

ARKANSAS COURT OF APPEALS

PROCEEDINGS OF MARCH 15, 2023

BRANDON J. HARRISON, CHIEF JUDGE:

[CR-22-245](#). Jamar Conic v. State of Arkansas, from Pulaski County Circuit Court, Eleventh Division. Reversed and remanded. Gladwin and Klappenbach, JJ., agree.

[CR-22-489](#). Keonni Moehgenit Conway v. State of Arkansas, from Faulkner County Circuit Court. Affirmed; remanded to correct sentencing order. Barrett and Murphy, JJ., agree.

[CV-21-565](#). Tempworks Management Services, Inc., and AmTrust North America v. Gary Jaynes, from the Arkansas Workers' Compensation Commission. Affirmed. Virden and Thyer, JJ., agree.

RAYMOND R. ABRAMSON, JUDGE:

[CV-22-201](#). Anna Knesek v. Larry Knesek, from Crawford County Circuit Court. Reversed. Gladwin and Thyer, JJ., agree.

BART F. VIRDEN, JUDGE:

[CR-22-539](#). Robert Lee Thurmon v. State of Arkansas, from Union County Circuit Court. Affirmed. Gruber and Brown, JJ., agree.

[CV-21-551](#). Doyle Oscar Philmon v. Tonya Lynn Philmon, from Scott County Circuit Court. Affirmed as modified. Hixson and Murphy, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

[CV-21-354](#). Anna Knesek v. Larry Knesek, from Crawford County Circuit Court. Affirmed. Abramson and Thyer, JJ., agree.

N. MARK KLAPPENBACH, JUDGE:

[CV-22-166](#). John Wesley Hall, Jr., and Alison Hall, Husband and Wife v. Arkansas State Highway Commission, from Cleburne County Circuit Court. Remanded for supplementation of the record. Wood and Hixson, JJ., agree.

[E-22-85](#). Jeremy Gregory v. Director, Division of Workforce Services, from the Arkansas Board of Review. Affirmed in part; remanded in part. Wood and Hixson, JJ., agree.

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RITA W. GRUBER, JUDGE:

[CV-22-97](#). Matthew Mabe, Laura Mabe, and Harvest Construction General Contracting, Inc. v. Latco Construction, Inc., from Washington County Circuit Court. Affirmed. Virden and Brown, JJ., agree.

STEPHANIE POTTER BARRETT, JUDGE:

[CV-21-412](#). Tracy Wilson v. Jeffery Wilson, from Benton County Circuit Court. Reversed and remanded. Harrison, C.J., and Murphy, J., agree.

[CV-22-216](#). NP191, LLC v. Debra Branch, from Pulaski County Circuit Court, Fourth Division. Reversed and remanded. Abramson and Gruber, JJ., agree.

CINDY GRACE THYER, JUDGE:

[CR-22-383](#). Dustin Foster v. State of Arkansas, from Crawford County Circuit Court. Affirmed. Abramson and Gladwin, JJ., agree.

[CV-22-335](#). Shane Helms v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Eighth Division. Affirmed. Virden, Gladwin, Klappenbach, and Gruber, JJ., agree. Harrison, C.J., and Barrett, Hixson, and Murphy, JJ., dissent.

WENDY SCHOLTENS WOOD, JUDGE:

[CV-22-191](#). Faulkner-Progressive Eldercare Services, Inc., d/b/a Conway Healthcare and Rehabilitation Center, et al. v. Stephen Carson, as Special Administrator of the Estate of Robert Henry Carson, Deceased, and on Behalf of the Wrongful-Death Beneficiaries of Robert Henry Carson, Deceased, from Faulkner County Circuit Court. Affirmed. Klappenbach and Hixson, JJ., agree.

KENNETH S. HIXSON, JUDGE:

[CR-22-505](#). Larry Wilson Crain v. State of Arkansas, from Bradley County Circuit Court. Affirmed. Klappenbach and Wood, JJ., agree.

