

Court of Appeals Update

June 2025 – May 2026

Judge Will Moynahan (Div. 1)

Judge Glenn Acree (Div. 2)

5th Appellate District



Criminal Law

Sarah Parr v. Commonwealth of KY,
719 S.W.3d 714 (Ky. App. Aug. 1, 2025)

Defendant Parr (a truck driver) pulled over in Floyd County for erratic driving and suspicion of driving under the influence.

Sarah Parr v. Commonwealth of KY,
2024-CA-0406-DG (Ky. App. Aug. 1, 2025)

Parr was cooperative with police, but officers smelled marijuana, Parr failed field sobriety tests and a blood test showed presence of Delta-9 THC.

Sarah Parr v. Commonwealth of KY

At the close of the Commonwealth's case, Parr's counsel made a general motion for directed verdict & renewed it at the close of all evidence.

Sarah Parr v. Commonwealth of KY

-No expert testimony offered by the Commonwealth to explain marijuana-related concentrations in the blood.

Sarah Parr v. Commonwealth of KY

Jury convicted Parr of DUI, sentenced to 14 days and \$200 fine.

Appealed to Circuit Court and affirmed.

Appealed to the COA

Sarah Parr v. Commonwealth of KY

Directed Verdict – procedural issue

“A proper motion for directed verdict must ‘identify the particular charge the Commonwealth failed to prove, and must identify the particular elements of that charge the Commonwealth failed to prove. (citing *Ray v. Commonwealth*, 611 S.W.3d 250, 266 (Ky. 2020)).

Sarah Parr v. Commonwealth of KY

Marijuana is not a substance that, if found in a Def's blood, leads to an automatic violation.

Parr argues that because impairment must be proven in cases of marijuana use, the law requires expert testimony to explain measured levels, etc.

Bridges (KYSC 1993) case – concurrence language

Sarah Parr v. Commonwealth of KY

KY Law is clear: Evidence of FSTs is admissible and officers observing a defendant's driving and physical condition may offer opinion testimony that the Def. was intoxicated.

Sarah Parr v. Commonwealth of KY

In Parr's case, three people, including an officer, observed erratic, and frankly dangerous driving for up to 20 miles. Two officers smelled marijuana on her, and she had red, glassy, bloodshot eyes when stopped.

