundson has never participated in the disciplinary process. The Supreme Court agreed to impose the 181-day suspension. In the first case, Edmundson had been appointed guardian *ad litem* for three children. Without visiting or contacting the father, he filed a motion to sever visitation between father and his children. The motion consisted of two sentences, one of which was incomplete. In the second case, Edmundson failed to file suits for two clients within the statute of limitations. He also failed to maintain contact with these clients. In the third case, he was retained to send a letter and make a phone call to State Farm Insurance Company. He failed to do either and did not maintain contact with the client. In a fourth case, he was retained to file a RCr 11.42 motion which he failed to do and did not maintain contact with the client or refund the retainer when demanded. Similarly, he did not return a retainer after failing to help a client with a family law matter. Suspension for 181 days, as well as being ordered to refund the monies identified and owed, is a consistent with prior case law. The Supreme Court ordered the punishment imposed. All justices concurred except for Justice Thompson, who concurred in result only.

G. *Calmes v. Kentucky Bar Association*, 724 S.W.3d 705 (Ky. 2025). Opinion and Order. All sitting. All concur.

Nicholas Scott Calmes moved the Court to enter a negotiated sanction to resolve a pending 2025 disciplinary proceeding against him, in which the Inquiry Commission issued a three-count charge alleging violations of SCR 3.130(1.1), (3.3)(a)(1), and (8.4)(c). Calmes proposed a 181-day suspension, with 50 days to serve and the balance probated for two years, to which the KBA did not object. The proposed sanction was to address Calmes' conduct in 1) inadequately serving parties in a dependency, neglect, and abuse (DNA) proceeding; and 2) submitting a motion which declared the parties had reached an agreed order of dismissal when in fact no agreement was reached. The Court concluded that case law supported the negotiated sanction. However, in proposing the sanction, Calmes specifically requested that the suspension run concurrent to any discipline imposed in a separate 2024 disciplinary matter. In the 2024 disciplinary case, the Court accepted a negotiated sanction to resolve two pending disciplinary matters against Calmes, imposing a 30-day suspension, probated for two years, with the condition that Calmes would not have any other disciplinary charges filed against him. Because the DNA case misconduct precipitating the 2025 bar complaint occurred during the two-year probationary period, Calmes thus violated a condition of his probated suspension. Therefore, while the Court held that the proposed sanction was adequate, it required the sanction to run consecutively to the sanction imposed in the 2024 disciplinary matter. Accordingly, the Court ordered that Calmes be suspended for 181 days, with 50 days to serve, and that the remaining 131-day balance be probated for two years, with conditions. Because Calmes violated the disciplinary conditions set forth in the 2024 disciplinary matter, the Court also imposed a 30-day suspension to run consecutively to the 50-day suspension, resulting in a total of 80 days' suspension to serve.

H. *In re Grinnell,* 724 S.W.3d 691 (Ky. 2025). Opinion and Order. All sitting. Lambert, C.J.; Conley, Goodwine, Keller, Nickell, and Thompson, JJ., concur. Bisig, J., dissents by separate opinion.

This appeal addressed the reinstatement of an attorney previously subject to a two-year suspension from the practice of law and the conditions attendant to his reinstatement. The case originated in 2020 when the Court suspended Grinnell for two years following 53 counts of professional misconduct. Although Grinnell initially violated two conditions of his sanction, extending his suspension until July 2022, he ultimately achieved full compliance by returning unearned fees, paying court costs, and completing required ethics and management courses. Grinnell applied for reinstatement in 2024. After a delay of nearly one year for the Office of Bar Counsel to complete its investigation, the Character and Fitness Committee voted to reinstate him. The KBA and Grinnell then filed a joint recommendation for reinstatement. The Supreme Court reviewed the recommendation and agreed to reinstate Grinnell. Noting that Grinnell had apologized to past clients, demonstrated a professional work ethic as a paralegal, and maintained a clean disciplinary record since the extension, the Court found him rehabilitated and of good moral character. To prevent future misconduct, Grinnell's reinstatement is strictly conditioned upon a

24-month mentorship under two attorneys, who will submit quarterly compliance reports, and any failure to cooperate with this oversight risks further conditions or license revocation.

Justice Bisig's dissent argued against reinstating Grinnell because his actual time suspended has exceeded five years, triggering a mandatory bar examination under SCR 3.503(6). This requirement does not hinge on the term of suspension originally imposed but focuses on the total time away from the profession, ensuring that returning attorneys remain legally competent.

