

ARKANSAS COURT OF APPEALS
PROCEEDINGS OF AUGUST 31, 2022

RAYMOND R. ABRAMSON, JUDGE:

[CR-21-632](#). Calvin Stanley v. State of Arkansas, from Union County Circuit Court. Affirmed in part; remanded in part. Gladwin and Vaught, JJ., agree.

BART F. VIRDEN, JUDGE:

[CV-22-35](#). Michelle Baltzell v. Arkansas Department of Human Services and Minor Child, from Garland County Circuit Court. Affirmed; motion to withdraw granted. Gruber and Brown, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

[CV-21-450](#). Joseph Fenwick v. Marcia Clark, as Executrix of the Estate of Dorothy J. Fenwick, Deceased, from Sebastian County Circuit Court, Fort Smith District. Affirmed. Abramson and Vaught, JJ., agree.

N. MARK KLAPPENBACH, JUDGE:

[CV-22-93](#). Carla Johnson v. Arkansas Department of Human Services and Minor Children, from Pulaski County Circuit Court, Eighth Division. Affirmed. Barrett and Hixson, JJ., agree.

RITA W. GRUBER, JUDGE:

[CV-21-349](#). Richard G. Gawenis v. Zelda Walls Living Trust, from Van Buren County Circuit Court. Affirmed. Virden and Brown, JJ., agree.

STEPHANIE POTTER BARRETT, JUDGE:

[CR-21-471](#). Samuel T. McKaig v. State of Arkansas, from Garland County Circuit Court. Affirmed; motion to withdraw granted. Gladwin and Murphy, JJ., agree.

[CV-21-284](#). Lonoke County, Arkansas, Through the Lonoke County Court and the County Judge of Lonoke County, Individually and Together v. Larry Nipper and Kathryn Nipper, from Lonoke County Circuit Court. Reversed and remanded; dismissed as moot in part. Klappenbach and Hixson, JJ., agree.

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PHILLIP T. WHITEAKER, JUDGE:

[E-21-548](#). Marlon Broom v. Director, Arkansas Department of Commerce, Division of Workforce Services, from the Arkansas Board of Review. Affirmed. Harrison, C.J., and Murphy, J., agree.

LARRY D. VAUGHT, JUDGE:

[CV-22-88](#). Chasity Dollins v. Arkansas Department of Human Services and Minor Children, from Greene County Circuit Court. Affirmed. Abramson and Gladwin, JJ., agree.

KENNETH S. HIXSON, JUDGE:

[CR-21-420](#). Sasha Jolene Schreibvogel v. State of Arkansas, from Benton County Circuit Court. Affirmed. Klappenbach and Barrett, JJ., agree.

WAYMOND M. BROWN, JUDGE:

[CR-21-578](#). Pedro Velazquez v. State of Arkansas, from Yell County Circuit Court, Northern District. Affirmed. Virden and Gruber, 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-21-344. Denise Spicer v. Director et al.

E-21-463. Gary Minick v. Director et al.

E-21-464. Bennie Warfield v. Director et al.

E-21-465. Rebekah Burnette v. Director et al.

E-21-466. Rebekah Burnette v. Director et al.

E-21-467. Pamela Welch v. Director et al.

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E-21-468. Michael McAllister v Director et al.

E-21-469. Helen Adkins v. Director et al.

E-21-470. Karen VonDresky v. Director et al.

E-21-471. Sherry Blue v. Director et al.

E-21-472. Janika Collier v. Director et al.

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PER CURIAM ORDERS

REHEARINGS DENIED: Petition for rehearing is denied today in the following case.

[CR-21-593](#). Marilyn Dumond v. State of Arkansas, from Grant County Circuit Court. See **substituted dissenting opinion** on denial of rehearing.

CR-22-3. Sterling D. Woolford v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Appellant’s fourth motion requesting that this court enforce its writ of certiorari to complete the record on appeal. Granted fifteen days (September 15, 2022). Final extension. Gruber, J., not participating.

CR-22-28. Larry Davis v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant’s motion to file belated brief is granted.

CR-22-67. Perry Louis McGowan v. State of Arkansas, from Mississippi County Circuit Court, Osceola District. Appellant’s motion for expansion of the word count is granted.

CR-22-144. Michael Carr v. State of Arkansas, from Drew County Circuit Court. Appellant’s motion to correct the record is granted.

CR-22-184. Clate Alan Leonard v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant’s motion to supplement counsel of record is granted.

CR-22-224. Donald Thatcher v. State of Arkansas, from Benton County Circuit Court. Appellant’s petition for writ of certiorari to complete the record. Granted ten days (September 10, 2022).

CR-22-269. Martha Hughes v. State of Arkansas, from Hot Spring County Circuit Court. Motion of Jonathan Huber to withdraw as attorney for appellant is granted.

