

ARKANSAS COURT OF APPEALS

PROCEEDINGS OF MARCH 18, 2020

RITA W. GRUBER, CHIEF JUDGE:

[CR-19-717](#). Rodney Dain Doster v. State of Arkansas, from Union County Circuit Court. Rebriefing ordered. Harrison and Whiteaker, JJ., agree.

[CV-19-259](#). (In the Matter of the Adoption of P.H., R.H., and Z.H., Three Minors) Amber Hrdlicka v. Mollie Hrdlicka, from Garland County Circuit Court. Affirmed. Harrison and Whiteaker, JJ., agree.

RAYMOND R. ABRAMSON, JUDGE:

[CR-19-628](#). Cortland D. Ruffin v. State of Arkansas, from Lafayette County Circuit Court. Affirmed; motion to withdraw granted. Virden and Hixson, JJ., agree.

[CV-19-454](#). Ozark Mountain Regional Public Water Authority of the State of Arkansas v. Arkansas Attorney General; Arkansas Department of Health; Nathaniel Smith, M.D., M.P.H, in His Official Capacity as Director/Secretary of the Arkansas Department of Health; Jim Lambert, in His Official Capacity as President of the Arkansas State Board of Health; and Terry Yamauchi, M.D.; Glen “Eddie” Bryant, M.D.; Clark Fincher, M.D.; Anthony N. Hui, M.D.; James Zini, D.O.; Catherine Tapp, M.P.H.; Beverly Foster, D.C; George Harper, J.D.; Robbie Thomas Knight, M.D.; Alan Fortenberry, P.E.; Perry Amerine; Gary Bass, Pharm D; Anika Whitfield, D.P.M.; Peggy Walker, R.N., M.S.N.; Susan Jones, M.D.; Thomas Jones, R.S.; Lee Johnson, M.D.; Susan Weinstein, D.V.M.; Miranda Childs-Bebee; and Lawrence Braden, M.D., in Their Official Capacities as Duly Appointed and Acting Members of the Arkansas State Board of Health, from Boone County Circuit Court. Affirmed. Virden and Hixson, JJ., agree.

BART F. VIRDEN, JUDGE:

[CR-19-605](#). Krystal V. Peer v. State of Arkansas, from Drew County Circuit Court. Affirmed. Abramson and Hixson, JJ., agree.

[CV-19-336](#). Koquise Edwards, Connie Ponds, and Deborah Edwards v. Ronald Hart and Curtis Harraway, Sr., Co-Administrators of the Estate of Monroe Hart, Deceased, from Clark County Circuit Court. Reversed and dismissed. Abramson and Hixson, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

[CR-19-559](#). Michael T. Fogle v. State of Arkansas, from Pulaski County Circuit Court, First Division. Affirmed. Switzer and Murphy, JJ., agree.

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ROBERT J. GLADWIN, JUDGE: (Continued)

[CV-19-503](#). Danny Lewis and Tami Lewis v. Danny Jewell; Charlotte Jewell; and Chandler Insurance Agency, Inc., from Miller County Circuit Court. Dismissed. Switzer and Murphy, JJ., agree.

BRANDON J. HARRISON, JUDGE:

[CR-19-591](#). Tracy Will Vaughn v. State of Arkansas, from White County Circuit Court. Affirmed. Switzer and Vaught, JJ., agree.

[CV-18-846](#). Progressive Eldercare Services-Chicot, Inc., d/b/a Lake Village Rehabilitation and Care Center v. Carrie Lang and Carrie Mae Hillard as Co-Personal Representatives of the Estate of Lula Bell Glass Pugh and on Behalf of Beneficiaries of Lula Bell Glass Pugh, from Chicot County Circuit Court. Affirmed as modified; remanded. Switzer and Vaught, JJ., agree.

[CV-19-357](#). Camden-Progressive Eldercare Services, Inc., d/b/a Ouachita Nursing and Rehabilitation Center v. Gloria Cooper, as Personal Representative of the Estate of Emmer McCord, and on Behalf of the Wrongful Death Beneficiaries of Emmer McCord, from Ouachita County Circuit Court. Affirmed. Switzer and Vaught, JJ., agree.

[CV-19-625](#). Charles Symanietz v. Deborah Symanietz, from Benton County Circuit Court. Affirmed. Gruber, C.J., and Whiteaker, J., agree.

[CV-19-631](#). John M. Davis v. Ed Hickman, P.A., and Travelers Insurance Co., from the Arkansas Workers' Compensation Commission. Affirmed. Gruber, C.J., and Whiteaker, J., agree.