I. *In re McLaughlin*, 727 S.W.3d 381 (Ky. 2025). Opinion and Order. All sitting. All concur.

The Office of Bar Counsel sought to indefinitely suspend Arthur Joseph McLaughlin, III, from the practice of law pursuant to SCR 3.167 because he failed to file an answer to a charge as required by SCR 3.164. The Court exercised its discretion to deny OBC's motion for indefinite suspension as McLaughlin responded to the motion and provided a feasible basis for why he did not promptly answer the charge, and has now thoroughly responded to the charge, attempted to make amends for his prior neglect, and made assurances of future cooperation. The Court remanded for further disciplinary proceedings.

J. *In re Gale*, 727 S.W.3d 389 (Ky. 2025). Opinion and Order. All sitting. All concur.

Marcus Daniel Gale has been indefinitely suspended from the practice of law in Kentucky since June 13, 2024, after being administratively suspended on January 19, 2024, for failing to pay his bar dues and fulfill his CLE requirements. The KBA filed four separate disciplinary actions against Gale which included charges relating to his failure to file dissolution cases for his clients, failure to communicate with clients, and failure to return unearned fees. Gale did not participate in the underlying disciplinary proceedings. The Board of Governors found Gale guilty of three counts of violating SCR 3.130(1.3), three counts of violating SCR 3.130(1.4)(a), three counts of violating SCR 3.130(1.16)(d), one count of violating SCR 3.130(8.1)(b), and one count of violating SCR 3.130(3.4)(c). It considered his prior disciplinary history and recommended that Gale be suspended for a year, required to reimburse three clients for unearned fees, and comply with other requirements. Neither Gale nor the Office of Bar Counsel filed a notice of review. The Court chose to adopt the Board's recommendations, concluding this discipline was appropriate for Gale's actions.

K. *In re Thompson*, 727 S.W.3d 384 (Ky. 2025). Opinion and Order. All sitting. All concur.

Daniel Louis Thompson moved the Court to enter a negotiated sanction of suspension from the practice of law for 180 days, probated for two years with conditions. The proposed sanction was to address Thompson's conduct in 1) failing to comply with a trial court order requiring the tendering of jury instructions; 2) failing to prepare for a criminal trial; 3) failing to meet with his client before trial; 4) failing to keep his client informed regarding the status of her case; 5) failing to provide his client with requested information regarding trial; and 6) violating a domestic violence order prohibiting contact with his wife. The Court concluded that case law supported the negotiated sanction and thus imposed the negotiated sanction of suspension from the practice of law for 180 days, probated for two years with conditions. Those conditions include no future criminal violations or disciplinary charges, participation in the Kentucky Lawyers Assistance Program, regular filing of proof of counseling or mental health treatment, payment of bar dues and satisfaction of CLE requirements, and payment of costs.

L. *In re P'Pool*, 727 S.W.3d 396 (Ky. 2025). Opinion and Order. All sitting. All concur.

J. Todd P'Pool moved the Court to enter a negotiated sanction of suspension from the practice of law for 181 days, probated for two years with conditions for a violation of SCR 3.130(8.4)(b). P'Pool admits that he violated SCR 3.130(8.4)(b) by committing the actions which led to his arrest and subsequent guilty pleas to misdemeanor charges of DUI 1st, terroristic threatening 3rd degree, criminal mischief 2nd degree, wanton endangerment 2nd degree, and two counts of assault 4th degree. The Court concluded that case law supported the negotiated sanction and thus imposed the negotiated sanction of suspension from the practice of law for 181 days, probated for two years with conditions. Those conditions include no future disciplinary charges filed against him, authorizing the Office of Bar Counsel to review records held by the Kentucky Lawyers Assistance Program and other medical and mental health records, payment of bar dues, satisfaction of CLE requirements, and payment of costs.