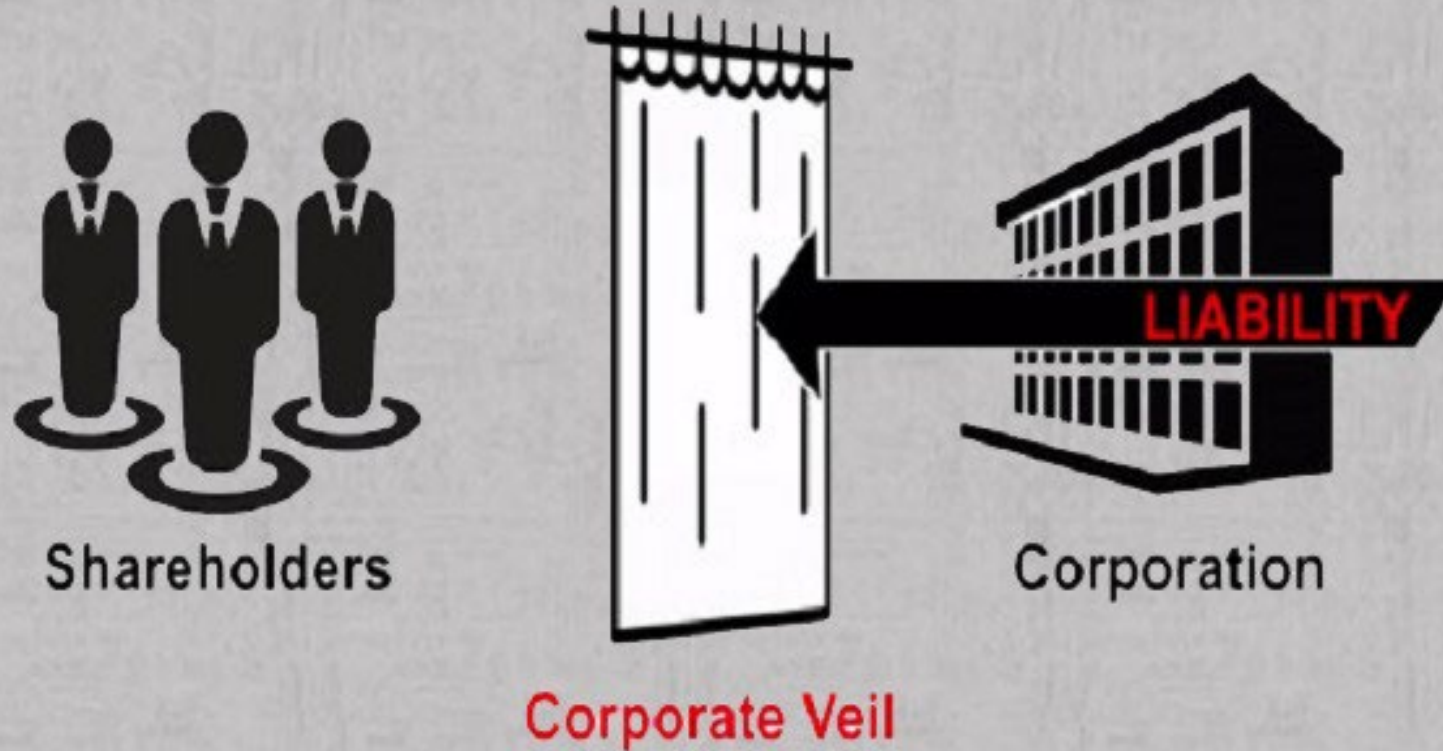
She "failed" 3 separate FSTs and her blood test showed the presence of Delta-9 THC, the marijuana ingredient that causes impairment.

Sarah Parr v. Commonwealth of KY

Holding:

In DUI marijuana cases, the Commonwealth is not required to call an expert witness to explain how Parr's blood test result showed impairment or otherwise to establish impairment based on Parr's blood test results.

Lifting up Corporate Veil



▶ ***Lummus Corporation v. Lighthouse Transportation Servs. LLC*, 2026 WL 1189933 (May 1, 2026) (DR pending)**

A footnote in *Pannell v. Shannon*, 425 S.W.3d 58, 75 n.15 (Ky. 2014) left open the question whether the doctrine of piercing the corporate veil applied to limited liability companies

▶ *Lummus Corporation v. Lighthouse*

In 2013, the unanimous Supreme Court said: “The doctrine can also apply to limited liability companies.”

Turner v. Andrew, 413 S.W.3d 272, 277 (Ky. 2013)

▶ *Lummus Corporation v. Lighthouse*

In 2014, the unanimous Supreme Court said our jurisprudence “assumes the doctrine of veil piercing even applies to limited liability companies

Pannell v. Shannon, 425 S.W.3d 58, 75 n.5 (Ky. 2014).

▶ *Lummus Corporation v. Lighthouse*

“While several decisions have assumed that it does . . . , the question appears to have been raised in only one case, . . . which ultimately avoided the question by applying Ohio law, which does allow veil piercing of LLCs.”

Id.

▶ *Lummus Corporation v. Lighthouse*

“There are, of course, strong arguments for why LLC veil piercing should not be allowed ... even when corporate veil piercing is viable in the jurisdiction”

Id.

▶ *Lummus Corporation v. Lighthouse*

“Unlike those prior cases . . . , Lummus's argument places the issue squarely before us. Thus, our answer here cannot be read as dicta.”

Lummus

▶ *Lummus Corporation v. Lighthouse*

In 2008, an unpublished opinion, *Barone v. Perkins*, said the personal liability language allowing piercing of corporations was not present in the LLC law. On that basis, we held the LLC could not be pierced.

