

ARKANSAS COURT OF APPEALS

Opinions delivered
January 13, 2010

LARRY D. VAUGHT, CHIEF JUDGE:

CACR09-253. Douglas E. Britt v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed; Motion to be Relieved Granted. Glover and Marshall, JJ., agree.

CACR09-344. Jamie Deachell Fox v. State of Arkansas, from Crittenden Circuit. Affirmed; Motion to be Relieved Granted. Glover and Marshall, JJ., agree.

CACR09-426. Antwan Lavan Fowler v. State of Arkansas, from Faulkner Circuit. Reversed and Remanded. Glover and Marshall, JJ., agree.

JOHN MAUZY PITTMAN, JUDGE:

CACR08-1044. Kevin Frazier v. State of Arkansas, from Ashley Circuit. Affirmed; Motion to Withdraw Granted. Hart and Gladwin, JJ., agree.

CACR09-562. Ho Van Nguyen v. State of Arkansas, from Benton Circuit. Affirmed. Hart and Gladwin, JJ., agree.

JOSEPHINE LINKER HART, JUDGE:

CACR08-875. Tiffany Duckrey v. State of Arkansas, from Pulaski Circuit, Fourth Division. Affirmed; Motion to Withdraw Granted. Pittman and Gladwin, JJ., agree.

CACR09-312. Melvin Cisero v. State of Arkansas, from Crittenden Circuit. Affirmed; Motion to Withdraw Granted. Pittman and Gladwin, JJ., agree.

CA09-774. John Haynes v. Arkansas Department of Human Services, from Miller Circuit. Reversed and Remanded. Vaught, C.J., and Robbins, J., agree.

ROBERT J. GLADWIN, JUDGE:

CACR08-1271. Stanley Ray Vick v. State of Arkansas, from Sebastian Circuit, Greenwood District. Affirmed; Motion to Withdraw Granted. Pittman and Hart, JJ., agree.

CACR09-152. Ronney Cain v. State of Arkansas, from Washington Circuit. Affirmed. Gruber, Glover, Marshall, and Henry, JJ., agree. Brown, J., agrees in part; dissents in part.

CACR09-433. LaShelle Graham v. State of Arkansas, from Hot Spring Circuit. Affirmed; Motion to be Relieved Granted. Pittman and Hart, JJ., agree.

JOHN B. ROBBINS, JUDGE:

CACR08-1465. Raymond Graves v. State of Arkansas, from Crittenden Circuit. Affirmed; Motion Granted. Kinard and Gruber, JJ., agree.

CACR09-227. Jimmy Simpson v. State of Arkansas, from Crittenden Circuit. Affirmed as Modified; Motion to be

Relieved Granted. Kinard and Gruber, JJ., agree.

M. MICHAEL KINARD, JUDGE:

CACR09-144. Justin Charles Teague v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Rebriefing Ordered; Motion Denied. Robbins and Gruber, JJ., agree.

RITA W. GRUBER, JUDGE:

CACR08-1121. Dennis Eric Morgan v. State of Arkansas, from Drew Circuit. Affirmed; Motion Granted. Robbins and Kinard, JJ., agree.

CACR09-819. Derryl Seay v. State of Arkansas, from Crittenden Circuit. Rebriefing Ordered. Robbins and Kinard, JJ., agree.

DAVID M. GLOVER, JUDGE:

CACR09-169. Zackson T. Watlington v. State of Arkansas, from Crittenden Circuit. Affirmed; Motion Granted. Vaught, C.J., and Marshall, J., agree.

CACR09-515. Sandy Yarbrough Smith v. State of Arkansas, from Crittenden Circuit. Affirmed; Motion Granted. Vaught, C.J., and Marshall, J., agree.

D. P. MARSHALL JR., JUDGE:

CACR08-588. Jeffrey L. Boen v. State of Arkansas, from Johnson Circuit. Affirmed; Motion to Withdraw Granted. Vaught, C.J., and Glover, J., agree.

CACR09-898. Joshua Jerome Thomas v. State of Arkansas, from Lonoke Circuit. Affirmed; Motion to Withdraw Granted. Vaught, C.J., and Glover, J., agree.

CA09-770. In Re: The Estate of Mary Elizabeth Reimer, incompetent, from Pulaski Circuit, Seventeenth Division. Affirmed. Vaught, C.J., and Glover, J., agree.

COURTNEY HUDSON HENRY, JUDGE:

CACR08-767. Eric Dewayne Martin v. State of Arkansas, from Miller Circuit. Affirmed; Motion to be Relieved Granted. Baker and Brown, JJ., agree.

KAREN R. BAKER, JUDGE:

CACR08-84. Damont T. Ewells v. State of Arkansas, from Garland Circuit. Affirmed; Motion Granted. Henry and Brown, JJ., agree.