M. *In re White*, 730 S.W.3d 901 (Ky. 2026). Opinion and Order. All sitting. All concur.

Scott White, an attorney admitted to the KBA in 1994, previously received a negotiated 30-day suspension that was probated for one year in December 2024. The conditions of his probation required him to comply with a Kentucky Lawyer Assistance Program (KYLAP) assessment, account for and refund an unearned prepaid fee to a former client, timely pay his bar dues, and avoid new disciplinary charges. In August 2025, the Office of Bar Counsel sought a show cause order because White failed to provide an accounting or refund the unearned fee to the former client. The Court issued the show cause order in September 2025, to which White failed to respond. Furthermore, White had already been suspended from the practice of law in March 2025 due to his failure to pay bar dues. Because White violated the conditions of his probated suspension, the Court ordered him to serve the 30-day suspension. In addition to the suspension, the Court required White to follow all KYLAP recommendations, provide quarterly compliance updates to OBC, and sign authorizations allowing OBC to review his medical and mental health records. He was also given 30 days to complete the fee accounting, refund the former client's unearned portion, and provide proof to OBC. Finally, White must refrain from receiving new disciplinary charges, pay his membership dues, satisfy CLE requirements, and pay certified disciplinary costs.

N. *In re Beattie*, 730 S.W.3d 896 (Ky. 2026). Opinion and Order. All sitting. All concur.

Michael Joseph Beattie moved the Court to enter a negotiated sanction of suspension from the practice of law for 60 days, probated for two years with conditions. The proposed sanction was to address Beattie's conduct in making false representations to the district court in the course of representing a criminal defendant. More particularly, in an effort to obtain a reduced bond for his client, Beattie represented to the district court that his client's girlfriend was pregnant when in fact Beattie knew the girlfriend was not pregnant. The district court granted the bond reduction. Two months later Beattie's client was arrested for additional acts of violence against the same victim. The Court concluded that case law supported the negotiated sanction and thus imposed the negotiated sanction of suspension from the practice of law for 60 days, probated for two years with conditions. Those conditions include no further disciplinary charges, participation in a mentorship with a mentor having a practice concentration in criminal defense representation, payment of bar dues, satisfaction of CLE requirements, and payment of costs.

O. *In re Pepper*, 730 S.W.3d 886 (Ky. 2026). Opinion and Order.

Upon the Character and Fitness Committee's recommendation, the Supreme Court reinstated H. Harris Pepper, Jr. to the practice of law pursuant to SCR 3.502(6)(a). The Character and Fitness Committee made findings of fact, including "that he has complied with the conditions of his guilty plea in federal court (probation and payment of a $100,000 fine); complied with the terms and conditions of his suspension imposed by this Court; that he recognizes and appreciates the wrongfulness of his actions and has demonstrated remorse; that he possesses the capabilities to serve as a lawyer; that his conduct during his suspension demonstrates he is worthy of the public's trust and confidence; and that he currently possesses good moral standing and has rehabilitated himself with the help of his family and counselors." Upon this basis, reinstatement was approved.

P. *Kentucky Bar Association v. Calilung*, 671 S.W.3d 109 (Ky. 2026). Opinion and Order. All sitting. All concur.

In a previous disciplinary case, *Kentucky Bar Association v. Calilung*, 671 S.W.3d 109 (Ky. 2023), Calilung was suspended from the practice of law for 120 days, with 60 days to serve and the balance probated for two years. In addition to his suspension, he was ordered to complete the Ethics and Professional Enhancement Program (EPEP), to comply with the requirements of SCR 3.390, and to pay all costs associated with the proceedings pursuant to SCR 3.450(2). Calilung completed EPEP and paid the costs of the disciplinary proceeding. However, he did not take the steps required to reinstate his license under SCR 3.501. Despite this, Office of Bar Counsel discovered that he was listed as the attorney of record in 499 eviction proceedings in Jefferson Circuit Court, and that 453 of those cases began after his suspension was imposed. The Office of Bar Counsel filed a motion to reopen his disciplinary case and requested a show cause as to why his probated suspension should not be imposed. The Supreme Court reopened the matter and issued a show cause order to which Calilung did not respond. The Court therefore ordered that he be suspended from the practice of law for 60 days, that he receive no new disciplinary charges, and that he comply with the requirements of SCR 3.390.

Q. *In re Thompson*, 733 S.W.3d 372 (Ky. 2026). Opinion and Order. All sitting. Lambert, C.J., Bisig, Conley, Goodwine, Keller, and Nickell, JJ., concur. Thompson, J., dissents without separate opinion.