▶ *Lummus Corporation v. Lighthouse*

Next general assembly, the legislature reacted by adding the very same language to the LLC law.

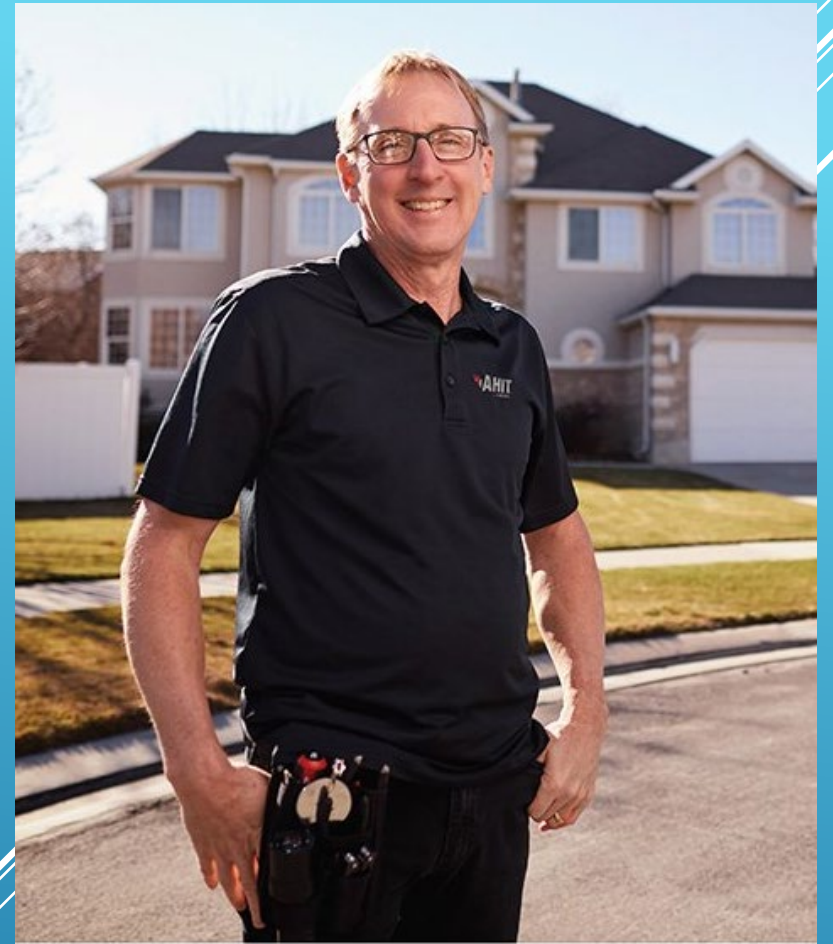
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▶ *Lummus Corporation v. Lighthouse*

That was the most persuasive indicator of legislative intent, and we took the hint in Lummus. The LLC veil can be pierced.

▶ *Lummus Corporation v. Lighthouse*

However we warned, “caution must be taken when applying the doctrine to LLCs . . . because certain provisions of Chapter 275 may negate factors considered part of the analysis when applied to corporations organized under KRS 271B.010 et seq



HOME INSPECTION
Training & Career Catalog

Administrative Law

*Professional Learning Inst., LLC v.
Commonwealth of KY*
727 S.W.3d 670 (Ky. App. Dec. 5, 2025)

Professional Learning Institute (PLI) is training school that offers pre-licensing courses to candidates for home inspector licensure as well as continuing education courses for home inspectors.

PLI, LLC v. Commonwealth of KY

The KY Board of Home Inspectors (KBHI) came into existence by statute in 2004. The KY Real Estate Authority (KREA) was created in 2017 – it has authority to review orders by KBHI.

PLI, LLC v. Commonwealth of KY

The KY Commission on Proprietary Education (KCPE) licenses and regulates private companies and organizations that operate proprietary schools.

PLI, LLC v. Commonwealth of KY

The Dispute:

PLI's approval as prelicensing and CE provider for home inspectors expired in Sept. 2020.