CACR09-311. Deangelo Dewayne Dillard v. State of Arkansas, from Crittenden Circuit. Affirmed; Motion Granted. Henry and Brown, JJ., agree.

WAYMOND M. BROWN, JUDGE:

CACR08-1254. Frankie Von Holt v. State of Arkansas, from Crawford Circuit. Affirmed; Motion Granted. Henry and Baker, JJ., agree.

CACR09-543. Dwayne Gibson v. State of Arkansas, from Arkansas Circuit, Northern District. Affirmed. Henry and Baker, JJ., agree.

CACR09-728. Marcus Holley v. State of Arkansas, from Desha Circuit, Arkansas City District. Affirmed; Motion to

Withdraw Granted. Henry and Baker, JJ., agree.

PER CURIAM OPINIONS:

CA08-1361. Sylvia Bell, Aaron Bell, and Allegra Barker v. Thomas W. Simms and Leann Simms, from Sebastian Circuit, Fort Smith District. Appeal Dismissed.

CA08-1419. Mary Ann Kizer v. Dale Kizer and Simmons First National Bank, from Jefferson Circuit. Affirmed.

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

PER CURIAM ORDERS

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

CA08-1449. Robert Maulding v. Price's Utility Contractors, Inc. et al., from Workers' Compensation Commission. Appellees' Petition for Rehearing. *See* supplemental opinion this date.

CA09-391. Las Colinas International, Inc. and Formosa Foods v. Crosswood Associates, Inc., from Washington Circuit.

CA09-601. Lillian H. Ashton Trust et al. v. Kenny Caraway et al., from Izard Circuit.

CACR08-704. Daniel Sanders v. State of Arkansas, from Pulaski Circuit, Fourth Division. Motion of Leah Lanford for attorney's fees is granted. Allowed \$1,400.00.

CACR09-334. James Allen Hill v. State of Arkansas, from Jefferson Circuit. Appellant's motion to file substituted abstract and brief is granted. Brief filed this date. Appellee allowed twenty days to file substituted brief, if necessary.

CACR09-345. Daniel Dorsey v. State of Arkansas, from Crittenden Circuit. Appellant's pro se motion for reconsideration of decision pertaining to preparation of points for reversal is denied.

CACR09-390. Jeffery Lynn Moss a/k/a Jeff Moss v. State of Arkansas, from Perry Circuit. Appellant's motion for additional brief time is granted. Final extension.

CACR09-405. Larry Eugene Barker v. State of Arkansas, from Baxter Circuit. Appellant's motion for remand to trial court is denied without prejudice to developing the incomplete record argument in the briefing on the merits.

CACR09-405. Larry Eugene Barker v. State of Arkansas, from Baxter Circuit. Appellant's motion for extension of brief time is granted. Appellant's brief due February 15, 2010.

CACR09-616. Anthony Owens v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of Daniel Stewart for attorney's fees is granted. Allowed \$1,000.00.

CACR09-694. Demarcus Cooks v. State of Arkansas, from Miller Circuit. Appellant's pro se motion for appointment of counsel and for extension of time to file brief is denied.

CACR09-730. Ruth Ann Lagoy v. State of Arkansas, from Stone Circuit. Appellant's pro se motion to submit additional pro se points is granted. Hart, J., not participating.

CACR09-733. Harold Miller v. State of Arkansas, from Pulaski Circuit, Seventh Division. Appellee's motion to dismiss appeal is granted.

CACR09-789. Jeremy Leonard v. State of Arkansas, from Drew Circuit. Appellant's motion to file belated brief is granted.

CACR09-893. David Eugene Lewis v. State of Arkansas, from Arkansas Circuit, Northern District. Motion of Constance G. Grayson to withdraw as counsel for appellant is granted. Bryan Huffman is appointed to represent appellant. Appellant's brief due February 22, 2010.

CACR09-934. Brian K. Walker v. State of Arkansas, from Pulaski Circuit, First Division. Appellant's motion to correct the record and to stay brief time is remanded to the trial court to correct the record within fifteen days. Appellant's brief due within fifteen days thereafter.

CACR09-1050. Jermiko Vonjay Johnson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Appellant's petition for writ of certiorari to complete the record and for extension of brief time is granted. Record due within thirty days. Appellant's brief due within thirty days thereafter.

CACR09-1056. Donald Henry Elmore v. State of Arkansas, from Crittenden Circuit. Appellee's motion to dismiss appeal is denied.

CACR09-1056. Donald Henry Elmore v. State of Arkansas, from Crittenden Circuit. Appellant's motion to clarify correction to brief. Conforming brief due within fifteen days. See docket entry for clarification.

CACR09-1068. Shawn Dell Whiteside v. State of Arkansas, from Lonoke Circuit. Appellant's motion to seal brief is granted.