The Tennessee Supreme Court Board of Professional Responsibility entered an order publicly censuring Michael James Thompson for violating Kentucky SCR 3.130(1.6) and (1.7)(a)(2). The Office of Bar Counsel petitioned the Court to issue both an order directing Thompson to show cause, if any, why he should not be subjected to reciprocal discipline pursuant to SCR 3.435, and in the event the Court failed to find good cause, to issue an order imposing identical reciprocal discipline. Having issued an order directing Thompson to show cause, and having received no response in the allotted timeframe, the Court publicly reprimanded Thompson.

R. *In re Sullivan*, 733 S.W.3d 374 (Ky. 2026). Opinion and Order. All sitting. All concur.

This disciplinary proceeding arose from ethical violations committed by Barry Nathaniel Sullivan in connection with his representation of an estate in probate proceedings. In 2024, the Supreme Court issued an opinion and order suspending Sullivan from the practice of law for 181 days, probated for three years, subject to conditions. One such condition was that Sullivan make a minimum restitution payment of at least $1,000 every 90 days, and that he pay the full restitution amount of $31,500 within one year. Sullivan paid only $250 and thus failed to make the required period payments or to pay the full amount within one year. Because Sullivan failed to satisfy the conditions of his probated sanction, the Supreme Court imposed the 181-day suspension from the practice of law.

V. WORKERS' COMPENSATION

A. *Howell v. Floyd County Board of Education*, 723 S.W.3d 778 (Ky. 2025). Opinion of the Court by Justice Bisig. All sitting. Conley, Goodwine, Keller, Nickell, and Thompson, JJ., concur. Lambert, C.J., concurs in result only.

Judy Howell was injured while working for the Floyd County Board of Education in 1993. Howell was awarded workers' compensation benefits, including future medical benefits. After using hydrocodone for approximately 30 years, as prescribed by her treating physician, Floyd County initiated a medical fee dispute contesting whether the prescription was compensable. The Administrative Law Judge (ALJ), in applying the Official Disability Guidelines (ODG), a primary standard of reference for healthcare providers in determining which treatments are medically necessary for workplace injuries, determined the prescription was not recommended for long term use and therefore non-compensable. The Workers' Compensation Board and Court of Appeals agreed.

On appeal, the Supreme Court recognized that, as commanded by statute, the Department of Workers' Claims adopted the ODG as its treatment guidelines to facilitate safe and appropriate treatment of work-related injuries. The workers' compensation administrative regulations explicitly allow a medical provider to contest a treatment deemed not recommended by the ODG to articulate their sound medical reasoning in writing. Therefore, contrary to Howell's argument, the ODG permissibly creates a rebuttable presumption as to compensability. Howell also argued the ODG does not apply to her claim because she was injured before the ODG was adopted, but the statute expressly states the ODG applies to all injuries, regardless of when they occurred. Further, Howell posited that she had a vested right in receiving certain treatment for her injury, *i.e.*, hydrocodone. The Court explained, however, that medical treatments are inherently fluid. The Court further held that adoption of the ODG does not alter the substantive rights of the parties, but rather controls the evidentiary framework in which those rights are adjudicated. As such, the statute directing the Department to adopt treatment guidelines is a remedial statute and did not alter Howell's substantive rights. Finally, the Court rejected Howell's claim that application of the ODG violated due process or equal protection, noting that claimants have access to the ODG, which governs their claims, and emphasizing that Howell failed to demonstrate that she was treated differently than any other workers' compensation claimant.

B. *Encova Mutual Insurance Group v. Kentucky Employers' Mutual Insurance,* 724 S.W.3d 720 (Ky. 2025). Opinion of the Court by Justice Conley. All sitting. All concur.

In a unanimous opinion authored by Justice Conley, the Supreme Court affirmed the Court of Appeals and held the ALJ had authority to certify coverage in this case because that issue had never been addressed on appeal and certification was a necessary part of the structure of the Workers' Compensation Act. This is the third time this case has come before the Supreme Court, and the convoluted procedural history was a substantial factor in the ALJ's determination. Essentially, while the second appeal was pending, Kentucky Employers' Mutual Insurance sought to have the case partially remanded for a ruling on certification of coverage. It was essentially undisputed that under the last date of injury adopted by the ALJ, KEMI was not the insurer; rather it was Encova. Both the Court of Appeals and Supreme Court denied the motion as improper because the ALJ had not made a final ruling on certification of coverage. The ALJ mistakenly believed these rulings were on the merits and, therefore, concluded he only had limited authority on remand to issue those orders approved by the appellate courts. The Workers Compensation Board agreed but also held neither KEMI nor Encova had standing to bring the issue of which insurer should be responsible for paying the claimant before the ALJ.

