



# Kansas Courts News Release

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## *Office of Judicial Administration*

### **FOR IMMEDIATE RELEASE**

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*Judge David Bruns*



*Judge Patrick McAnany*



*Judge James Burgess*

### **Wichita State University to host Court of Appeals hearings marking Constitution Day**

TOPEKA—A three-judge panel of the Kansas Court of Appeals will hear five cases September 20 at Wichita State University in Wichita as part of the court's observance of Constitution Day.

The court will hear cases in two sessions beginning at 9 a.m. and at 1:30 p.m. in the Campus Activity Center Theatre, 1845 Fairmount.

Judges David Bruns, Patrick McAnany, and James Burgess will hear the cases. Bruns is the presiding judge, and Burgess is a senior judge joining the court for the hearings.

Bruns said, "We look forward to being part of the Constitution Day festivities at Wichita State University. For 231 years, the U.S. Constitution has served as the framework of our freedom. As a contract between 'We the People' and our government, the Constitution continues to serve as the foundation for our system of justice and for the rule of law."

During the panel's sessions, attorneys for each side will have an opportunity to present arguments to the judges, and the judges will have a chance to ask questions. After the hearings, the court will take each case under consideration and will issue a written decision at a later date.

When the oral arguments are complete, the judges will be available to talk with students.

These hearings are part of Constitution Day observance activities this year at Fort Hays State University, the University of Kansas, and Wichita State University. Congress directed federally funded educational institutions to host educational events about the U.S. Constitution on or about September 17 each year. The Constitution was signed September 17, 1787, by a majority of delegates to the Constitutional Convention.

Following are summaries of the cases to be heard by the Court of Appeals panel in Wichita:

**9 a.m. ♦ Thursday, September 20, 2018**

**Appeal No. 117,409: *State of Kansas v. Shawn R. Collins***

Sedgwick County: Collins admits he shot and killed Daniel Thompson while he was sitting in a chair but claims it was self-defense. The two apparently had a confrontation the previous day over a woman with whom both had a relationship. Although the State charged Collins with second-degree murder, the jury convicted him of voluntary manslaughter and criminal possession of a firearm. Issues on appeal are whether the district court: 1) erred by determining Collins was not immune from prosecution; 2) failed to properly instruct the jury on involuntary manslaughter; and 3) did not instruct the jury on self-defense. Also, whether: 1) the State committed prosecutorial error during closing argument; and 2) Collins is entitled to a new trial due to cumulative error.

**Appeal No. 118,591: *City of Wellington v. Kansas Department of Health and Environment, et al.***

Sumner County: The City of Wellington seeks a declaratory judgment that it has no obligation to continue to furnish water service to several Sumner County landowners living outside the city limits. The city had been providing untreated water to these landowners. In 2016, the city and the Kansas Department of Health and Environment entered a consent order in which the city agreed to cease providing untreated water to customers because the practice violated a state safe drinking water regulation. The landowners appeal the district court's ruling that the city may terminate the water service without providing a substitute. Issues on appeal are whether the district court erred in ruling: 1) the city did not have a legal duty to provide water service; 2) the city's obligation to provide water service was terminable either at will or for cause; and 3) any obligation the city had to provide water service was excused under the doctrine of impracticability.

**Appeal No. 118,563: *In the Interest of K.L.B. and A.S.B., Minor Children***

Sedgwick County: The natural mother of two minor children appeals after the district court terminated her parental rights. The court found she was unfit to properly care for the children, the unfitness was unlikely to change in the foreseeable future, and the termination of her parental rights was in the best interest of the children. Issues on appeal, the natural mother, who resides

in Kentucky, contends that: 1) the district court did not have subject matter jurisdiction over the case under the Uniform Child Custody Jurisdiction Act; and 2) there is not substantial competent evidence in the record to support the district court's findings and conclusions.

**1:30 p.m. ♦ Thursday, September 20, 2018**

**Appeal No. 118,095: *State of Kansas v. Burlington Northern Santa Fe Railway Co.***

Chase County: Burlington Northern Santa Fe was convicted of violating K.S.A. 66-273 for blocking a roadway in Chase County for nearly four hours. The statute prohibits trains from standing on a public road in or near a city or town for more than 10 minutes. Issues on appeal are whether: 1) the Kansas statute is preempted by the federal Interstate Commerce Commission Termination Act and the Federal Railroad Safety Act; and 2) there is insufficient evidence in the record to support the conviction.

**Appeal No. 118,286: *Glenn W. Smith v. Ruskin Manufacturing, et al.***

Workers Compensation: Smith was injured on two occasions in 2011 while working at Ruskin Manufacturing. Although he suffered a third injury in 2012, he is not appealing the decision relating to that injury. The Workers Compensation Board found Smith's injuries stemmed from the first accident. Issues on appeal are whether the board erred: 1) in calculating Smith's disability award; 2) in finding all Smith's injuries stemmed from the first accident; and 3) by not finding that Smith met the required threshold to receive a disability award for his second injury.

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