CACR09-1088. Bobby Ray Hatton v. State of Arkansas, from Pulaski Circuit, Fourth Division. Appellant's pro se motion to file additional points for reversal is granted. Marshall, J., not participating.

CACR09-1088. Bobby Ray Hatton v. State of Arkansas, from Pulaski Circuit, Fourth Division. Appellee's motion to stay brief time pending pro se motion is granted. Marshall, J., not participating.

CACR09-1213. Anthony Brian Williamson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Appellant's pro se motion to proceed pro se is denied without prejudice.

CACR09-1213. Anthony Brian Williamson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Appellant's pro se motion to dismiss attorney is denied without prejudice.

CACR09-1239. Dewayne Jones v. State of Arkansas, from Pulaski Circuit, Seventh Division. Appellant's motion to dismiss appeal is granted.

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

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

CA08-1133. Progreen Sport Surfaces et al. v. Lasiter Construction, Inc., from Pulaski Circuit, Third Division. Appellant, Progreen's motion for scheduling order and clarification. Substituted briefs on rebriefing submitted to the Court as of this date are accepted as filed. The parties may rely on their reply briefs previously filed. However, any briefs filed after January 13, 2010, shall be filed in accordance with the Court rules effective January 1, 2010. Marshall, J., not

participating.

CA09-529. Anthony Jennings v. Architectural Products, Inc., from Pulaski Circuit, Sixth Division. Appellee's motion to strike letters in addendum is granted. Corrected brief and addendum due within fifteen days.

CA09-578. Jennifer L. Chanslor v. Sonic Drive-In et al., from Workers' Compensation Commission. Appellant's motion to file substituted brief and for brief time is granted.

CA09-698. Huong B. Nguyen v. FM Corporation, from Workers' Compensation Commission. Appellant's motion for attorney's fees is granted. Costs of \$885.00 assessed on mandate.

CA09-786. Yeri Garcia, Deceased v. Coast to Coast Carports, Inc., from Workers' Compensation Commission. Appellee's motion to dismiss appeal is granted.

CA09-853. Claudia Marron v. Brandon T. Williams, from Washington Circuit. Motion of Don A. Taylor of Davis, Clark, Butt, Carithers & Taylor, PLC to be substituted as counsel for appellee replacing J.R. Carroll is granted.

CA09-877. Veronica Murray v. Stant Manufacturing et al., from Workers' Compensation Commission. Appellees' motion to file belated brief is granted.

CA09-921. Terry Druyvestein v. Summit Brokerage Services, Inc. et al, from Sebastian Circuit, Fort Smith District. Appellant's motion to file belated brief is granted. Brief filed this date.

CA09-1033. Terry Otter v. Arkansas Sex Offender Assessment Committee, from Jefferson Circuit. Appellee's motion to supplement the record and for extension of brief time is granted. Record deemed supplemented. Brief due within fifteen days.

CA09-1107. Danielle N. Wood v. Wendy's Old Fashioned Hamburgers et al., from Workers' Compensation Commission. Appellees' motion to file belated brief is granted.

CA09-1180. Chickilah Davenport v. Kenneth Burnley, from Jefferson Circuit. Appellant's motion to file belated brief is granted. Brown, J., not participating.

CA09-1205. Palani Karupaiyan et al. v. Gary Brown et al., from Pulaski Circuit, Third Division. Appellants' pro se motion to file enlarged brief is denied. Brief due within thirty days.

CA09-1292. Cecil L. Stone v. Arkansas Department of Human Services et al., from Garland Circuit. Appellees' joint motion to stay briefing schedule and dismiss appeal is granted.

CA09-1298. N. J. v. State of Arkansas, from Faulkner Circuit. Motion of James F. Lane to be relieved as counsel for appellant is granted. Justin Eisele is appointed to represent appellant. Appellant's brief due February 22, 2010.

CA09-1299. C. M. v. State of Arkansas, from Faulkner Circuit. Motion of James F. Lane to be relieved as counsel for appellant is granted. Gary J. Barrett is appointed to represent appellant. Appellant's brief due February 22, 2010.

CA09-1300. T. Y. R. v. State of Arkansas, from Faulkner Circuit. Motion of James F. Lane to be relieved as counsel for appellant is granted. Britt Cannon Johnson is appointed to represent appellant. Appellant's brief due February 22, 2010.

CA09-1317. Helen Cook v. Lane Cook et al., from Ouachita Circuit. Appellant's motion to suspend briefing schedule is granted for six months. Parties will provide status report on or before July 14, 2010.

The following cases are affirmed 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. See per curiam this date.

CA09-117. Phil Stratton v. Cathy Sullivan, from Faulkner Circuit. See per curiam this date.

