

ARKANSAS COURT OF APPEALS

Opinions delivered
December 16, 2009

LARRY D. VAUGHT, CHIEF JUDGE:

CACR09-488. Connie Williams and Edward Williams v. State of Arkansas, from Lonoke Circuit. Affirmed. Glover and Marshall, JJ., agree.

CA09-226. Cliff Price and Linda Price v. Walter Willbanks and Jerrie L. Willbanks, from White Circuit. Affirmed. Glover and Marshall, JJ., agree.

JOHN MAUZY PITTMAN, JUDGE:

CA09-2. Ricky Williams, Joey Williams, and Franklin Williams v. Homer Davis, as Executor for the Estate of Ethel Davis, Deceased, and South Sheridan Water Association, from Grant Circuit. Affirmed in Part; Reversed in Part; and Remanded. Hart and Gladwin, JJ., agree.

CA09-326. Howe Now, Inc., et al. v. Fishing University, from Sebastian Circuit, Fort Smith District. Affirmed on Direct Appeal; Cross-Appeal Dismissed. Hart and Glover, JJ., agree.

CA09-459. Steve Churchill v. Jeanette M. Churchill, from Pulaski Circuit, Ninth Division. Affirmed. Kinard and Baker, JJ., agree.

JOSEPHINE LINKER HART, JUDGE:

CACR09-620. Belton Simpson v. State of Arkansas, from Pulaski Circuit, Seventh Division. Affirmed. Pittman and Gladwin, JJ., agree.

CA09-269. Bethel Acuff v. Donald V. Bumgarner, Mildred Bumgarner, and Donald W. Bumgarner, from Madison Circuit. Reversed and Remanded. Pittman and Gladwin, JJ., agree.

CA09-615. Thurstle Mullen v. Agnes Shockley, a/k/a Lottie Shockley, Shelia Chapman, and David Chapman, from Craighead Circuit, Western District. Reversed and Remanded. Vaught, C.J., and Robbins, J., agree.

ROBERT J. GLADWIN, JUDGE:

CACR09-624. David Tyson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed. Pittman and Hart, JJ., agree.

CA08-640. Tasha Orr, Personal Representative of the Estate of Melvin Woodson, Jr., Deceased v. Timothy Calicott, M.D. and Stephen Hudson, M.D., from Faulkner Circuit. Affirmed in Part; Reversed and Remanded in Part. Vaught, C.J., and Marshall, J., agree.

CA09-725. Charissa Leatherwood Blackerby v. Arkansas Department of Human Services, J.B., and J.B., Minor Children, from Benton Circuit. Affirmed. Pittman and Hart, JJ., agree.

JOHN B. ROBBINS, JUDGE:

CACR09-773. Don E. Jordan v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed. Kinard and Gruber, JJ., agree.

CA09-42. James W. Poole, Jr. v. Anna Michelle Poole, from Ashley Circuit. Affirmed. Kinard and Gruber, JJ., agree.

M. MICHAEL KINARD, JUDGE:

CACR09-785. Broderick J. Cooper v. State of Arkansas, from Clark Circuit. Affirmed. Robbins and Gruber, JJ., agree.

CA09-642. Harold Stacks v. Angela Stacks, from Washington Circuit. Affirmed. Pittman and Baker, JJ., agree.

RITA W. GRUBER, JUDGE:

CACR09-307. Jonathon Moore v. State of Arkansas, from Pulaski Circuit, Fourth Division. Affirmed. Robbins and Kinard, JJ., agree.

CA09-711. Greg Hays v. Arkansas Department of Health & Human Services, and Minor Child, from Washington Circuit. Affirmed. Robbins and Kinard, JJ., agree.

DAVID M. GLOVER, JUDGE:

CA09-378. Selrahc Limited Partnership and Katina Roye Peevyhouse (formerly known as Katina R. Roye) v. Seeco, Inc., et al., from Van Buren Circuit. Affirmed. Gladwin and Brown, JJ., agree.

CA09-832. Charles Johnson v. Abilities Unlimited, Inc., and Commerce & Industry Insurance Co., from the Arkansas Workers' Compensation Commission. Affirmed on Direct Appeal and Cross-Appeal. Vaught, C.J., and Marshall, J., agree.

D. P. MARSHALL JR., JUDGE:

CACR09-465. Lewis L. Williams, Jr. v. State of Arkansas, from Pulaski Circuit, Fourth Division. Affirmed. Vaught, C.J., and Glover, J., agree.

CA09-92. Arkansas Residential Building Contractors Committee of the Arkansas Contractors Licensing Board v. JAG Enterprises, Inc., from Garland Circuit. Committee Affirmed; Circuit Court Reversed. Vaught, C.J., and Gladwin, J., agree.