CR-22-291. James Ricks, Jr. v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Appellant’s pro se motion to amend the record is treated as a motion to settle the record and is granted.

CR-22-291. James Ricks, Jr. v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Appellant’s pro se motion for appointment of counsel is denied.

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CR-22-291. James Ricks, Jr. v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Appellant's pro se motion for extension of time to file brief is granted.

CR-22-363. Oshaye Castle v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Appellant's motion to correct the record is granted.

CR-22-436. Elvis Banks v. State of Arkansas, from Garland County Circuit Court. Appellant's pro se motion for use of the record is granted. Copy of the record to be forwarded to the appellant and must be returned when the brief is filed. Appellant's brief is due thirty days from the date of this order (September 30, 2022).

CR-22-467. Cameron Virgil v. State of Arkansas, from Faulkner County Circuit Court. Appellant's motion to accept transcript for appeal is denied.

CV-19-858. David Kinder v. Wendy Kinder, from Pulaski County Circuit Court, Third Division. Appellee's motion to substitute law firm is granted. Murphy, J., not participating.

CV-21-614. Richard Mays, Jr.; Mays, Byrd & Associates, P.A.; Derrick Stephens; D. Stephens Management & Consulting, LLC; and Olena "Lola" Korneevets v. Viva La Vegan Grocery, Inc., from Pulaski County Circuit Court, Sixth Division. Appellee's motion for expansion of word-count limitation is granted. Appellee's brief word-count limitation is increased to 10,000 words for each appellant, or 20,000 words if the appellee files a consolidated responsive brief. Klappenbach, Gruber, Whiteaker, and Vaught, JJ., would deny. Brown, J., not participating.

CV-21-619. (In the Matter of the Estate of Anna Belle Patterson, Deceased) LeAnne Carpenter and Shelley Benton v. Corey Patterson, from Prairie County Circuit Court, Northern District. Appellee's motions to dismiss appeal and motion for leave to file reply are denied. Harrison, C.J., and Abramson, J., not participating.

CV-22-118. Little Rock School District v. Charles Parliament, from Pulaski County Court, Sixth Division. Appellee's motion for substitution of party and for brief time is granted. Abramson and Vaught, JJ., not participating.

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CV-22-266. Perry L. Linder, Jr., and Kathy A. Linder, Husband and Wife v. Michael Steven Gertsch and Lisa A. Gertsch, Husband and Wife; Kim Pride and Gary Shearer, In Their Individual Capacities and as Co-Executors of the Estate of Fleda Shearer, Deceased; and Kim Pride and Gary Shearer, as Trustees of the Shearer Joint Revocable Trust Dated August 16, 2010, from Cleburne County Circuit Court. Appellants' petition for certiorari to complete the record and to stay briefing schedule is granted.

CV-22-285. Bob Sutton v. Gunner Golden, Individually, and as Personal Representative of the Estate of Kellie Sue May Sutton, Deceased; and on Behalf of the Wrongful Death Beneficiaries of Kellie Sue May Sutton, from Pike County Circuit Court. Appellant's unopposed motion for stay of brief time because of appellant's death is granted. Appeal is stayed until November 7, 2022. Abramson, J., not participating.

CV-22-299. Greg Stephens v. Corissa Withrow and Terry Fleming, from Pulaski County Circuit Court, Sixth Division. Motions of separate appellee Corissa Withrow to dismiss appeal of nonparty and incorporated brief are granted. See Ark. R. App. P.–Civil 2.

CV-22-388. Kristian D. Nelson; Hawgz Blues Cafe, LLC; and I SELL 4 U Auto Sales, LLC v. Richard F. Toll, Individually and as Trustee of the Richard F. Toll Irrevocable Trust, from Pulaski County Circuit Court, Fifth Division. Appellee's motion to dismiss appeal is granted in part and denied in part. The motion as to the entities Hawgz Blues Cafe, LLC, and I SELL 4 U Auto Sales, LLC, is granted, and their appeal is dismissed. The motion as to Kristian D. Nelson, individually, is denied, and his appeal remains active. Gruber, J., not participating.

CV-22-420. Anthony Alexis v. Kathleen Ashmore and Robert Ashmore, from Lonoke County Circuit Court. Appellees' motion to dismiss appeal is denied. See *Holloway v. Ark. State Bd. of Architects*, 348 Ark. 99, 71 S.W.3d 563 (2002).

CV-22-425. Matthew Forrest v. Allyssa Thomlinson, from Pope County Circuit Court. Appellant's motion to seal record is granted.

CV-22-469. Clifford W. Christian and Karen D. Christian v. SWO Properties, Inc., from Boone County Circuit Court. Appellants' emergency motion to stay execution of Copeland order and approve supersedeas bond is denied. Virden and Barrett, JJ., would grant.