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MIKE MURPHY, JUDGE:

[CV-22-14](#). Ulanda Digby-Branch v. Westside Consolidated School District No. 5; and Scott J. Gauntt, Individually, and in His Capacity as Superintendent of the Westside Consolidated School District, from Craighead County Circuit Court, Western District. Affirmed in part; reversed and remanded in part. Viriden and Hixson, JJ., agree.

[CV-22-73](#). Lakewood Health and Rehabilitation Center; Central Arkansas Centers, Inc.; Nursing Centers, Inc.; Nursing Consultants, Inc.; and Michael Morton v. Lula Ashby, as Personal Representative of the Estate of Martha Weaver, and on Behalf of the Wrongful Death Beneficiaries of Martha Weaver, from Pulaski County Circuit Court, Twelfth Division. Affirmed. Viriden and Hixson, JJ., agree.

WAYMOND M. BROWN, JUDGE:

[CV-22-106](#). Madiha Shahid v. Asif Masood, from Pulaski County Circuit Court, Fourteenth Division. Motion to dismiss without prejudice granted. Viriden and Gruber, JJ., agree.

[E-22-82](#). Kizzie McDowell v. Director, Department of Workforce Services, from the Arkansas Board of Review. Reversed and remanded. Gruber and Viriden, 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-22-69. Joey Carter v. Director et al.

E-22-70. Kiara Terry v. Director et al.

E-22-72. Kevin Kennard v. Director et al.

E-22-73. Mark Sparks v. Director et al.

E-22-74. Kevin McArtor v. Director et al.

E-22-75. Anthony Collins v. Director et al.

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- E-22-76. Leslie McGough v. Director et al.
- E-22-77. Leslie McGough v. Director et al.
- E-22-78. LeShan Sanders v. Director et al.
- E-22-79. Fred Rolfe v. Director et al.
- E-22-80. Chad Hobbs v. Director et al.
- E-22-83. Charles Tyson v. Director et al.
- E-22-84. Russell Henderson III v. Director et al.
- E-22-86. Amanda Keathley v. Director et al.
- E-22-88. Shane Littleton v. Director et al.
- E-22-89. Robert Smith v. Director et al.
- E-22-90. William Edwards v. Director et al.
- E-22-91. P.J. Hamill v. Director et al.
- E-22-92. Lori Donnor v. Director et al.
- E-22-93. Alice Ross v. Director et al.
- E-22-94. Debra Allman v. Director et al.

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PER CURIAM ORDERS

CR-22-103. Justin Shiyone Moody v. State of Arkansas, from Faulkner County Circuit Court. Motion of Charles Hancock for award of attorney's fees is granted. Allowed \$2250.00.

CR-22-146. Johnny Lee Nichols v. State of Arkansas, from Pope County Circuit Court. Motion of Samuel F. Eastman for award of attorney's fees is granted. Allowed \$2100.00. Viriden, J., not participating.

CR-22-147. Johnny Lee Nichols v. State of Arkansas, from Pope County Circuit Court. Motion of Samuel F. Eastman for award of attorney's fees is granted. Allowed \$500.00. Viriden, J., not participating.

CR-22-226. Thelma Williams, Jr. v. State of Arkansas, from Faulkner County Circuit Court. Appellant's pro se motion for reconsideration of orders entered February 22, 2023, is denied.

CR-22-258. Christopher Burns v. State of Arkansas, from Hot Spring County Circuit Court. Appellant's motion to file belated brief is granted. Appellant's brief is due in seven days (March 22, 2023).

CR-22-359. Toney Demetrius Kinnard v. State of Arkansas, from Bradley County Circuit Court. Motion of Gary W. Potts for costs and attorney fees is granted. Allowed \$2250.00.

CR-22-383. Dustin Foster v. State of Arkansas, from Crawford County Circuit Court. Appellant's motion to supplement the record with judgment of acquittal and to expedite consideration of the motion is denied. Hixson, J., would grant.

