

# ARKANSAS COURT OF APPEALS

Opinions delivered  
MAY 5, 2010

LARRY D. VAUGHT, CHIEF JUDGE:

CA09-1044. Walnut Ridge Golf Club, Inc. v. City of Walnut Ridge and Walnut Ridge Airport Commission, from Lawrence Circuit. Affirmed. Glover, J., agrees. Gruber J., concurs.

JOHN MAUZY PITTMAN, JUDGE:

CACR09-911. Kimberly Ann Webb v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed. Hart and Baker, JJ., agree.

CACR09-1132. Demetricus Marcus Hampton v. State of Arkansas, from Craighead Circuit, Western District. Affirmed. Vaught, C.J., and Brown, J., agree.

CA09-1061. Bridgestone/Firestone, Inc. v. Paul Hensley, from the Arkansas Workers' Compensation Commission. Affirmed. Vaught, C.J., and Brown, J., agree.

JOSEPHINE LINKER HART, JUDGE:

CACR09-1058. John C. Rambeau v. State of Arkansas, from Garland Circuit. Affirmed. Pittman and Baker, JJ., agree.

CA09-434. William Doug Bell v. Jerry W. Hoofman and Shirley F. Hoofman, husband and wife; Erich Prien and Delores Devitt Prien, husband and wife; Paul L. Monzingo and Delores A. Prien, brother and sister, James T. Hendricks and Shirley J. Hendricks, husband and wife; Shirley I. Hoofman, individually and as surviving spouse of Stanley Hoofman, deceased; Virgil Ray Hoofman and Rose Mary Hoofman, husband and wife, Virgil Hoffman and Anna Jane Hoofman, husband and wife; Daniel Brown Hoofman and Helen Hoofman, husband and wife; James R. Williams and Terry K. Williams, husband and wife; Lisa Kay Fagan, a single person; and Charles Porter Daugherty, from White Circuit. Reversed and remanded. Robbins and Henry, JJ., agree.

CA09-1221. Wesner's Grill and Columbia National Insurance Company v. Kenneth Carpenter, from the Arkansas Workers' Compensation Commission. Affirmed. Pittman and Baker, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

CA09-858. Natasha Blakes v. Arkansas Department of Human Services and J.B., minor child, from Crittenden Circuit. Affirmed; motion granted. Henry and Brown, JJ., agree.

JOHN B. ROBBINS, JUDGE:

CACR09-1216. Jessie Marrell Douglas v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed. Kinard and Marshall, JJ., agree.

CA09-1405. John Barber v. Arkansas Department of Health & Human Services, from Sebastian Circuit, Fort Smith District. Affirmed; motion granted. Kinard and Marshall, JJ., agree.

M. MICHAEL KINARD, JUDGE:

CACR09-1077. Stevie James Howard v. State of Arkansas, from Pulaski Circuit, Fourth Division. Affirmed. Robbins

and Marshall, JJ., agree.

CACR09-1212. Merle Lee Banks, Jr. v. State of Arkansas, from Bradley Circuit. Affirmed. Robbins and Marshall, JJ., agree.

CA09-842. NCCF Support, Inc., Trustee of the Charles and Mildred Smith Charitable Remainder Unitrust v. Harris McHaney Real Estate Company, from Benton Circuit. Reversed and remanded; motion granted. Robbins and Marshall, JJ., agree.

CA09-1180. Chickilah Davenport v. Kenneth Burnley, from Jefferson Circuit. Affirmed. Robbins and Marshall, JJ., agree.

E09-181. Carla A. Krueger v. Director, Department of Workforce Services and Wal-Mart, from the Arkansas Board of Review. Affirmed. Robbins and Marshall, JJ., agree.

RITA W. GRUBER, JUDGE:

CACR09-819. Derryl Seay v. State of Arkansas, from Crittenden Circuit. Affirmed; motion granted. Vaught, C.J., and Glover, J., agree.