The Supreme Court affirmed the Court of Appeals and held the issue of certification was never properly before an appellate court so the denial of KEMI's previous motions were not on the merits but procedural. The Court also held KEMI had standing to bring the issue before the ALJ as certification of coverage was explicitly mentioned within the Worker's Compensation Act as a necessary part of resolving a compensation claim. Although the statute was silent on the exact method of how this issue should be brought before an ALJ, the alternative method – requiring the parties to go to the circuit court in a civil action – was contrary to the purposes of the Act. The Court also held KEMI had not acted dilatorily in asserting its rights because it brought its motion to the ALJ within 30 days after the Supreme Court's second opinion had become final and the ALJ's jurisdiction was restored. The Court held equitable estoppel and laches were inapplicable to this kind of case. Finally, the Court refused to consider any constitutionality arguments, to the extent Envoca was arguing the Workers' Compensation Act was unconstitutional, because of its failure to notify the Attorney General.

C. *Kentucky Employers' Mutual Insurance v. Clas Coal Co., Inc., et al.*, 724 S.W.3d 710 (Ky. 2025). Opinion of the Court by Justice Keller. All sitting. All concur.

Troy Stidham suffered occupational hearing loss resulting from exposure to loud noise during his employment with Clas Coal Co. Stidham had worked for Clas Coal Co. at a mine in Kentucky for 16 years. When that mine shut down, Stidham transferred to a mine in Alabama, still working under Clas Coal Co. Stidham filed a claim with the Workers' Compensation Board, which affirmed the ALJ's finding that the hearing loss injury occurred on Stidham's last day working in Kentucky. The Court of Appeals affirmed. The Supreme Court affirmed the Court of Appeals, holding that KRS 342.7305(4) created a rebuttable presumption that the hearing loss injury occurred while working for Clas Coal Co. in Kentucky, the last employer with whom Stidham was "injuriously exposed to hazardous noise for a minimum duration of one (1) year," and substantial evidence supported the ALJ's finding that the injury occurred on that date.

D. *Estate of Perkins v. North American Stainless,* 724 S.W.3d 738 (Ky. 2025). Opinion of the Court by Justice Keller. All sitting. All concur.

Kyle Perkins contracted COVID-19 while employed at North American Stainless, underwent a double-lung transplant, and later died. His widow's workers' compensation claim under KRS 342.0011 was dismissed by the ALJ and affirmed by the Board, Court of Appeals, and Supreme Court. The Court held that: (1) substantial evidence supported the finding that NAS's work environment did not increase Perkins's risk; (2) communicable diseases are not "injuries" under KRS 342.0011(1) absent increased occupational risk; and (3) the *Dealers Transport Co. v. Thompson*, 593 S.W.2d 84 (Ky. App. 1979) and *Princess Mfg. Co. v. Jarrell*, 465 S.W.3d 45 (Ky. 1971) standards were not met. The Court reiterated that compensability for communicable diseases requires a work-related injury, an elevated occupational risk, and effects exceeding those normally anticipated from such diseases.

E. *Graybar Electric v. Starr*, 730 S.W.3d 778 (Ky. 2026). Opinion of the Court by Justice Goodwine. All sitting. All concur.

The ALJ determined he could not revisit an interlocutory holding to consider the claimant's additional evidence under *Bowerman v. Black Equipment Co.*, 297 S.W.3d 858 (Ky. App. 2009). The Workers' Compensation Board affirmed, but the Court of Appeals reversed. On direct appeal, the Supreme Court adopted the reasoning in *Bowerman*. The claimant's additional evidence did not constitute newly discovered evidence because it rehashed previously known facts. The Court held the ALJ correctly declined to revisit its interlocutory finding. Additionally, the claimant failed to preserve his factual misstatement argument by filing a petition for reconsideration. The Court will not reverse an ALJ's opinion for a mistake of fact unless the error is so flagrant as to cause gross injustice. The Supreme Court reversed the Court of Appeals' opinion and reinstated the decision of the Workers' Compensation Board.

F. *Harris v. Mercy Home Health*, 733 S.W.3d 170 (Ky. 2026). Opinion of the Court by Justice Nickell. All sitting. All concur.