CR-22-392. Charles Greeno v. State of Arkansas, from Hot Spring County Circuit Court. Appellant's motion for extension of time to rebrief is granted. Appellant's substituted brief is due April 3, 2023.

CR-22-540. James Raper v. State of Arkansas, from Drew County Circuit Court. Appellant's pro se motion to terminate counsel is denied.

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PER CURIAM ORDERS

CV-21-542. Bryson David Deaton v. Charles Niederbrach, Sr., Individually and as Special Administrator of the Estate of Charles Alden Niederbrach, Jr., Deceased; and on Behalf of the Wrongful Death Beneficiaries of Charles Alden Niederbrach, Jr., from Clark County Circuit Court. Motion of Bailey Ellis Farner to withdraw as counsel is granted.

CV-22-213. Forrest Harrison and Shelby Harrison, Husband and Wife v. Larrie Stolfi and Carol A. Stolfi, from Washington County Circuit Court. Appellants' motion to file a belated substitute brief is granted. Gladwin, J., not participating.

CV-22-442. Arkansas Department of Human Services, Division of Medical Services v. Northwest Health System, from Pulaski County Circuit Court, Sixth Division. Motion of David Warford to withdraw as counsel is granted.

CV-22-637. Arkansas Department of Human Services, Division of Medical Services v. Northwest Health System, from Pulaski County Circuit Court, Eleventh Division. Motion of David Warford to withdraw as counsel is granted.

CV-22-650. Gregory D. Mills v. Arkansas Local Police and Fire Retirement System, from Benton County Circuit Court. Appellee's motion for leave to file a response to the appellant's reply brief is denied.

CV-22-650. Gregory D. Mills v. Arkansas Local Police and Fire Retirement System, from Benton County Circuit Court. Appellant's response to appellee's motion to file additional reply brief and motion to strike is moot.

CV-22-655. Malik Muntaqim v. James Gibson, Warden, Varner Unit, Arkansas Department of Correction; Marshall D. Reed, Chief Deputy Director, Arkansas Department of Correction; and Laura McEwen, Mailroom Supervisor, Varner Unit, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion for extension of time to file reply brief is moot.

CV-22-712. Jazmin Deziree Waldon v. Arkansas Department of Human Services and Minor Children, from Sebastian County Circuit Court, Fort Smith District. Motion for extension of time to file brief of separate appellee Freddie Youngblood is granted.

CV-23-33. Adam Reynolds v. Real Estate Management Corporation, from Pulaski County Circuit Court, Eleventh Division. Appellant's motion to supplement the record is granted.

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PER CURIAM ORDERS

CV-23-106. Jeffery Springston, Individually, and as Trustee of the Donald and Thelma Marie Springston Revocable Trust v. Kenneth Springston, Individually, and as Trustee of the Donald and Thelma Marie Springston Revocable Trust; and Joy Culp, from Benton County Circuit Court. Motion of Blake Z. Brizzolara to withdraw as counsel is granted. Gladwin, J., not participating.

E-23-68. Josh Wilmoth v. Director et al., from the Arkansas Board of Review. Petitioner's pro se motion for belated appeal is denied.

E-23-70. Josh Wilmoth v. Director et al., from the Arkansas Board of Review. Petitioner's pro se motion for belated appeal is denied.

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MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CV-21-527. Michael Nauman v. Rene Nauman, from Pulaski County Circuit Court, Thirteenth Division.

CV-21-627. Tina Lewis v. Baptist Health d/b/a Baptist Health Medical Center Little Rock; and Peggy K. Guard, M.D., from Pulaski County Circuit Court, Sixth Division.

CV-22-298. Joshua I. Ruffin v. Command Center, Inc.; Ace American Insurance Company; and Gallagher Bassett Services, from the Arkansas Workers' Compensation Commission.

CR-22-67. Perry McGowan, Jr. v. State of Arkansas, from Mississippi County Circuit Court, Osceola District. Motion of F. Parker Jones for attorney's fees.