MOTIONS SUBMITTED

PETITION FOR REHEARING:

CA09-246. Robert Dotson, Sr. v. Irma L. Dotson, from Carroll Circuit, Eastern District.

CACR08-1207. Sonya Nate Mooney v. State of Arkansas, from Craighead Circuit, Western District. Motion of Valerie L. Hays for attorney's fees.

CACR09-96. Lorri Gean Rye v. State of Arkansas, from Crawford Circuit. Motion of Justin Eisele for attorney's fees and expenses.

CACR09-488. Edward Williams and Connie Williams v. State of Arkansas, from Lonoke Circuit. Motion of Christopher Cordero for attorney's fees.

CACR09-624. David Tyson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of David L. Dunagin for attorney's fees.

CACR09-721. Ellis Trice v. State of Arkansas, from Crawford Circuit. Motion of Christopher H. Kinslow for attorney's fees.

CACR09-773. Don E. Jordan v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of David L. Dunagin for attorney's fees.

CACR09-785. Broderick Jovan Cooper v. State of Arkansas, from Clark Circuit. Motion of Alvin Schay for attorney's fees .

CACR09-817. James Michael McKim v. State of Arkansas, from Saline Circuit. Motion of F. Parker Jones, III for attorney's fees.

CACR09-820. Robert Cayton v. State of Arkansas, from Crittenden Circuit. Appellant's third motion for extension of time.

CACR09-933. Cornelius Joseph McCastle v. State of Arkansas, from Arkansas Circuit, Northern District. Appellant's petition for writ of certiorari to complete the record and for extension of time to file brief.

CACR09-1091. Christopher Cody Anderson v. State of Arkansas, from Boone Circuit. Appellee's motion to dismiss.

CACR09-1146. Terry Moss v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of R. Gunner DeLay to withdraw as attorney for appellant.

CACR09-1146. Terry Moss v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of James P. Clouette to be substituted as counsel for appellant.

CACR09-1291. Michelle Burkhart v. State of Arkansas, from Crawford Circuit. Motion of David Charles Gean to be substituted as counsel for appellant and for brief time.

CACR10-6. Danny Ray Henington v. State of Arkansas, from Benton Circuit. Motion of Bruce Bennett for substitution and appointment of counsel.

CA09-323. Addison Shoe Company et al. v. Lavearn Moody, from Workers' Compensation Commission. Appellee's motion for attorney's fees.

CA09-1278. Gene Ludwig v. Bella Casa, LLC et al., from Pulaski Circuit, Sixth Division. Appellant's pro se motion to file belated brief.

SUBMISSIONS

CA09-673. Pauline Barrett v. C. L. Swanson Corporation and Cincinnati Insurance Company, from Workers' Compensation Commission. Argued orally.

CACR09-508. Nathaniel Price v. State of Arkansas, from Crawford Circuit.

CACR09-592. Napoleon Haire v. State of Arkansas, from Pulaski Circuit, Fourth Division.

CACR09-679. Dustin C. Torrence v. State of Arkansas, from Cleveland Circuit.

CACR09-692. Lathon Jordana v. State of Arkansas, from Pulaski Circuit, Fourth Division.

CACR09-741. Ryecus Cranall Ward v. State of Arkansas, from Washington Circuit.

CACR09-866. Larry Wayne Saxton v. State of Arkansas, from Prairie Circuit, Southern District.

CACR09-869. Terry Wayne Pack v. State of Arkansas, from Benton Circuit.

CA08-1142. Robert L. Edwards v. Diane C. Edwards, from Columbia Circuit.

CA09-211. A. I., a Minor v. State of Arkansas, from Benton Circuit.

CA09-274. Gary Lawhead v. Mary Thompson Harris, from Baxter Circuit.

CA09-289. Henry Pianalto v. Patricia Pianalto, from Washington Circuit.

CA09-598. Judy Moore v. Mark Moore, from Washington Circuit.

CA09-630. Ronnie Lee Easley v. Robin E. Easley, from Grant Circuit.

CA09-695. John Schubert v. Arkansas Department of Human Services, from Crawford Circuit.

CA09-702. Karen Davis v. Arkansas Department of Human Services, from Pulaski Circuit, Tenth Division.

CA09-797. Troy Steele v. David Blankenship, from Washington Circuit.

CA09-802. Holly Medina v. Clayton Roberts, from Benton Circuit.

CA09-835. Second Injury Fund v. Cleveland Osborn et al., from Workers' Compensation Commission.

CA09-884. Chris Scoggins v. Glen Roberts Excavation, from Workers' Compensation Commission.

CA09-896. Dillards, Inc. v. Elizabeth Johnson, from Workers' Compensation Commission.

CA09-919. Janice Nichols v. Omaha School District et al., from Workers' Compensation Commission.

CA09-967. Sammy Caldwell v. Arkansas Department of Human Services, from Grant Circuit.