

## ARKANSAS COURT OF APPEALS

### PROCEEDINGS OF SEPTEMBER 20, 2023

#### **BART F. VIRDEN, JUDGE:**

[CV-21-40](#). Theophilus C. King, Individually and in His Capacity as the Trustee of the Lois Barnes Perkins Revocable Trust v. Whit Barton, as Special Administrator of the Estate of Lois Barnes Perkins, Deceased; Troy Brown; Cherryale Burge; and Dwaine Riley, from Ashley County Circuit Court. Affirmed. Klappenbach and Wood, JJ., agree.

[E-22-362](#). Anthony Brown v. Director, Division of Workforce Services, from the Arkansas Board of Review. Affirmed in part; remanded in part. Affirmed in part; remanded in part. Abramson, J., agrees. Hixson, J., concurs.

#### **ROBERT J. GLADWIN, JUDGE:**

[CR-22-744](#). Eldavions Holliman v. State of Arkansas, from Crittenden County Circuit Court. Affirmed. Barrett and Hixson, JJ., agree.

[CV-20-549](#). Kelly L. Branam and Cynthia Hall v. Heraeus Electro-Nite, LLC; David Miller; Landstar Ranger, Inc.; LM General Insurance Company; Sherita Franklin; Justin Robert Davis; and Industrial Power Products, Inc., from Crittenden County Circuit Court. Affirmed in part; reversed and remanded in part. Gruber and Murphy, JJ., agree.

#### **RITA W. GRUBER, JUDGE:**

[CV-23-86](#). Randy Hutchins v. Arkansas Department of Human Services and Minor Child, from Franklin County Circuit Court, Southern District. Affirmed. Gladwin and Murphy, JJ., agree.

#### **STEPHANIE POTTER BARRETT, JUDGE:**

[CV-22-570](#). Kymira Gant v. First Step, Inc., and Risk Management Resources, from the Arkansas Workers' Compensation Commission. Affirmed. Thyer and Wood, JJ., agree.

#### **CINDY GRACE THYER, JUDGE:**

[CR-22-782](#). Corie Hare v. State of Arkansas, from Faulkner County Circuit Court. Affirmed. Barrett and Wood, JJ., agree.

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**WENDY SCHOLTENS WOOD, JUDGE:**

[E-22-346](#). William Morgan v. Director, Division of Workforce Services, from the Arkansas Board of Review. Affirmed in part; remanded in part; vacated in part. Barrett and Thyer, JJ., agree.

**KENNETH S. HIXSON, JUDGE:**

[CV-22-640](#). McDonald's and AR McDonald's Self Insured Trust/Risk Management Resources v. Jimmy Key III, from the Arkansas Workers' Compensation Commission. Affirmed. Abramson and Virden, JJ., agree.

**MIKE MURPHY, JUDGE:**

[CR-22-402](#). Evan Columbus Anderson v. State of Arkansas, from Benton County Circuit Court. Affirmed. Gladwin and Gruber, JJ., agree.

**WAYMOND M. BROWN, JUDGE:**

[CV-21-618](#). Bryan Gadberry v. Autumn Gadberry, from Pulaski County Circuit Court, Fifteenth Division. Affirmed in part; dismissed without prejudice in part. Harrison, C.J., and Klappenbach, J., 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-22-209. Leslie Swafford v. Director et al.

E-22-340. Latonya Smith v. Director et al.

E-22-341. Nicole Pruiett v. Director et al.

E-22-342. Allen Ford v. Director et al.

E-22-343. Christopher Hill v. Director et al.

E-22-345. Brigitte Keus v. Director et al.

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- E-22-349. Dianne Henry v. Director et al.
- E-22-350. Mercedes Cuellar v. Director et al.
- E-22-351. Lesa D. Ness v. Director et al.
- E-22-352. Karen Lewis v. Director et al.
- E-22-353. Paul A. McNeese v. Director et al.
- E-22-354. Logan Dungan v. Director et al.
- E-22-355. Jerry Gore v. Director et al.
- E-22-356. David C. Sims v. Director et al.
- E-22-357. Kenneth Hale v. Director et al.
- E-22-358. Tametha Divvleoon v. Director et al.
- E-22-359. Lauren Huskey v. Director et al.
- E-22-360. Michael Givens v. Director et al.
- E-22-361. Johnny Jenkins v. Director et al.
- E-22-363. Donald Kissell v. Director et al.
- E-22-365. Donald Kissell v. Director et al.