CA09-238. Ricky R. Garrett and Sigrid Garrett v. Thomas L. Fite, from Crawford Circuit. Affirmed. Gruber and Henry, JJ., agree.

CA09-706. Christopher Risner and Emily Risner v. Arkansas Department of Human Services and Minor Child, from Conway Circuit. Affirmed; Motion to Withdraw Granted. Vaught, C.J., and Glover, J., agree.

COURTNEY HUDSON HENRY, JUDGE:

CA09-243. Johnny Pruitt and Toni Pruitt v. Dickerson Excavation, Inc., from Franklin Circuit, Northern District. Appeal Dismissed. Baker and Brown, JJ., agree.

CA09-661. Kim Davis and Matthew Davis v. Arkansas Department of Human Services, from Boone Circuit. Affirmed; Motion to be Relieved Granted. Brown, J., agrees. Baker, J., concurs.

KAREN R. BAKER, JUDGE:

CACR09-591. Gregory Bernard Brown v. State of Arkansas, from Pulaski Circuit, Second Division. Affirmed. Henry and Brown, JJ., agree.

CA09-116. Arkansas Construction & Excavation, LLC v. City of Maumelle, Arkansas, from Pulaski Circuit, Ninth Division. Appeal Dismissed. Robbins and Marshall, JJ., agree.

CA09-541. Superior, Inc., Superior Pontiac-Cadillac, Superior One, Inc., and Superior Buick GMC v. James Arrington and Auto Buyers of Arkansas, Inc., from Pulaski Circuit, Fifth Division. Affirmed. Henry and Brown, JJ., agree.

WAYMOND M. BROWN, JUDGE:

CACR09-616. Anthony Owens v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed. Henry and Baker, JJ., agree.

CA09-567. Troy L. Boudreaux v. Ann McNulty Boudreaux, from Pulaski Circuit, Seventeenth Division. Dismissed. Henry and Baker, JJ., agree.

PER CURIAM OPINIONS:

CA08-1133. Forever Green Athletic Fields, Inc., d/b/a Progreen, Keith Day, David Ripka, Progreen Sport Surfaces, LLC, and Raymond Fritz v. Lasiter Construction, Inc., and Michael Lasiter, from Pulaski Circuit, Third Division. Rebriefing Ordered.

CA08-1346. Jerry Brasfield v. Jacqueline Murray, from Jefferson Circuit. Appeal Dismissed.

CA09-474. Emma Lee Gibson Jones, Administratrix of the Estate of Donald Edward Gibson, Deceased v. Dorothy McEwen, from Pulaski Circuit, Third Division. Appeal Dismissed.

CA09-840. Billy Harris v. Amy Yates, from Faulkner Circuit. Appeal Dismissed.

CA09-1066. William Canady and Lavon Canady v. Ricky Garrett, David Gober, Jr., and Saint Mark's Baptist Church, from Conway Circuit. Appeal Dismissed; Motion Moot.

PER CURIAM ORDERS

REHEARINGS DENIED: Petitions for Rehearing were denied today in the following cases.

CA09-149. Kaedon Steinert d/b/a Hurricane Express, Inc., et al. v. Workers' Compensation Commission, from Workers' Compensation Commission.

CA09-419. Curt Bean Transport, Inc. et al. v. Lawrence Hill, from Workers' Compensation Commission.

CACR08-1252. Amy Ladonna Elkins v. State of Arkansas, from Crawford Circuit. Motion of Charles D. Hancock for attorney's fees is granted. Allowed \$1,400.00.

CACR09-9. Leroy Stevenson v. State of Arkansas, from Craighead Circuit, Western District. Appellant's motion to file nonconforming brief is granted.

CACR09-62. Naem Hassan Rasul v. State of Arkansas, from Pulaski Circuit, Fifth Division. Motion of Lott Rolfe, IV

for attorney's fees and costs is granted. Allowed \$1,400.00.

CACR09-291. Jose E. Marin-Mendez et al. v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of Charles E. Smith for attorney's fees for appellant Mendez is granted. Allowed \$1,400.00.

CACR09-291. Mirna Luz Marin et al. v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of David L. Dunagin for attorney's fees for appellant Marin is granted. Allowed \$1,400.00.

CACR09-395. Sherman Watson v. State of Arkansas, from Hot Spring Circuit. Motion of Bob Frazier for attorney's fees is granted. Allowed \$1,400.00.

CACR09-570. Phillip Anderson and Mark Stephens v. State of Arkansas, from Hot Spring Circuit. Motion of Phyllis J. Lemons for attorney's fees for appellant Phillip Anderson is granted. Allowed \$1,400.00.