CR-22-99. Luther Shaw v. State of Arkansas, from Garland County Circuit Court. Motion of Robert M. "Robby" Golden for award of attorney's fees.

CR-22-99. Luther Shaw v. State of Arkansas, from Garland County Circuit Court. Amended motion of Robert M. "Robby" Golden for award of attorney's fees.

CR-22-137. Conceptionne Joiner v. State of Arkansas, from Faulkner County Circuit Court. Motion of Eric Moore for award of attorney's fees.

CR-22-268. Mikato Fulks v. State of Arkansas, from Washington County Circuit Court. Appellant's motion for extension of time to complete electronic record.

CR-22-361. Geoffery Basham v. State of Arkansas, from Miller County Circuit Court. Motion of Phillip A. McGough to be relieved as counsel of record.

CR-22-361. Geoffery Basham v. State of Arkansas, from Miller County Circuit Court. Motion of Phillip A. McGough for attorney fees and costs.

CR-22-373. Jon Eric LaRue v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Motion of John Wesley Hall for attorney fees.

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MOTIONS SUBMITTED

CR-22-377. Michael Davis v. State of Arkansas, from Lonoke County Circuit Court. Appellant's motion for extension.

CR-22-377. Michael Davis v. State of Arkansas, from Lonoke County Circuit Court. Appellant's motion for final extension.

CR-22-434. Jimmy Lee Walls v. State of Arkansas, from Jefferson County Circuit Court. Motion of Gary W. Potts for costs and attorney's fees.

CR-22-625. Anita Spradlin v. State of Arkansas, from Marion County Circuit Court. Motion of Dusti Standridge for attorney's fees and expenses.

CR-22-708. Dragan Vicentic v. State of Arkansas, from Garland County Circuit Court. Appellee's motion to dismiss, or, in the alternative, motion for extension of brief time.

CR-22-749. Gabriel E. Walton v. State of Arkansas, from Craighead County Circuit Court, Western District. Appellant's motion for belated brief and stay of briefing schedule.

CR-22-771. Frank G. Griffith v. State of Arkansas, from Greene County Circuit Court. Appellant's motion to supplement record.

CR-22-772. Frank G. Griffith v. State of Arkansas, from Greene County Circuit Court. Appellant's motion to supplement record.

CR-22-803. Kinslow Young v. State of Arkansas, from St. Francis County Circuit Court. Appellant's motion to supplement counsel of record.

CR-23-35. Michael Preston Whiting v. State of Arkansas, from Arkansas County Circuit Court, Southern District. Appellant's petition for writ of certiorari to complete the record, or, in the alternative, motion to remand to settle the record.

CR-23-35. Michael Preston Whiting v. State of Arkansas, from Arkansas County Circuit Court, Southern District. Petition for writ of certiorari to issue appeal bond under Rule 6.

CR-23-103. James Terry v. State of Arkansas, from Logan County Circuit Court, Southern District. Appellant's petition for writ of certiorari to complete the record, or, in the alternative, motion to remand to settle the record.

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MOTIONS SUBMITTED

CR-23-103. James Terry v. State of Arkansas, from Logan County Circuit Court, Southern District. Appellant's petition for writ of certiorari to complete the record, or, in the alternative, motion to remand to settle the record and for the State of Arkansas to pay the court reporter to produce the court transcript.

CR-23-119. James Earl Harris v. State of Arkansas, from White County Circuit Court. Appellant's motion to substitute counsel.

CR-23-141. Mark Jay Mosier v. State of Arkansas, from Drew County Circuit Court. Appellant's motion for belated appeal.

CR-23-141. Mark Jay Mosier v. State of Arkansas, from Drew County Circuit Court. Joint motion to substitute Michael Kaiser as counsel on appeal.

CR-23-147. Travis Roberts v. State of Arkansas, from Benton County Circuit Court. Appellant's petition for writ of certiorari to complete the record.