DAVID M. GLOVER, JUDGE:

CACR09-1325. Maxwell Melder v. State of Arkansas, from Lonoke Circuit. Appeal dismissed. Vaught, C.J., and Gruber, J., agree.

COURTNEY HUDSON HENRY, JUDGE:

CA09-456. Household Recovery Services v. Cassandra Vega, from Sebastian Circuit, Fort Smith District. Reversed and remanded. Gladwin and Brown, JJ., agree.

CA09-1059. Kevin F. Buehne v. Rebecca Ellen Buehne, from Benton Circuit. Affirmed. Hart and Robbins, JJ., agree.

CA10-45. Tina Foster v. Arkansas Department of Human Services, from Ouachita Circuit. Affirmed; motion granted. Gladwin and Brown, JJ., agree.

KAREN R. BAKER, JUDGE:

CACR09-1171. Charles E. Skomp v. State of Arkansas, from Bradley Circuit. Affirmed. Pittman and Hart, JJ., agree.

CA09-844. Raeevelyn Rice v. Eunita Seals and Vicki McGhee, from Jefferson Circuit. Affirmed. Pittman and Hart, JJ., agree.

CA09-1235. M.E. v. State of Arkansas, from Saline Circuit. Affirmed. Pittman and Hart, JJ., agree.

WAYMOND M. BROWN, JUDGE:

CACR09-390. Jeffery Lynn Moss, a/k/a Jeff Moss v. State of Arkansas, from Perry Circuit. Affirmed. Gladwin and Henry, JJ., agree.

CA09-359. City of Little Rock v. McGeorge Contracting Co., Inc., from Pulaski Circuit, Ninth Division. Rebriefing ordered. Gladwin and Henry, JJ., agree.

CA09-862. Conmac Investments, Inc. v. Entergy Arkansas, Inc., from Jackson Circuit. Affirmed. Vaught, C.J., Gruber, and Marshall, JJ., agree. Pittman and Baker, JJ., dissent.

PER CURIAM OPINION:

CA09-973. Thurstle Mullen v. Mike Taylor and Kristen Taylor, from Crawford Circuit. Dismissed without prejudice.

### PER CURIAM DECISIONS

The following cases appealed from the Arkansas Board of Review are affirmed without written opinion pursuant to Supreme Court Rule 5-2(b).

E09-177. Wilma J. Brown v. Director et al.

E09-178. Kenneth L. Scott v. Director et al.

E09-179. Willie R. Litzsey v. Director et al.

E09-180. Larry F. Robbins, Jr. v. Director et al.

E09-182. Aisha R. Ruff v. Director et al.

E09-183. Arkansas Box v. Director et al.

E09-184. Alice F. Goldman v. Director et al.

E10-1. Burke H. Daneman v. Director et al.

E10-2. Sandra L. Stafford v. Director et al.

E10-4. Ebonie D. Early v. Director et al.

### PER CURIAM ORDERS

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

CA09-857. Winrock Grass Farms, Inc. v. Affiliated Real Estate Appraisers of Arkansas, Inc. et al., from Pulaski Circuit, Sixth Division.

CA09-1072. Tremayne Scoggins v. Evon M. Medlock, from Pulaski Circuit, Ninth Division. Pittman and Henry, JJ., dissent. See substituted opinion this date.

CA09-1112. James C. Moore and Clara L. Moore v. First Presbyterian Church of Searcy Arkansas, Inc. and Estate of Nellie Marie Phillips, Deceased, from White Probate.

CA09-1279. Benjamin Lane v. Joe Harris Trucking and Commerce and Industry Insurance Company, from Workers' Compensation Commission.

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CACR08-1374. James Clayton Solomon v. State of Arkansas, from Washington Circuit. Appellant's pro se motion to proceed pro se is denied.

CACR09-865. Lyndall Anthony Golden v. State of Arkansas, from Drew Circuit. Motion of Joseph P. Mazzanti III for attorney's fees and expenses is granted. Allowed \$1,400.00.