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CV-22-480. Myrtle Myers and Nicholas Myers v. Arkansas Department of Human Services and Minor Children, from Washington County Circuit Court. Motion of separate appellant Myrtle Myers for rule on the clerk is granted. Harrison, C.J., not participating.

E-22-414. Jonathan Miller v. Director et al., from the Arkansas Board of Review. Appellant's pro se motion to file belated appeal is denied.

E-22-423. Brian Kilpatrick v. Director et al., from the Arkansas Board of Review. Appellant's pro se motion to file belated appeal is denied.

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MOTIONS SUBMITTED

CR-19-622. John William Marsh v. State of Arkansas, from Nevada County Circuit Court. Motion of Craig Lambert for entry of appearance on behalf of the appellant.

CR-19-622. John William Marsh v. State of Arkansas, from Nevada County Circuit Court. Appellant's motion for access to trial transcript.

CR-22-161. Devion Spencer v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District. Appellant's motion for dismissal with prejudice.

CR-22-161. Devion Spencer v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District. Motion of Jake Holmes for fees.

CR-22-392. Charles Greeno v. State of Arkansas, from Hot Spring County Circuit Court. Appellee's motion to preserve anonymity of a juvenile pursuant to Ark. Sup. Ct. R. 6-3(a).

CR-22-402. Evan Columbus Anderson v. State of Arkansas, from Benton County Circuit Court. Appellee's motion to preserve anonymity of a juvenile pursuant to Ark. Sup. Ct. R. 6-3(a).

CR-22-436. Elvis Banks v. State of Arkansas, from Garland County Circuit Court. Appellant's pro se motion for the extension of time to file a brief.

CR-22-516. Joseph Chapman v. State of Arkansas, from Polk County Circuit Court. Appellant's motion for belated appeal and stay of briefing schedule.

CV-22-260. Tracey L. Burris v. Kristen J. Simmons and James M. Simmons, from Franklin County Circuit Court, Northern district. Appellant's motion for permission to amend brief.

CV-22-333. Kenneth Coleman Colley II v. Audrey Hamilton (Colley), from Sebastian County Circuit Court, Greenwood District. Appellee's motion to supplement the record.

CV-22-362. Pulaski County Special School District and Arkansas School Boards Association v. Wanda Grigsby, from the Arkansas Workers' Compensation Commission. Joint motion to remand to the Arkansas Workers' Compensation Commission for a joint petition hearing.

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MOTIONS SUBMITTED

CV-22-429. Tony Dale Wagoner, Co-Trustee of the Wagoner Family Trust Dated May 24, 1995 v. Patricia Ann Wagoner, Co-Trustee; Ginger Lee Treece, Co-Trustee; Clarence Guinn, CPA, Co-Trustee; Terry Ann Deans, Co-Trustee; Bill Watkins; Ralph Williams; and Craig Campbell, from Benton County Circuit Court. Motion of separate appellee Craig Campbell to substitute counsel.

CV-22-476. Kassie Swift v. Bill, Hillary and Chelsea Clinton Foundation; Accident Fund Insurance Company of America; and Death and Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission. Appellant's pro se motion for belated appeal.

CV-22-512. NPC International, Inc.; Old Republic Insurance Company; and Gallagher Bassett Services, Inc., Third Party Administrator v. Pearl N. Hoffman, from the Arkansas Workers' Compensation Commission. Joint motion to remand.

CV-22-512. NPC International, Inc.; Old Republic Insurance Company; and Gallagher Bassett Services, Inc., Third Party Administrator v. Pearl N. Hoffman, from the Arkansas Workers' Compensation Commission. Second joint motion to remand.

CV-22-515. Arkansas Blue Cross and Blue Shield v. Alan McClain, Arkansas Insurance Commissioner; Freeway Surgery Center; Scott Schlesinger, M.D.; Fair Park Surgery Center; Centerview Surgery Center; South Arkansas Surgery Center; Advanced Ambulatory Surgery Center; Executive Park Surgery Center of Fort Smith; Gastroenterology and Surgery Center of Arkansas; Mountain Home Surgery Center; Harrison Surgery Center; Boozman-Hof Eye Center; Physician's Day a/k/a McFarland Eye Center; Spring Creek Surgery Center; Taylor Plastic Surgery; Surgery Center of Northeast Texas; Advanced Interventional Pain Management; Precision Surgical of Northwest Arkansas; Executive Surgery Center of Little Rock; Central Arkansas Surgery Center a/k/a Arkansas Spine and Pain; and Arkansas Center for Surgical Excellence, from Pulaski County Circuit Court, Fifth Division. Appellant's petition for writ of certiorari to complete the record.