N. MARK KLAPPENBACH, JUDGE:

[CR-19-624](#). Justin Marshall v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Affirmed. Vaught and Brown, JJ., agree.

MEREDITH B. SWITZER, JUDGE:

[CR-19-498](#). Donald Baugh v. State of Arkansas, from Polk County Circuit Court. Affirmed. Harrison and Vaught, JJ., agree.

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MEREDITH B. SWITZER, JUDGE: (Continued)

[CV-19-864](#). Melinda Gail Martin and Jimmy Lance Martin v. Arkansas Department of Human Services and Minor Children, from Little River County Circuit Court. Affirmed. Harrison and Vaught, JJ., agree.

PHILLIP T. WHITEAKER, JUDGE:

[CR-19-482](#). Spencer Adam Boothe v. State of Arkansas, from Jefferson County Circuit Court. Affirmed. Gruber, C.J., and Harrison, J., agree.

[CV-19-489](#). Summers Drilling & Blasting, Inc., a/k/a Summers Drilling, Inc. v. Goodwin & Goodwin, Inc., from Sebastian County Circuit Court, Fort Smith District. Affirmed in part; reversed and remanded in part. Murphy, J., agrees. Hixson, J., concurs.

LARRY D. VAUGHT, JUDGE:

[CR-19-676](#). Michael Hull v. State of Arkansas, from Clay County Circuit Court, Eastern District. Rebriefing ordered; motion to withdraw denied. Klappenbach and Brown, JJ., agree.

KENNETH S. HIXSON, JUDGE:

[CV-19-718](#). Sunni Frisby v. Arkansas Department of Human Services and Minor Child, from Washington County Circuit Court. Affirmed; motion granted. Abramson and Virden, JJ., agree.

MIKE MURPHY, JUDGE:

[CR-19-743](#). Adam Brown v. State of Arkansas, from Greene County Circuit Court. Affirmed. Gladwin and Switzer, JJ., agree.

[CV-19-584](#). Equity Bank v. Southside Baptist Church of Lead Hill, Arkansas, d/b/a Brand New Church; Shannon O'Dell; Shain Satterwhite; J. Clifford Methvin; and Bruce Medley, from Boone County Circuit Court. Affirmed. Gladwin and Switzer, JJ., agree.

WAYMOND M. BROWN, JUDGE:

[CR-19-588](#). Milton Thomas v. State of Arkansas, from Saline County Circuit Court. Affirmed. Klappenbach and Vaught, JJ., agree.

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WAYMOND M. BROWN, JUDGE: (Continued)

[CV-19-328](#). Ameen Olwan et al. v. Arkansas Tobacco Control Board, from Pulaski County Circuit Court, Second Division. Dismissed without prejudice. Klappenbach and Vaught, JJ., agree.

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(f).

- E-19-261. Deloies Mahan v. Director et al.
- E-19-262. Shenitha Wilburn v. Director et al.
- E-19-263. Vanna Logan v. Director et al.
- E-19-265. Kenneth Baker v. Director et al.
- E-19-266. Maxcine Jenkins v. Director et al.
- E-19-267. Ashley Trinh v. Director et al.
- E-19-268. Randall Durham v. Director et al.
- E-19-269. Vernice Woods v. Director et al.
- E-19-270. Kezion Pace v. Director et al.
- E-19-271. Derrick Grant v. Director et al.
- E-19-272. Denicia Roberts v. Director et al.
- E-19-273. Randall Chasteen v. Director et al.

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PER CURIAM ORDERS

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

CV-18-401. Shirley Lyle Hitt v. James Waller Lyle, Individually; Ann Lyle, Individually; Katherine Lyle Harbison, Individually; and d/b/a Lyle Farms Partnership, from Jackson County Circuit Court. Vaught, J., not participating.

CV-19-219. Natalie Tompkins v. Lawrence Tompkins, from Garland County Circuit Court. Switzer, J., not participating.

CV-19-349. United Services Automobile Association v. Mary Norton, from Pulaski County Circuit Court, Fifth Division. Gruber, C.J., and Virden, J., not participating.

CR-19-395. Andrew Childers v. State of Arkansas, from Johnson County Circuit Court. Motion of Samuel F. Eastman for award of attorney's fees is granted. Allowed \$1,600.00.

CR-19-504. Terry Lee Gilbreth v. State of Arkansas, from Washington County Circuit Court. Motion of Charles D. Hancock for attorney's fees is granted. Allowed \$1,800.00.

CR-19-614. N.R. v. State of Arkansas, from Washington County Circuit Court. Motion of William J. Ogles for attorney's fees is granted. Allowed \$1,800.00.