Harris was employed as a certified nursing assistant for Mercy Home Health providing daily in-home health and hospice care. She injured her right shoulder while repositioning a patient. Later the same day, Harris injured her lower back while assisting a different patient out of the shower. Harris filed a claim for workers' compensation benefits. After reviewing the medical and lay evidence, the ALJ dismissed Harris's claim for income or medical benefits relative to her right shoulder injury, but determined she qualified for a 12% whole body impairment rating relative to her work-related lower back injury. The ALJ awarded temporary total disability benefits, permanent partial disability benefits based upon an average weekly wage of $422.66, and medical benefits. The ALJ declined to award benefits for an unpaid medical bill upon a finding that it was untimely under KRS 342.020(4). Harris appealed to the Board, arguing the ALJ erred by failing to include mileage reimbursements in the calculation of her average weekly wage. She also argued the ALJ erred in denying payment of the unpaid medical bill, asserting the 45-day rule contained in KRS 342.020(4) does not apply when the carrier rejects its liability for an injured worker's claim. The Board affirmed the ALJ, and in turn, the Court of Appeals affirmed the decision of the Board. The Supreme Court held the ALJ properly declined to include mileage reimbursements from the calculation of Harris's average weekly wage because the reimbursements did not represent an additional economic gain as required under KRS 342.140(6) and KRS 342.0011(17). Additionally, the Supreme Court held the ALJ erred by failing to award benefits for the unpaid medical bill, holding the denial of Harris's claim by Mercy Home Health's insurance carrier constituted reasonable grounds for the untimely submission of medical bills pursuant to 803 KAR 25:096 §6. Further, as a matter of procedure, the Supreme Court interpreted RAP 34 to permit the filing of *amicus* briefs in workers' compensation appeals.

G. *Russell v. International Automotive Components*, 733 S.W.3d 239 (Ky. 2026). Opinion of the Court by Justice Keller. All sitting. Bisig, Conley, Goodwine, and Nickell, JJ., concur. Thompson, J., concurs in result only without separate opinion. Lambert, C.J.; dissents without separate opinion.

Kendra Russell filed a claim for workers' compensation benefits arising out of her employment with International Automotive Components ("IAC"), claiming a cumulative trauma injury resulting from approximately 20 years of physically demanding and repetitive work. An ALJ awarded permanent partial disability income benefits under KRS 342.730 and KRS 342.732. The ALJ specifically noted that "[b]ased upon the testimony of Dr. Oteham, the ALJ finds Russell lacks the physical capacity to return to her pre-injury work at IAC, and she is entitled to the 3.2 multiplier" contained in KRS 342.730(1)(c)1. The Workers' Compensation Board remanded to the ALJ for further fact-finding, holding that the reasons cited for awarding the three-multiplier were insufficient and "[t]he ALJ must simply and adequately detail the evidence relied upon in reaching his decision." The Court affirmed the Court of Appeals, holding that "[a]s it stands, without greater support from the record, the ALJ's findings here are supported by a dearth of evidence and are therefore clearly erroneous, and the award of the three-multiplier was an abuse of discretion."

VI. WRITS

Meece v. Grise, 2025-SC-0299-OA, 2026 WL 491039 (Ky. Feb. 19, 2026). Opinion and Order by Justice Bisig. All sitting. All concur.

William Meece shot and killed three people in 1993. He was tried, convicted, and sentenced to death. Meece challenged his convictions and sentence pursuant to RCr 11.42 and included a supporting affidavit. The Commonwealth sought to call him as a witness at the hearing on his RCr 11.42 motion, and Meece objected on grounds of the Fifth Amendment privilege against self-incrimination. After the trial court held that the Commonwealth could call Meece as a witness, Meece sought a writ from the Supreme Court prohibiting the trial court from allowing him to be called as a witness. The Supreme Court held that by submitting an affidavit in support of his RCr 11.42 motion, Meece had waived his Fifth Amendment right against self-incrimination. The Court noted that an affidavit is "testimony," and that a witness may not testify voluntarily about a subject and then claim privilege when questioned about the details. The Court further held, however, that Meece's affidavit waived the privilege against self-incrimination only for purposes of the RCr 11.42 proceedings and not for purpose of any subsequent retrial or resentencing. Thus, because the trial court did not err in requiring Meece to testify at the RCr 11.42 hearing, the Supreme Court denied the requested writ.