CACR09-1010. Keith Brown v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of Charles E. Smith for attorney's fees is granted. Allowed \$1,400.00.

CACR09-1068. Shawn Whiteside v. State of Arkansas, from Lonoke Circuit. Motion of Jonathan T. Lane for attorney's fees is granted. Allowed \$1,400.00.

CACR09-1104. James Forrest, Jr. v. State of Arkansas, from Jefferson Circuit. Motion of Charles D. Hancock for attorney's fees is granted. Allowed \$1,400.00.

CA09-1155. Stephen Waymack v. Treadway Electric Company, Inc. et al., from Workers' Compensation Commission. Appellant's pro se motion to file belated brief and for brief time is denied. Hart, Marshall and Baker, JJ., would grant.

CA09-1275. Michael L. Wommack v. Shelly R. Ingram, from Washington Circuit. Motion of Jeff H. Watson to withdraw and of J. Jason Boyeskie to be substituted as counsel for appellee is granted.

CA09-1303. Mary E. Young v. Ronnie Young, from Lonoke Circuit. Appellee's motion to dismiss appeal is granted. See *Bevans v. Deutsche Bank*, 373 Ark. 105 (2008).

CA10-21. Holiday Inn Franchising, Inc., now known as Holiday Hospitality Franchising, Inc. v. Hotel Associates, Inc., from Crittenden Circuit. Appellant's motion for leave to file a supplemental abstract and substituted brief is granted. Supplemental abstract and substituted brief due within thirty days. Hart and Marshall, JJ., would allow supplemental abstract in reply brief. Glover, J., not participating.

CA10-75. Waverly-Arkansas, Inc. et al. v. Norma Page, from Polk Circuit. Appellee's motion to supplement the record is remanded to the trial court to settle the record within thirty days. Appellant's reply brief due within fifteen days thereafter.

CA10-87. Hollis Robison et al. v. Paul Lee, Thomas Lee, and SEECO, Inc., from Van Buren Circuit. Appellee Thomas Lee's motion to dismiss appeal is passed until case is submitted.

CA10-87. Hollis Robison et al. v. Paul Lee, Thomas Lee, and SEECO, Inc., from Van Buren Circuit. Appellee SEECO's motion to dismiss appeal is passed until case is submitted. Appellees' briefs due within thirty days.

CA10-222. National Bank of Arkansas v. Rivercrossing Partners, LLC et al., from Pulaski Circuit, Sixth Division. Appellant's motion to correct the record is granted.

CA10-363. Wylie W. Westbrook v. Teton Industrial Construction et al., from Workers' Compensation Commission. Appellees' motion to dismiss appeal is denied.

### **MOTIONS SUBMITTED**

#### **PETITIONS FOR REHEARING:**

CA09-210. Grady Martin, Jr. v. Jensen Construction Company et al., from Workers' Compensation Commission.

CA09-569. Bethany Myers v. Arkansas Department of Human Services, from Miller Circuit.

CA09-579. Albert Krantz and Miriam Krantz v. Arkansas Department of Human Services, from Miller Circuit.

CA09-583. Don Thorne v. Arkansas Department of Human Services, from Miller Circuit.

CA09-672. Cheryl Lynn Prickett, as Executrix of the Estate of Shirley Harmor et al. v. Hot Spring County Medical Center et al., from Hot Spring Circuit.

CA09-955. George Hill v. LDA Leasing, Inc. et al., from Workers' Compensation Commission.

CA09-1129. Anthony Rose v. Louis A. Etoch et al., from Phillips Circuit.

CA09-1196. Fayetteville Public Schools v. Benjamin Dial, from Washington Circuit.

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CACR09-669. Courtney Craig v. State of Arkansas, from Phillips Circuit. Motion of Don Etherly for attorney's fees.