CR-23-155. Robert Richardson v. State of Arkansas, from Benton County Circuit Court. Appellant's petition for writ of certiorari to complete the record, or, in the alternative, motion to remand to settle the record.

CV-22-451. Byron D. Watkins v. L.A. Darling Co., LLC; Travelers Ins. Co.; and Death and Permanent Disability Trust Fund, from Arkansas Workers Compensation Commission. Appellant's pro se motion asking court to not dismiss case.

CV-22-549. Edward Delone Wester v. Trina Marie Wester, Floyd Prock, and Debbie Anderson, from Sharp County Circuit Court. Motion of separate appellees Trina Wester and Debbie Anderson to dismiss appeal for lack of jurisdiction due to untimely filing.

CV-22-549. Edward Delone Wester v. Trina Marie Wester, Floyd Prock, and Debbie Anderson, from Sharp County Circuit Court. Motion of separate appellees Trina Wester and Debbie Anderson to stay briefing schedule pending ruling on motion to dismiss appeal.

CV-22-549. Edward Delone Wester v. Trina Marie Wester, Floyd Prock, and Debbie Anderson, from Sharp County Circuit Court. Supplement to motion to stay briefing schedule pending ruling on dismissal of appeal.

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MOTIONS SUBMITTED

CV-22-680. Cody Tackett; TTC, Inc.; Red River Sand and Gravel; S.W.A.T., Inc.; Synergy Logistics, Inc.; and CST Logistics, Inc. v. Miller-Claborn Oil Distributing Co., Inc.; Amy Freedman, Special Administratrix of the Estate of John Z. Tackett, Jr.; Melissa Wright Tackett; Hwy. 71 Trucking, LLC; and JZT's Hwy 71 Trucking, LLC, from Little River County Circuit Court. Motion of separate appellee Miller-Claborn Oil Distributing Company, Inc., for sanctions against appellants Cody Tackett; Red River Sand and Gravel, Inc.; S.W.A.T., Inc.; Synergy Logistics, Inc.; and CST Logistics, Inc.

CV-22-680. Cody Tackett; TTC, Inc.; Red River Sand and Gravel; S.W.A.T., Inc.; Synergy Logistics, Inc.; and CST Logistics, Inc. v. Miller-Claborn Oil Distributing Co., Inc.; Amy Freedman, Special Administratrix of the Estate of John Z. Tackett, Jr.; Melissa Wright Tackett; Hwy. 71 Trucking, LLC; and JZT's Hwy 71 Trucking, LLC, from Little River County Circuit Court. Motion of separate appellee Miller-Claborn Oil Distributing Company, Inc., for extension of time to file brief.

CV-22-680. Cody Tackett; TTC, Inc.; Red River Sand and Gravel; S.W.A.T., Inc.; Synergy Logistics, Inc.; and CST Logistics, Inc. v. Miller-Claborn Oil Distributing Co., Inc.; Amy Freedman, Special Administratrix of the Estate of John Z. Tackett, Jr.; Melissa Wright Tackett; Hwy. 71 Trucking, LLC; and JZT's Hwy 71 Trucking, LLC, from Little River County Circuit Court. Motion of separate appellees Melissa Wright Tackett and Hwy. 71 Trucking, LLC, for extension of time to file brief.

CV-22-709. Stephanie Watts v. Arkansas Department of Human Services and Minor Children, from Clark County Circuit Court. Appellant's pro se motion to supplement the record.

CV-22-711. Stephanie Watts v. Arkansas Department of Human Services and Minor Child, from Clark County Circuit Court. Appellant's pro se motion to supplement the record.

CV-22-712. Jazmin Deziree Waldon v. Arkansas Department of Human Services and Minor Children, from Sebastian County Circuit Court, Fort Smith District. Appellant's motion to strike DHS's brief, and to stay the time to file a reply.

CV-23-133. Peco Foods, Inc.; and OccuSure Claims Service v. Jeffrey Johnson and Death and Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission. Appellants' motion for rule on the clerk.

