

Kentucky Supreme Court
Cases of Note
[March-April, 2019](#)

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WORKERS COMPENSATION

Doug Trevino v. Transit Authority of River City, et al.

[2018-SC-000364-MR](#) March 14, 2019

Opinion of the Court by Justice Keller. Minton, C.J.; Hughes, Keller, Lambert, VanMeter, and Wright, JJ., sitting. All concur. While operating a TARC bus in Jefferson County, Kentucky, Douglas Trevino was assaulted by a passenger resulting in injuries to his face, teeth, as well as causing post-traumatic stress disorder. TARC responded by denying the claim pursuant to the special defense provided in KRS 342.610(3). Having reviewed the on-board bus surveillance video, the ALJ concluded that Trevino’s intentional action, leading up to the assault which injured him, was the proximate cause of the assault. The Board and the Court of Appeals affirmed. The Kentucky Supreme Court affirmed and held: if a claimant’s aggressive or inflammatory behavior proximately causes violence, thus resulting in injury to the claimant, the claimant is not entitled to compensation under Kentucky’s Workers’ Compensation laws. In so holding, the Court noted that the ALJ’s conclusion was based on her review of the bus surveillance video as well as Trevino’s testimony. She clearly did not find Trevino’s version of the events credible. Therefore, the ALJ’s decision denying Trevino benefits pursuant to KRS 342.610(3) was supported by substantial evidence.