



Kansas Courts News Release

Office of Judicial Administration

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*Chief Judge
Karen Arnold-Burger*



*Judge
Thomas Malone*



*Judge
G. Joseph Pierron Jr.*

Kansas Court of Appeals to hear oral arguments at Johnson County Community College in Overland Park

TOPEKA—A three-judge panel of the Kansas Court of Appeals will hear oral arguments Tuesday, April 16, in the Hudson Auditorium at Johnson County Community College.

Hudson Auditorium is located on the second floor of the Nerman Museum of Contemporary Art at the college, 12345 College Blvd., Overland Park.

Chief Judge Karen Arnold-Burger will be joined by Judges Thomas Malone and G. Joseph Pierron Jr. to hear oral arguments in three cases starting at 9:30 a.m.

After the session, the judges will be available to answer questions from the public about the court and court procedures.

Arnold-Burger, the presiding judge for the panel, said the hearings are an educational opportunity.

"As part of being a traveling court, we look forward to an opportunity to teach students about the judicial branch of government and answer their questions," she said.

"The Court of Appeals always looks forward to visiting with the students at Johnson County Community College," Arnold-Burger added. "I am particularly honored because my husband and I were both students there in the mid-'70s.

Oral Arguments

Attorneys for each side will have an opportunity to present arguments to the judges, and the judges will have a chance to ask questions. The court will then take each case under consideration and will issue a written decision at a later date, usually within 60 days.

There are 14 judges on the Court of Appeals, and they sit in panels of three to decide cases. In addition to the panel hearing cases this week in Overland Park, other panels will hear cases at Washburn University School of Law, Topeka, and at the U.S. Courthouse, Wichita. All hearings are open to the public.

In fiscal year 2018, the Court of Appeals resolved appeals in 1,740 cases, including 1,280 in which the court issued a formal written opinion.

The three cases to be heard at Johnson County Community College are summarized below. They originate from Johnson and Wyandotte counties.

9:30 a.m. ♦ Tuesday, April 16, 2019

Appeal No. 117,826: *State of Kansas v. Scottie E. Lindsay*

Lindsay became angry when he could not find his cocaine after a house party. He allegedly shot one person and killed another. A jury convicted him of second-degree murder, attempted second-degree murder, and criminal possession of a firearm. He was sentenced to 57 years in prison on all charges. On appeal, Lindsay argues he was denied a fair trial because: 1) the judge interrupted his attorney's cross examination of a witness—when there was no objection by the State—and would not let his attorney ask the witness her opinion of Lindsay's guilt; and 2) his attorney had a conflict of interest and was ineffective in his representation. Lindsay asks the appellate court to reverse his conviction and send his case back to the district court for a new trial.

Appeal No. 119,116: *Nathan A. Jarvis v. Kansas Department of Revenue*

The State suspended Jarvis' driver's license because he refused to submit to a breath test as part of a driving under the influence investigation. He challenged the suspension. The district

court judge concluded the officer did not have a reasonable suspicion to stop Jarvis for swerving within his lane of traffic, therefore any evidence the police obtained after the traffic stop could not be used against him. The judge reversed the suspension. The Kansas Department of Revenue appeals, arguing the exclusionary rule—which does not allow evidence to be considered that was obtained as the result of illegal police action—does not apply in administrative license suspension proceedings. It contends the rule only applies in criminal cases. This case will involve interpretation of recent amendments to state law and whether those amendments allow application of the exclusionary rule in noncriminal driver’s license suspension hearings.

Appeal No. 119,956: *State of Kansas v. Ralph Weaver*

A passerby called 911 and reported a man—later identified as Weaver—was slumped over the steering wheel of his car, which was stopped on the road. The passerby attempted to wake Weaver. As the sound of sirens approached, Weaver woke up, said he was fine, and began to drive away. A sheriff’s deputy arrived and stopped Weaver. While waiting for medics, the deputy questioned Weaver and learned he had taken medication that day, which the deputy believed could have made Weaver pass out. The deputy was unsure whether Weaver had a medical issue or was intoxicated. Medics arrived, and while they were assessing Weaver, another deputy spoke with Weaver and administered in-car sobriety tests. After Weaver was medically cleared, he was asked to perform additional field sobriety tests. Following the tests, police arrested Weaver for driving under the influence of alcohol or drugs. Prior to trial, the district judge found the officers impermissibly transformed a welfare check into a DUI investigation. The judge suppressed all evidence obtained after the deputy started investigating Weaver for DUI. The prosecution appeals that decision, arguing the deputies had reasonable suspicion Weaver was impaired and were properly conducting tests to ensure it was safe for Weaver to drive. The prosecution is asking the appellate court to find the judge was wrong to suppress the evidence and asks the court send his case back to the district court for trial.

Note: Reporters who want to cover the oral arguments should become familiar with [Supreme Court Rule 1001: Media Coverage of Judicial Proceedings](#). To request permission to use video, photo, or audio recording devices during the proceedings, the reporter must submit his or her request to Lisa Taylor at taylorl@kscourts.org, no later than noon Monday, April 15.

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