

Cite as 2023 Ark. App. 91

ARKANSAS COURT OF APPEALS

No. CV-22-515

ARKANSAS BLUE CROSS
AND BLUE SHIELD

APPELLANT

V.

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;
BOZMAN-HOF EYE CENTER;
PHYSICIANS 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

APPELLEES

AND

ALAN MCCLAIN, ARKANSAS
INSURANCE COMMISSIONER

INTERESTED PARTY

Opinion Delivered February 15, 2023

APPEAL FROM THE PULASKI COUNTY
CIRCUIT COURT, FIFTH DIVISION
[NO. 60CV-21-2725]

HONORABLE WENDELL GRIFFEN,
JUDGE

CONTEMPT CITATION AND SANCTION
ISSUED

PER CURIAM

Arkansas Blue Cross and Blue Shield has been trying to appeal an order that was entered in circuit court more than one year ago. After seven months of extensions by the circuit court, the deadline to lodge the record in this court approached. So, on 16 August 2022, Blue Cross and Blue Shield simultaneously filed in this court a partial record and a petition for a writ of certiorari directing court reporter Neva Warford to complete the transcript portion of the record in this civil appeal. We granted the petition on 7 September 2022 and ordered that the transcript be completed and filed within thirty days. That was not done.

After Blue Cross and Blue Shield moved this court for the third time to enforce our writ of certiorari to complete the record, we ordered Warford to appear, on 7 February 2023, in the courtroom of the Arkansas Supreme Court and Court of Appeals, and show cause why she should not be held in contempt for failing to comply with the original writ of certiorari or the extensions.¹

Warford appeared with retired Circuit Judge Wendell Griffen, who entered an appearance as her counsel. When the court asked for Warford's plea (guilty or not guilty), counsel conferred with Warford in the courtroom and then announced that she pleaded

¹A history of the problem was recited in *Arkansas Blue Cross & Blue Shield v. Freeway Surgery Center*, 2023 Ark. App. 25 (per curiam). When we issued the show-cause order, we also deemed the record on appeal complete and issued a briefing schedule. We did so, in part, because of the parties' joint request that we deem the record complete and allow them to abandon as "inessential" the long sought-after transcript of a hearing.

guilty. Counsel then asked to speak on his client's behalf, which the court allowed, and he provided information aimed at the delay and to mitigate any potential punishment that this court might impose for his client's "inexcusable" but "not malicious" delay. During his presentation, counsel also announced that Warford intended to voluntarily surrender her official court-reporter license.

The court appreciates the candor of counsel and his client during the hearing. The plea avoids further procedural delay; and the admission of fault is an act of contrition the court holds favorably in mind.

Having considered the docketed filings in this case, and the show-cause proceedings held in open court on February 7, this court accepts Neva Warford's guilty plea and finds her in willful contempt of the Arkansas Court of Appeals.

THEREFORE, this court immediately removes Neva Warford as court reporter from all civil appeals that are docketed in the Arkansas Court of Appeals as of today (15 February 2023). She must refund to the parties any unearned fee related to court-reporting work. This fee-related accounting must be completed by close of business on 10 March 2023. All transcript-preparation work and evidence-management issues will be reassigned to one or more certified court reporters as soon as possible. To this end, we direct Warford to deliver to her current supervisor and presiding Circuit Judge Latonya Austin Honorable² all record-related items and information Warford possesses that may be needed to complete the records

²See Ark. Code Jud. Conduct R. 2.12(A) (Supervisory Duties).

in any civil case in which she has been the court reporter. By this we include, but do not limit the scope to, all audio tapes, all electronic recordings, and all physical exhibits either proffered or received as evidence in any civil proceeding. Warford must deliver the material to her supervising circuit judge by the end of business on 28 February 2023 (Tuesday).

To ensure compliance and close this matter, we ask presiding Judge Honorable communicate to this court's clerk that Warford has identified and delivered all relevant materials and information to the circuit court--on time (end of business on February 28). Whatever the medium of communication the circuit court chooses, our clerk will ensure it is noted of record, and counsel of record may access it.

We also impose a sanction of \$3,000 against Warford to punish the admitted contempt. However, if this court's clerk receives the circuit court's satisfactory report by end of business on March 2 (Thursday), then the \$3,000 sanction for contempt will be purged, and no payment will then be required.

Finally, we direct our clerk to forward a copy of this opinion to the Board of Certified Court Reporter Examiners.

Contempt citation and sanction issued.

GRUBER, J., not participating.