Earlier that year, PLI's had submitted course and provider applications, but KBHI determined them to be deficient and didn't act on them.

While KBHI ultimately approved the courses, there was a period of time when PLI continued to offer CE and licensing courses without authorization from KBHI.

PLI, LLC v. Commonwealth of KY

KBHI took disciplinary action against PLI, and a hearing officer determined the company had committed four regulatory violations:

- advertising courses as approved, when not approved
- failed to provide complete information on its materials
- failed to provide info. related to its course & provider application
- failure to get pre-approval for CE and licensure courses

PLI, LLC v. Commonwealth of KY

The Hearing Officer determined that KBHI had authority to investigate and conduct proceedings against course providers

- the hearing officer imposed a 30-day suspension for PLI, followed by four years of probation

- KBHI and KREA authorized the hearing officer's sanctions

PLI, LLC v. Commonwealth of KY

Held: as a case of first impression, the authorizing statutes for KBHI permitted it to regulate licensees, but did not authorize the action KBHI took against PLI, a non-licensee.

PLI, LLC v. Commonwealth of KY

In other words, the home inspector statutes only authorize investigations, complaints, and disciplinary actions against licensees.

This interpretation of the regulatory regime was also compelled by the existence and role of KCPE, which regulates proprietary education providers.

▶ ***JHPDE Finance I, LLC v. Gibson, 2025-CA-0605-OA, 2025 WL 3038895 (Ky. App. Oct. 31, 2025) (writ, on appeal)***



▶ *JHPDE Finance I, LLC v. Gibson, 2025-CA-0605-OA, 2025 WL 3038895 (Ky. App. Oct. 31, 2025) (writ, on appeal)*

JHPDE sued real party in interest, Huffman, to collect \$15K in credit card debt.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Trial court entered summary judgment for JHPDE on May 19, 2023.

The judgment was then final and appealable.

▶ ***JHPDE Finance I, LLC v. Gibson***

▶ ***(writ, on appeal)***

Huffman filed no CR 52 or 59 post-judgment motions to suspend 30-day appeal period.

Trial court lost jurisdiction, on May 29, 2023, ten days after judgment.

- ▶ *JHPDE Finance I, LLC v. Gibson*
 - ▶ *(writ, on appeal)*

Question:

What kind of jurisdiction did the trial court lose?

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Answer: Particular case jurisdiction.

Ten days after judgment, “the court loses jurisdiction of the cause.”

***Van Arsdale v. Caswell*, 311 S.W.2d 404, 406 (Ky. 1958).**

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Question:

Who had jurisdiction beginning 10 days after judgment, and for the next 20 days?

- ▶ *JHPDE Finance I, LLC v. Gibson*
 - ▶ *(writ, on appeal)*

Answer:

No one, for as long as Huffman failed to invoke the COA's jurisdiction.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Huffman never invoked COA jurisdiction by filing a notice of appeal.

The judgment became final and non-appealable 30 days after judgment.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Obedient to KRS 426.030, JHPDE waited 10 days (actually 87 days) after the judgment to begin collection efforts.


Wage garnishment first ; then non-wage garnishment.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

JHPDE pursued collections efforts by invoking the trial court's subject matter jurisdiction over this particular collection case pursuant to KRS 425.001—427.990 et seq. (Title XXXIX)

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Huffman did not avail himself of the provisions of Title XXXIX seeking to quash or otherwise challenge the garnishments.



- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

The nonwage garnishment yielded the full judgment.

JHPDE filed a Satisfaction of Judgment.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Without citing a rule, Huffman, pro se, filed a collateral attack on the summary judgment.

Trial court denied motion without citing a rule.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Question:

Did the trial court have jurisdiction to entertain the motion?

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- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Answer:

It lost particular case jurisdiction but has subject matter jurisdiction to entertain a collateral attack on its judgment.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Huffman hired an attorney who served discovery requests on JHPDE.