CR-19-651. Jessie Steen v. State of Arkansas, from Desha County Circuit Court. Motion of Gary W. Potts for costs and attorney fees is granted. Allowed \$1,800.00. Switzer, J., not participating.

CR-19-854. Orlando A. Dominguez v. State of Arkansas, from Howard County Circuit Court. Motion to file an amended brief of the appellant is granted.

CR-19-861. Mochariee West v. State of Arkansas, from Garland County Circuit Court. Amended motion of Mark S. Fraiser to withdraw as attorney on direct appeal is granted. Switzer, J., not participating.

CR-19-900. Chelsea Davis v. State of Arkansas, from Lonoke County Circuit Court. Appellant's motion to file belated brief is granted.

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CR-20-39. Timothy Moore v. State of Arkansas, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motion for an extension of time is granted. Appellant's brief is due April 17, 2020.

CR-20-39. Timothy Moore v. State of Arkansas, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motion for transcript is granted.

CR-20-63. Bryce Allen v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Appellant's pro se motion for extension of time to file brief is granted. Appellant's brief is due April 8, 2020.

CR-20-94. Kevin Deshaun Everett v. State of Arkansas, from Garland County Circuit Court. Motion of Timothy Beckham to withdraw as attorney on direct appeal is granted. Hereafter this appeal will be treated as a pro se appeal. The appellant has sixty days to remit a filing fee of \$165.00. Switzer, J., not participating.

CR-20-129. Jonathan Welborn v. State of Arkansas, from Saline County Circuit Court. Motion of Mark F. Hampton to be relieved as attorney of record for appeal is granted.

CR-20-153. Isaac Strong v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Appellant's petition for writ of certiorari to complete the record on appeal is granted. Gruber, C.J., not participating.

CV-19-192. Shelter Mutual Insurance Company v. Marnette Ragon and William Ragon, from Pulaski County Circuit Court, Second Division. Suggestion of death upon the record. Noted.

CV-19-788. Arthur Joyce v. Northeast Arkansas Community Mental Health Center, Inc., d/b/a Mid-South Health Systems, Inc.; Alliance of Nonprofits for Insurance, Risk Retention Group; John Doe I, John Doe II, and John Doe III; and Steven D. Billups, from Crittenden County Circuit Court. Motion of separate appellees Northeast Arkansas Community Health Systems, Inc.; and Alliance of Nonprofits for Insurance, Risk Retention Group to supplement the record and for permission to file supplemental addendum and brief is granted.

CV-20-1. Kevin J. Pennington v. Arkansas Game and Fish Commission, from Pulaski County Circuit Court, Twelfth Division. Appellant's pro se motion for reconsideration is denied.

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CV-20-33. LaDonna Humphrey, Individually v. Absolute Pediatric Services, Inc., d/b/a Absolute Pediatric Therapy; and Anthony Christopher, from Benton County Circuit Court. Appellant's motion to stay briefing schedule is granted.

CV-20-34. Quaker Chemical Corporation, Insurance Company of the State of Pennsylvania, and AIG Claims, Inc. v. Rosemary Allen, from the Arkansas Workers' Compensation Commission. Appellants' motion to stay briefing schedule and request for remand to the Arkansas Workers' Compensation Commission. Appellants' motion to stay briefing schedule is granted.

CV-20-135. Brittany Harmon v. Arkansas Department of Human Services and Minor Children, from Faulkner County Circuit Court. Appellees' motion to dismiss appeal is granted.

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MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CR-19-431. Michael Landon Doll v. State of Arkansas, from Benton County Circuit Court.

CV-19-366. Corey Allen v. Employbridge Holding Co. and Gallagher Bassett Services, Inc., from the Arkansas Workers' Compensation Commission.

CV-19-620. Josue Tovias v. Arkansas Department of Human Services and Minor Child, from Washington County Circuit Court.

CR-19-456. Contrell Henderson v. State of Arkansas, from Saline County Circuit Court. Motion of F. Parker Jones III for attorney's fees.

CR-19-523. Nicolas Hernandez-Lopez v. State of Arkansas, from Pope County Circuit Court. Motion of Lisa-Marie Norris for attorney's fee.

CR-19-524. Paul Mitchell Lilly v. State of Arkansas, from Pulaski County Circuit Court, First Division. Motion of Omar F. Greene for withdrawal of counsel and payment of appointed counsel.

CR-19-692. Carlton Shutes v. State of Arkansas, from Union County Circuit Court. Motion of Gary W. Potts for costs and attorney fees.