CACR09-805. Michael Wayne Watson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of Daniel Stewart for attorney's fees.

CACR09-1231. Michael B. Arnett v. State of Arkansas, from Clark Circuit. Appellant's motion to withdraw appeal with transcript of plea hearing.

CACR09-1231. Michael B. Arnett v. State of Arkansas, from Clark Circuit. Appellant's motion to stay brief time.

CA09-578. Jennifer L. Chanslor v. Sonic Drive-In et al., from Workers' Compensation Commission. Motion of Cynthia Rogers to withdraw as counsel for appellee Sonic Drive-In.

CA09-665. Rosemarie Clampitt v. James P. Geurin et ux., from Garland Circuit. Appellant's motion for oral argument.

CA09-955. George Hill v. LDA Leasing, Inc. et al., from Workers' Compensation Commission. Appellees' motion to dismiss petition for rehearing, and alternative motion to file belated response to petition for rehearing.

CA09-1124. Marc A. Rogers, M.D. v. Alan Sargent, from Garland Circuit. Appellant's motion to supplement the addendum.

CA09-1205. Palani Karupaiyan et al. v. Gary Brown et al., from Pulaski Circuit, Third Division. Appellees' motion to dismiss appeal.

CA09-1205. Palani Karupaiyan et al. v. Gary Brown et al., from Pulaski Circuit, Third Division. Appellants' pro se motion to proceed in forma pauperis to supplement the record and to stay appellees' motion to dismiss appeal.

CA09-1205. Palani Karupaiyan et al. v. Gary Brown et al., from Pulaski Circuit, Third Division. Appellants' pro se motion to file enlarged response to motion to dismiss appeal.

CA10-386. Rosie Lattimore v. Wal-Mart Associates, Inc. et al., from Workers' Compensation Commission. Appellant's pro se motion to file belated appeal.

CA10-417. D. W. v. State of Arkansas, from Pulaski Circuit, Eleventh Division. Appellant's motion to file the record and briefs under seal.

## **MOTIONS SUBMITTED**

CA09-39. Jack Barnes et al. v. Alcoholic Beverage Control Board et al., from Columbia Circuit. Argued orally.

CACR09-957. Harvey Tyson Lewis v. State of Arkansas, from Sebastian Circuit, Fort Smith District.

CACR09-1020. Laquince Hogan v. State of Arkansas, from Little River Circuit.

CACR09-1091. Christopher Cody Anderson v. State of Arkansas, from Boone Circuit.

CACR09-1206. Donnell Robinson v. State of Arkansas, from Chicot Circuit.

CACR09-1341. Chad Anthony Gaines v. State of Arkansas, from Crawford Circuit.

CACR09-1345. Tashika Sade Higgins v. State of Arkansas, from Pulaski Circuit, Fifth Division.

CACR10-123. Roland Kamgno v. State of Arkansas, from Faulkner Circuit.

CA09-79. Kennedy Funding, Inc. v. Virgil W. Shelton, from Pulaski Circuit, Sixth Division.

CA09-331. Pulaski Choice, LLC v. 2735 Villa Creek, L.P., from Pulaski Circuit, Sixth Division.

CA10-72. D. B., a Minor v. State of Arkansas, from Independence Circuit.

The following cases are appeals from the Arkansas Board of Review.

E10-5. Kenneth R. Mullins v. Director et al.

E10-6. Pedro Bonilla v. Director et al.

E10-7. Donnell K. Acklin v. Director et al.

E10-8. North Arkansas Symphony Society v. Director et al.

E10-9. Dennis K. Ellis v. Director et al.

E10-11. Patsy A. Bunch v. Director et al.

E10-12. Debbie K. Johnson v. Director et al.

E10-13. Frank J. Smith v. Director et al.

E10-14. Eddie R. Staggs v. Director et al.

E10-15. Linda A. McCurley v. Director et al.

E10-16. Arnett C. Daniels v. Director et al.