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MOTIONS SUBMITTED

E-22-519. TMG, Inc., d/b/a David's Fire Equipment v. Director et al., from the Arkansas Board of Review. Appellee's motion to remand.

E-22-553. Candie DePriest v. Director et al., from the Arkansas Board of Review. Joint motion to stay briefing schedule.

E-22-554. Candie DePriest v. Director et al., from the Arkansas Board of Review. Joint motion to remand.

E-22-555. Candie DePriest v. Director et al., from the Arkansas Board of Review. Joint motion to remand.

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CASES SUBMITTED

CV-21-237. Halon V, LLC v. Thomas A. Terminella a/k/a Tom Terminella; Monica Terminella; The Terminella Company, Inc.; Monica's Meadow, LLC; Weddington Mine, LLC; Johnson Mine, LLC; and John Does 1-10, from Benton County Circuit Court. Orally argued.

CR-22-364. Rhatez Furlow v. State of Arkansas, from Craighead County Circuit Court, Western District.

CR-22-566. Randy Hyatt v. State of Arkansas, from Grant County Circuit Court.

CR-22-587. Lamarius Curry v. State of Arkansas, from Jefferson County Circuit Court.

CV-20-356. S & J Construction Co., Inc. v. Engineering Services, Inc.; and Ozark Mountain Regional Public Water Authority of the State of Arkansas, from Newton County Circuit Court.

CV-20-625. Brandon Barrs v. Laura Todd; Baptist Health Medical Center; and North Little Rock Medical Center, from Lonoke County Circuit Court.

CV-22-199. Ron Pruitt v. Diane Barclay, from White County Circuit Court.

CV-22-222. Tracy Littlejohn v. Baptist Health Regional Hospitals, also known as Van Buren HMA, LLC, and also formerly known as Sparks Medical Center - Van Buren, from Crawford County Circuit Court.

CV-22-239. David Brito v. Raquel Dunning, from Washington County Circuit Court.

CV-22-275. Jimmy Dion Bardin v. Margaret Bardin, from Ashley County Circuit Court.

CV-22-297. Jacen Gann v. CK Asphalt, LLC; and Bobby Kennedy Construction Company, Inc., from the Arkansas Workers' Compensation Commission.

CV-22-413. Judith Melton v. Clarksville School District, Arkansas School Boards Association, and Death and Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission.

CV-22-45. Nathan Jennings v. Jessica Nicole Jennings, from Union County Circuit Court.

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CASES SUBMITTED

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

- E-22-122. Sharon Smith v. Director et al.
- E-22-123. Hannah Ford v. Director et. al.
- E-22-124. Glenda Perry v. Director et al.
- E-22-125. Adam Smith v. Director et al.
- E-22-126. Ronald Moody v. Director et al.
- E-22-127. Emanuel Tolbert v. Director et al.
- E-22-128. Emanuel Tolbert v. Director et al.
- E-22-129. Emanuel Tolbert v. Director et al.
- E-22-130. Carolyn Willis v. Director et al.
- E-22-131. Linda Nance v. Director et al.
- E-22-132. Linda Nance v. Director et al.
- E-22-133. Patricia Griffin v. Director et al.
- E-22-134. Joey Hoyt v. Director et al.
- E-22-135. Janice. Curley v. Director et al.
- E-22-136. Janice Curley v. Director et al.
- E-22-137. Steve Sansoucie v. Director et al.
- E-22-138. Steve Sansoucie v. Director et al.
- E-22-139. Edward Rouse v. Director et al.

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CASES SUBMITTED

E-22-140. William Nichols v. Director et al.

E-22-141. Wanda Bowman v. Director et al.

E-22-142. Aisha Piggie v. Director et al.

E-22-143. Aisha Piggie v. Director et al.

E-22-144. Thomas Baker v. Director et al.

E-22-145. Jared Gully v. Director et al.

Opinions are available on the internet at

<http://arcourts.gov>