JHPDE did not respond because service was on the wrong counsel.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***


Motion to compel followed but was never properly served.

JHPDE did not appear at that hearing.

Trial court granted motion to compel.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

When JHPDE counsel figured out what was happening, she tried to resolve it outside of court via email.

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- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

“I am reaching out to you about your motion to compel, I am a bit confused as to why such a motion was filed, since this case has been settled and file closed for some months. Was this perhaps filed in the wrong case?”

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Huffman's counsel did not respond.

He filed a motion for sanctions, also not properly served.

The hearing on sanctions proceeded.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Huffman's counsel moved orally for an order setting aside the judgment and for refund of all garnishment proceeds.

Trial court entered an order granting that oral motion.

- ▶ *JHPDE Finance I, LLC v. Gibson*
 - ▶ *(writ, on appeal)*

Huffman then brought a new lawsuit claiming violation of the Fair Debt Collection Practices Act and claiming conversion.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

JHPDE removed that new case to federal court.

JHPDE sought a writ of prohibition with the COA in the old case.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

COA held: trial court lacked particular case jurisdiction after May 29, 2023.



- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

“Once lost, jurisdiction must be invoked anew, independently of the previous action that has achieved finality.”

***Pavkovich v. Shenouda*, 280 S.W.3d 584, 588 (Ky. App. 2009)**

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

“Subject matter jurisdiction of a particular case can be ‘invoked anew’ if the law says it can.”

- ▶ *JHPDE Finance I, LLC v. Gibson*
 - ▶ *(writ, on appeal)*

Whatever “residual jurisdiction remain[s] in the trial court under these circumstances is limited in scope to consideration of only specifically authorized matters.” *Young v. Richardson*, 267 S.W.3d 690, 696 (Ky. App. 2008).

- ▶ *JHPDE Finance I, LLC v. Gibson*
 - ▶ *(writ, on appeal)*

Examples include CR 60.01 and CR 60.02.



- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

“[T]here are statutes in Kentucky that specifically grant a trial court continuing jurisdiction over a particular case after a final judgment . . . such as in child custody and certain probationary matters.” *Buster v. Commonwealth*, 381 S.W.3d 294, 304 (Ky. 2012).

- ▶ *JHPDE Finance I, LLC v. Gibson*
 - ▶ *(writ, on appeal)*

JHPDE invoked the trial court's jurisdiction anew pursuant to Title XXXIX.

But the trial “court's subject matter jurisdiction is limited to the express authority granted in the legislative scheme of Title XXXIX.”

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

Nothing in Title XXXIX authorized the trial court to set aside the summary judgment in a prior case that achieved finality.

The trial court erred by entertaining Huffman's collateral attack.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

To be clear, Huffman did not pursue CR 60.02 relief. However, he remains free to pursue that relief to the extent it is available.

- ▶ ***JHPDE Finance I, LLC v. Gibson***
 - ▶ ***(writ, on appeal)***

JHPDE's writ petition was granted.

The trial court is prohibited from enforcing its order setting aside the judgment and refund of the satisfaction of the judgment by lawful garnishment.

**W.I.S. v. K.M.B., 722 S.W.3d 569
(Ky. App. Oct. 3, 2025)**



The Court's patience is not boundless

W.I.S. v. K.M.B

Appeal of granted stepparent adoption brought by natural father.

Proceeding *pro se*, natural father filed a brief that was severely deficient.

- no cites to the record (in either statement of the case or argument section)
- no preservation statement
- appendix did not contain proper citations

W.I.S. v. K.M.B

The Court struck the brief, but allowed natural father to file again.

But natural father filed a deficient brief again, with little changes.

W.I.S. v. K.M.B

The Court permitted the opportunity to file a corrective reply, which the natural father failed to do.

So, after repeated failures to file a compliant brief, the Court dismissed the appeal.

“Appellate procedural rules, including those for briefing, cannot be ignored by appellate advocates.” -Judge Eckerle

**THANKS
FOR
YOUR
ATTENTION**