CACR09-868. Kenneth Joe Barrow v. State of Arkansas, from Faulkner Circuit. Resubmission after remand of motion of David Hogue to withdraw as counsel for appellant and motion of Teresa Bloodman to be substituted as counsel for appellant are granted.

CACR09-1156. Willie Patton, Jr. v. State of Arkansas, from Bradley Circuit. Appellant's pro se motion for appointment of counsel is denied.

CACR09-1286. Wendell Lee Strickland v. State of Arkansas, from Benton Circuit. Motion of William R. Mayo to withdraw as counsel for appellant is granted. Matthew Black is appointed to represent appellant. Brief due January 26, 2010.

CACR09-1316. Ronda Renee Jeffries v. State of Arkansas, from Crittenden Circuit. Motion of Richard West to be relieved and for appointment of substitute counsel is granted. B. Kevin Holland is appointed to represent appellant. Brief due January 26, 2010.

CA09-231. Kristin N. Kuelbs et al. v. Kimberly Hill, from Garland Circuit. Appellant's motion for Tyler C.M. Tapp, III, to recuse is denied. Hart, J., would pass until case is submitted. Robbins, J., not participating.

CA09-811. Samuel R. Massey v. Stephanie L. Rick, from Independence Circuit. Appellant's pro se motion to supplement the record is denied. Brief due within thirty days.

CA09-821. Ann Bowman v. Boar's Head Provisions Co., Inc. et al., from Workers' Compensation Commission. Appellees' motion to dismiss appeal is granted. Pittman, J., not participating.

CA09-821. Ann Bowman v. Boar's Head Provisions Co., Inc. et al., from Workers' Compensation Commission. Appellant's pro se motion to file belated brief is denied. Pittman, J., not participating.

CA09-849. M. T., a Minor v. State of Arkansas, from Craighead Circuit, Western District. Motion of Terry Goodwin Jones for attorney's fees is granted. Allowed \$1,400.00.

CA09-850. W. T., a Minor v. State of Arkansas, from Craighead Circuit, Western District. Motion of Terry Goodwin Jones for attorney's fees is granted. Allowed \$1,400.00.

CA09-861. Mike Nobles v. Robbyn Tumey, from Sebastian Circuit, Fort Smith District. Appellee's pro se motion for extension of brief time is granted for sixty days until February 16, 2010.

CA09-931. Kristin N. Kuelbs et al. v. Kimberly Hill, from Garland Circuit. Appellants' motion for Tyler C.M. Tapp, III, to recuse is denied. Robbins, J., not participating.

CA09-931. Kristin N. Kuelbs et al. v. Kimberly Hill, from Garland Circuit. Appellants' motion for appointment of guardian ad litem or "next friend" for Kristin N. Kuelbs is denied. Robbins, J., not participating.

CA09-1034. David Rees v. Danielle McLaughlin and Donald Latourette, from Craighead Circuit, Western District. Motion of Richard Watts and Charles Crocker, Individually, and Watts, Donovan & Tilley, P.A., to withdraw as counsel for appellee Latourette is granted. Marshall, J., not participating.

CA09-1066. William Canady and Lavon Canady v. Ricky Garrett et al., from Conway Circuit. Appellant's pro se motion to stay brief time on filing of belated brief is moot. See per curiam this date.

CA09-1121. Marina Velazquez v. Britton Riddle, from Sebastian Circuit, Fort Smith District. Appellant's motion to supplement the record and stay briefing schedule is granted. Supplemental record due within thirty days. Brief due within thirty days thereafter.

CA09-1124. Marc A. Rogers, M.D. v. Alan Sargent, from Garland Circuit. Appellant's motion to amend the record and to stay brief time is remanded to the trial court to settle the record within thirty days. Brief due within fifteen days thereafter.

CA09-1163. Rex Thurlkill v. Thelon Wood and Nancy Webb Wood, from Union Circuit. Joint motion for the Court to receive and consider enlargements is granted.

CA09-1202. Bio Tech Pharmacal Industries, Inc. v. Edmond Blouin, from Workers' Compensation Commission. Appellant's petition for writ of certiorari, to remand and to stay briefing schedule is granted.

MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CA08-1449. Robert Maulding v. Price's Utility Contractors, Inc. et al., from Workers' Compensation Commission. (Appellant's)

CA08-1449. Robert Maulding v. Price's Utility Contractors, Inc. et al., from Workers' Compensation Commission. (Appellees')

CA09-164. J. F. Valley v. Helena National Bank, from Phillips Circuit.

CA09-420. Intong Sivixay v. Danaher Tool Group, from Workers' Compensation Commission.

