



# Kansas Courts News Release

*Office of Judicial Administration*

## FOR IMMEDIATE RELEASE

April 11, 2018

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*Judge Thomas E. Malone*



*Judge Michael B. Buser*



*Judge Kathryn A. Gardner*

## **Kansas Court of Appeals to hear oral arguments at Newman University in Wichita**

TOPEKA — A three-judge panel of the Kansas Court of Appeals will hear oral arguments Tuesday, April 17, at the Dugan Gorges Library Conference Center at Newman University.

Newman University is located at 3100 McCormack Ave., Wichita.

Judge Thomas E. Malone will be joined by Judges Michael B. Buser and Kathryn A. Gardner to hear oral arguments in six cases. Three cases will be heard starting at 9:30 a.m. with the remaining three starting at 1:30 p.m.

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

Malone, the presiding judge for the panel, is a 1976 Newman graduate. He believes this is the first time a Court of Appeals panel has heard cases at the university.

"I'm really looking forward to hearing cases on campus at Newman on April 17," Malone said. "It was at Newman that I first started thinking about a career in the law, so it is especially rewarding and somewhat nostalgic to return to campus 40 years later to hear cases as a Kansas appellate judge."

## **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 Wichita, other panels will hear cases at the University of Kansas School of Law, Lawrence; Washburn University School of Law, Topeka; and Johnson County Community College, Overland Park. All hearings are open to the public.

In fiscal year 2017, the Court of Appeals resolved appeals in 1,833 cases, including 1,265 in which the court issued a formal written opinion.

The six cases to be heard at Newman University are summarized below. They originate from Chautauqua, Reno, and Sedgwick counties.

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**9:30 a.m. Tuesday, April 17, 2018**

### **Appeal No. 117,599: *State of Kansas v. Dennis Saquan McGaugh III* (originating in Sedgwick County)**

McGaugh is charged with first-degree murder in an October 2016 death in Sedgwick County. The trial has not begun. The *Wichita Eagle* sought access to the probable cause affidavit so it could publish details about the charges. A probable cause affidavit is a sworn statement by a law enforcement officer that provides information supporting the belief that a crime was committed by the defendant. The facts stated in the affidavit are not yet proven; the jury ultimately will decide whether the allegations are true. McGaugh requested the affidavit be sealed or redacted so the information does not prejudice potential jurors. Sedgwick County District Court denied the motion but granted the State's request to replace witnesses' names with initials. The court then agreed to keep the affidavit under seal until this appeal is resolved. Issues include whether: 1) the appellate court has jurisdiction; and 2) the district court correctly interpreted the statute concerning the release of probable cause affidavits, which can be considered only if the appellate court has jurisdiction.

### **Appeal No. 112,755: *State of Kansas v. Wesley G. Copeland Sr.* (originating in Chautauqua County)**

Copeland appeals his convictions for aggravated assault; manufacturing and possessing items needed to manufacture methamphetamine; possessing methamphetamine, hydrocodone, marijuana, and drug paraphernalia; and unlawfully possessing weapons. Sedan police arrested Copeland for aggravated assault after his girlfriend reported he had pointed a gun at her in her home. She also stated he was using methamphetamine. Police searched the home and located numerous firearms; pills that were later identified as hydrocodone; a burned cigarette that tested positive for marijuana; a glass smoking pipe; spoons containing a burned residue later tested positive for methamphetamine; and numerous items and tools associated with making methamphetamine. Issues on appeal include whether the district court: 1) should have suppressed statements Copeland made to law enforcement officers after he requested an attorney and while he was being booked in and transported to jail; 2) should have held and allowed Copeland to attend a hearing before granting his attorney's and the State's agreement to delay his jury trial; and 3) properly instructed the jury how to determine Copeland committed the crimes charged against him.

### **Appeal No. 118,184: *Jonathan Edwards v. Mike T. Logan and Attorney General Derek Schmidt* (originating in Sedgwick County)**

Logan was the driver in an automobile accident that injured Edwards. Edwards sued Logan for economic and noneconomic damages. Economic damages include medical bills and lost wages, while noneconomic damages include losses such as mental anguish. However, Edwards was knowingly and illegally operating an uninsured vehicle and statutorily prohibited from recovering noneconomic damages. Edwards sought to have K.S.A. 40-3130(a) declared unconstitutional. The State intervened to advocate that the statute was valid. The district court ruled the statute did not violate the Kansas Constitution. Edwards and Logan then settled, with Logan compensating Edwards for his entire medical bill and Edwards waiving his right to a jury trial. Issues on appeal include whether: 1) this appeal is moot because a settlement was reached; 2) Edwards has the right to challenge the constitutionality of the statute; and 3) K.S.A. 40-3130(a) violated Edwards' constitutional rights.

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1:30 p.m. Tuesday, April 17, 2018

**Appeal No. 116,708: *State of Kansas v. Frederick Lemons Jr.* (originating in Reno County)**

Lemons was convicted of seven felonies and one misdemeanor related to a home invasion and his attempt to evade apprehension. Lemons agrees there was sufficient evidence to convict him of the crimes related to his attempting to evade capture but contends the State failed to prove beyond a reasonable doubt he was among the men who participated in the home invasion. Issues on appeal include whether: 1) the State presented sufficient evidence so a reasonable jury could find he was guilty beyond a reasonable doubt of aggravated kidnapping, aggravated robbery, aggravated burglary, aggravated battery, and criminal threat; and 2) the district court erred when it found that "newly discovered" evidence was not actually new and denied his motion for a new trial.

**Appeal Nos. 117,932 and 118,360: *In the Matter of Tony Biehl, and Sheila Kay Vandeloecht, and Alan Bennett* (originating in Sedgwick County)**

This paternity action involves a 3-year-old child. Vandeloecht, the mother, believed Bennett was the biological father. He signed documents that allowed him to be named the father on the child's birth certificate. However, Bennett later discovered through genetic testing there was no chance he was the biological father. Biehl later filed a petition to determine the child's paternity and alleged he was the biological father. Vandeloecht, Bennett, and Biehl all agreed Biehl was the biological father, and the district court approved the journal entry. About four months later, Vandeloecht asked the journal entry be set aside; the district court refused. The district court subsequently awarded Bennett and Biehl attorney fees, which were to be paid by Vandeloecht. Issues on appeal are whether: 1) the Court of Appeals has jurisdiction; 2) the district court erred by not setting aside the journal entry; and 3) the district court erred by awarding Bennett and Biehl attorney fees.

**Appeal No. 117,256: *State of Kansas v. Kristopher Williams* (originating in Sedgwick County)**

Williams was tried in three cases consolidated into one trial in Sedgwick County District Court. The first case involved robbery of a restaurant. The second involved three robberies in which the assailants approached people at gunpoint and either asked for money or forced them to go to an ATM to withdraw money. The third involved robbery of a man in a parking lot. Williams was convicted of six counts of aggravated robbery, two counts of kidnapping, two counts of simple robbery, aggravated assault, and felony interference with law enforcement. Issues on appeal are whether: 1) Williams' confession involving the restaurant robbery should have been suppressed; 2) Williams' aggravated battery conviction in the restaurant robbery was not supported by sufficient evidence; and 3) the jury instruction for his charge of felony interference with law enforcement was improper.

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Note: Reporters who want to cover the oral arguments using video, photo, or audio recording devices, as spelled out in Supreme Court Rule 1001, should contact Lisa Taylor at [taylorl@kscourts.org](mailto:taylorl@kscourts.org) no later than noon Monday, April 16.

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