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MOTIONS SUBMITTED

CV-22-515. Arkansas Blue Cross and Blue Shield v. Alan McClain, Arkansas Insurance Commissioner; Freeway Surgery Center; Scott Schlesinger, M.D.; Fair Park Surgery Center; Centerview Surgery Center; South Arkansas Surgery Center; Advanced Ambulatory Surgery Center; Executive Park Surgery Center of Fort Smith; Gastroenterology and Surgery Center of Arkansas; Mountain Home Surgery Center; Harrison Surgery Center; Boozman-Hof Eye Center; Physician's Day a/k/a McFarland Eye Center; Spring Creek Surgery Center; Taylor Plastic Surgery; Surgery Center of Northeast Texas; Advanced Interventional Pain Management; Precision Surgical of Northwest Arkansas; Executive Surgery Center of Little Rock; Central Arkansas Surgery Center a/k/a Arkansas Spine and Pain; and Arkansas Center for Surgical Excellence, from Pulaski County Circuit Court, Fifth Division. Appellant's supplement to petition for writ of certiorari to complete the record.

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CASES SUBMITTED

CR-21-595. Flando Montgomery v. State of Arkansas, from Craighead County Circuit Court, Western District.

CR-21-626. Santiago Vasquez, Jr. v. State of Arkansas, from Greene County Circuit Court.

CV-20-312. Robbie R. Marley, Debora L. Johnson, and Elizabeth A. Ruble v. Rodney H. Ghan, P.A., from Washington County Circuit Court.

CV-21-235. (In the Matter of the Guardianship of A.P.A., an Incapacitated Minor) Sandra Andraca v. Patricia Tice, from Pope County Circuit Court.

CV-21-261. Brad Stone v. Mary Read, from Pulaski County Circuit Court, Fifth Division.

CV-21-374. Courtyard Rehabilitation and Health Center, LLC; SA Eldercare, LLC; JEJ Investments, LLC; Ross M. Ponthie; Mark Thompson; MCSA, LLC, d/b/a Medical Center of South Arkansas; John Doe 1; and John Doe 2 v. Estate of Gusta Tice, Deceased; and Andrew McQuerry, Special Administrator, from Union County Circuit Court.

CV-21-468. Deborah Johnson, Individually and as Personal Representative of the Estate of Samuel Goodman, Deceased v. Universal Health Services, Inc.; UHS of Delaware, Inc.; UHS of Benton, LLC, f/k/a UHS of Benton, Inc., d/b/a Rivendell Behavioral Health Services of Arkansas; Dr. David Streett; and John Does 1–10, from Pulaski County Circuit Court, Fifth Division.

CV-21-472. David Frazier v. Amber Frazier (now Leister), from Washington County Circuit Court.

CV-21-620. Judrika Houston and Chrystal Martin v. Arkansas Department of Human Services and Minor Children, from Sebastian County Circuit Court, Fort Smith District.

CV-22-52. Mark DeBiasse and Michelle DeBiasse v. Arkansas Department of Human Services and Minor Children, from Garland County Circuit Court.

CV-22-92. Jodi Bobbitt v. Arkansas Department of Human Services and Minor Children, from Logan County Circuit Court, Southern District.

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CASES SUBMITTED

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

- E-21-490. Christina Roberts v. Director et al.
- E-21-491. Christina Roberts v. Director et al.
- E-21-492. Christina Roberts v. Director et al.
- E-21-494. Zachary Clark v. Director et al.
- E-21-495. Jeremy Varnell v. Director et al.
- E-21-496. John Morkavich v. Director et al.
- E-21-497. Jimmy Turner v. Director et al.
- E-21-498. Willie Armstrong v. Director et al.
- E-21-499. Ruthie Childs v. Director et al.
- E-21-502. Mary Butler v. Director et al.
- E-21-503. Jaeloyn McDaniel v. Director et al.
- E-21-504. Victor Rosillo v. Director et al.
- E-21-505. Navashia Akins v. Director et al.
- E-21-506. Pamela Reed v. Director et al.
- E-21-507. Myrtis Curtis v. Director et al.
- E-21-508. Marilyn Shaw v. Director et al.
- E-21-509. Yanira Cortez Martinez v. Director et al.
- E-21-510. Anna Cagle v. Director et al.

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E-21-511. Melanie Madkin v. Director et al.

E-21-512. Patricia Norman v. Director et al.

E-21-513. Priscilla Jones v. Director et al.

E-21-514. Chelsea Barron v. Director et al.

E-21-515. David Austin v. Director et al.

E-21-518. Brandon Pack v. Director et al.

E-21-569. Cheryl Pillow v. Director et al.

Opinions are available on the internet at

<http://arcourts.gov>