CR-19-735. John A. Buffington v. State of Arkansas, from Ouachita County Circuit Court. Motion of Gary W. Potts for costs and attorney fees.

CR-19-905. Joseph Brehm v. State of Arkansas, from Faulkner County Circuit Court. Appellant's motion to file belated appellant's brief.

CR-19-945. Boyce Williams v. State of Arkansas, from Saline County Circuit Court. Appellant's motion to withdraw writ of certiorari to complete the record.

CR-19-945. Boyce Williams v. State of Arkansas, from Saline County Circuit Court. Motion of William O. "Bill" James, Jr., and Nickols Wayne Dunn for entry of appearance.

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MOTIONS SUBMITTED

CV-19-647. Edward Lee Hardin v. Shelia Hardin, from Jefferson County Circuit Court. Appellee's motion to present supplemental authority.

CV-19-851. James Bates v. Kristine Collins Homan, in Her Capacity as Special Administratrix of the Estate of Victor Collins, Deceased, from Benton County Circuit Court. Appellee's motion for extension of word-count for appellee's brief.

CV-20-92. James Tony Hollis v. City of Blytheville; Ross Thompson, in His Individual and Official Capacity as Chief of Police of Blytheville, Arkansas; James Sanders, in His Individual and Official Capacity as Mayor of Blytheville, Arkansas; and Chris Brown, in His Individual and Official Capacity as City Attorney of Blytheville, Arkansas, from Mississippi County Circuit Court, Chickasawba District. Appellees' motion to supplement the record.

CV-20-144. Dr. Christian Ball v. Arkansas Board of Podiatric Medicine, from Pulaski County Circuit Court, Sixth Division. Appellant's motion for rule on clerk.

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CASES SUBMITTED

CR-18-504. Andris McClendon v. State of Arkansas, from Pulaski County Circuit Court, First Division.

CR-19-742. Jesse Benton v. State of Arkansas, from Boone County Circuit Court.

CR-19-756. Robert Jamar Fields v. State of Arkansas, from Union County Circuit Court.

CR-19-801. Carl Gene Morgan v. State of Arkansas, from Greene County Circuit Court.

CR-19-824. Tara Kolb v. State of Arkansas, from Drew County Circuit Court.

CR-19-897. Eric Jerome Lacy v. State of Arkansas, from Union County Circuit Court.

CV-18-155. Everett Latham Hayes v. Robert Psenka; Jeff Rodd; Ozark Enclave Properties; J&J Development, Inc.; Paul Jeffrey Rodd, Trustee of the Paul Jeffrey Rodd Trust; and the Paul Jeffrey Rodd Trust, from Newton County Circuit Court.

CV-19-405. Cody Jones and Lamar Joy v. Tri State Truss Co.; Holmes Erection, Inc.; John Doe 1; and John Doe 2, from Franklin County Circuit Court, Northern District.

CV-19-414. Gregory Peterson v. Dr. Stephen A. Ziller III; Catholic Health Initiatives d/b/a St. Vincent Health System; and John Does A Through Z, from Pulaski County Circuit Court, Fifth Division.

CV-19-446. Stephen Allen Hathcock v. Tracy Young Hathcock (now Smith), from Pulaski County Circuit Court, Fifteenth Division.

CV-19-611. Colonel Glenn Health and Rehab, LLC; Central Arkansas Nursing Centers, Inc.; Nursing Consultants, Inc., d/b/a Professional Nursing and Rehabilitation Services; Argenta Health Services, LLC; and Michael S. Morton v. Teresa JoAnne Aldrich, as Special Administrator of the Estate of Jeffrey Watton, Deceased; and on Behalf of the Wrongful Death Beneficiaries of Jeffrey Watton, from Pulaski County Circuit Court, Sixth Division.

CV-19-797. Brittany Pelayo v. Wesley Sims, from Sebastian County Circuit Court, Greenwood District.

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CASES SUBMITTED

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

E-19-287. Kordell Hightower v. Director et al.

E-19-288. Mags Trucking, Inc. v. Director et al.

E-19-289. Darrell Finks v. Director et al.

E-19-290. Charlotte McDonald v. Director et al.

E-19-291. Donald Sims v. Director et al.

E-19-292. Donald Sims v. Director et al.

E-19-293. Mark Drouin v. Director et al.

E-19-294. Kirby Foster v. Director et al.

E-19-295. Kirby Foster v. Director et al.

E-19-296. James Hodges v. Director et al.

E-19-297. Linda Lawrence v. Director et al.

E-19-298. Paula Hadaway v. Director et al.