CACR08-572. William Dale Morrison v. State of Arkansas, from Crawford Circuit. Motion of Gregg A. Knutson for attorney's fees.

CACR08-1374. James Clayton Solomon v. State of Arkansas, from Washington Circuit. Appellant's motion to correct the record and to stay brief time.

CACR09-486. Sharon Kay Gilmore v. State of Arkansas, from Washington Circuit. Motion of Jason Andrew Jouett for attorney's fees.

CACR09-486. Sharon Kay Gilmore v. State of Arkansas, from Washington Circuit. Motion of Jason Andrew Jouett to

be relieved as counsel for appellant.

CACR09-707. Steven Ray Ludlam v. State of Arkansas, from Lincoln Circuit. Motion of Gary W. Potts for attorney's fees.

CACR09-995. Randy McCoy v. State of Arkansas, from Faulkner Circuit. Appellee's motion to dismiss appeal.

CACR09-1213. Anthony Brian Williamson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Appellant's pro se motion to proceed pro se.

CACR09-1239. Dewayne Jones v. State of Arkansas, from Pulaski Circuit, Seventh Division. Appellant's pro se motion to withdraw appeal.

CACR09-1239. Dewayne Jones v. State of Arkansas, from Pulaski Circuit, Seventh Division. Motion of Thomas Kendrick, attorney for appellant, to strike the appellant's pro se motion to withdraw appeal.

CA08-1351. Gary Bodiford, M.D. v. Joy Street, LLC et al., from Washington Circuit. Parties' status report on bankruptcy proceedings.

CA08-1449. Robert Maulding v. Price's Utility Contractors, Inc., from Workers' Compensation Commission. Appellees' motion to strike tendered reply to response to petition for rehearing.

CA09-876. Bobby Clark Construction et al. v. Bobby Clark, from Workers' Compensation Commission. Appellants' motion to file belated brief.

The following cases are called for dismissal for failure to file substituted briefs after rebriefing was ordered pursuant to Arkansas Supreme Court Rule 4-2(b)(3).

CA08-1419. Mary Ann Kizer v. Dale Kizer et al., from Jefferson Circuit.

CA09-117. Phil Stratton v. Cathy Sullivan, from Faulkner Circuit.

SUBMISSIONS

CACR08-84. Damont Ewells v. State of Arkansas, from Garland Circuit.

CACR08-588. Jeffrey L. Boen v. State of Arkansas, from Johnson Circuit.

CACR08-767. Eric Dewayne Martin v. State of Arkansas, from Miller Circuit.

CACR08-875. Tiffany Duckrey v. State of Arkansas, from Pulaski Circuit, Fourth Division.

CACR08-1044. Kevin D. Frazier v. State of Arkansas, from Ashley Circuit.

CACR08-1121. Dennis Eric Morgan v. State of Arkansas, from Drew Circuit.

CACR08-1254. Frankie Von Holt v. State of Arkansas, from Crawford Circuit.

CACR08-1271. Stanley Ray Vick v. State of Arkansas, from Sebastian Circuit, Greenwood District.

CACR08-1465. Raymond Graves v. State of Arkansas, from Crittenden Circuit.

- CACR09-32. Bondie Hood v. State of Arkansas, from Greene Circuit.
- CACR09-144. Justin C. Teague v. State of Arkansas, from Sebastian Circuit, Fort Smith District.
- CACR09-169. Zackson T. Watlington v. State of Arkansas, from Crittenden Circuit.
- CACR09-175. Mitchell Scott Johnson v. State of Arkansas, from Benton Circuit.
- CACR09-227. Jimmie Simpson v. State of Arkansas, from Crittenden Circuit.
- CACR09-253. Douglas E. Britt v. State of Arkansas, from Sebastian Circuit, Fort Smith District.
- CACR09-311. Deangelo Dewayne Dillard v. State of Arkansas, from Crittenden Circuit.
- CACR09-312. Melvin Cisero v. State of Arkansas, from Crittenden Circuit.
- CACR09-344. Jamie Deachell Fox v. State of Arkansas, from Crittenden Circuit.
- CACR09-433. LaShelle Graham v. State of Arkansas, from Hot Spring Circuit.
- CACR09-515. Sandy Yarbrough Smith v. State of Arkansas, from Crittenden Circuit.
- CACR09-600. Bobby R. Ford v. State of Arkansas, from Union Circuit.
- CACR09-728. Marcus Holley v. State of Arkansas, from Desha Circuit, Arkansas City District.
- CACR09-819. Derryl Seay v. State of Arkansas, from Crittenden Circuit.
- CACR09-898. Joshua Jerome Thomas v. State of Arkansas, from Lonoke Circuit.