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**PER CURIAM ORDERS**

CR-22-583. Albert B. Mitchell v. State of Arkansas, from Garland County Circuit Court. Appellant's pro se motion to supplement the record is denied.

CR-23-271. Donald Ray Mouse, Jr. v State of Arkansas, from Benton County Circuit Court. Appellant's notice to court is acknowledged. The supplemental record is due by October 20, 2023. Failure to timely return writ by then may result in a show-cause order being issued.

CR-23-388. Daniel Hernandez v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's pro se motion to relieve counsel and appoint new counsel is denied.

CR-23-492. Raymond E. Page v. State of Arkansas, from Saline County Circuit Court. Appellant's motion to file a belated brief is granted. Tendered appellant's brief filed this date.

CR-23-536. Tandi Speer v. State of Arkansas, from Crawford County Circuit Court. Appellant's motion to appoint substitute counsel is granted. Tim Cullen is appointed as counsel for the appellant. Appellant's brief is due by October 20, 2023.

CR-23-536. Tandi Speer v. State of Arkansas, from Crawford County Circuit Court. Appellant's motion for extension of time to file brief is granted.

CR-23-558. Johnathan Dial v. State of Arkansas, from Benton County Circuit Court. Motion of Tara Schmutzler to withdraw as counsel of record for the appellant is granted.

CR-23-558. Johnathan Dial v. State of Arkansas, from Benton County Circuit Court. Appellant's pro se motion to relieve counsel Tara Schmutzler is granted.

CR-23-558. Johnathan Dial v. State of Arkansas, from Benton County Circuit Court. Motion of Kimberly R. Weber to withdraw as counsel for the appellant is granted.

CR-23-563. Willie Munn v. State of Arkansas, from Hempstead County Circuit Court. Appellant's pro se motion for appointment of counsel with current affidavit of indigency is denied.

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CR-23-581. Jerry Cherry v. State of Arkansas, from Washington County Circuit Court. Motion of Kimberly R. Weber to withdraw as counsel for the appellant is granted. Samantha Carpenter is appointed as counsel for the appellant. Appellant's brief is due by October 30, 2023.

CV-21-175. Kenneth Norman v. Candace Craft, from Clark County Circuit Court. Appellee's motion to waive fees or, in the alternative, to be held in abeyance is denied.

CV-21-175. Kenneth Norman v. Candace Craft, from Clark County Circuit Court. Appellant's response and motion to strike appellee's motion to waive fees or, in the alternative, to be held in abeyance is denied.

CV-22-549. Edward Delone Wester v. Trina Marie Wester; Floyd Prock; and Debbie Anderson, from Sharp County Circuit Court. Appellant's agreement to suggestion of death and motion of counsel to withdraw. Suggestion of death on the record is noted. Motion of counsel to withdraw is granted.

CV-23-397. Thelma Williams v. Britney Hapter; Brandon Carroll; Lieutenant Washington; Captain Bidens; Sergeant A. Lewis; Marhsall (Dale) Reed; Sergeant Mothershed; and Dexter Payne, Director, Arkansas Division of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for reconsideration of dismissal of the appeal is denied. No further filings will be accepted in this case.

CV-23-476. Black Farms, LLC; Rebecca Winemiller, as Co-Manager of Grand Prairie Farming & Water Company, LLC; Rebecca Winemiller, as Co-Trustee of The Ernestine Boyce Trust; and Ernestine Boyce, Co-Trustee Of The Ernestine Boyce Trust v. Grand Prairie Farming & Water Company, LLC; Jerry Lee Bogard, Co-Manager of Grand Prairie Farming & Water Company, LLC; Bogard Agriculture Consultancy Group, Inc.; Metropolitan Life Insurance Company; and James Dowden, as Receiver for Grand Prairie Farming & Water Company, LLC, from Arkansas County Circuit Court, Northern District. Appellees' motion to dismiss appeal; appellees' brief in support of motion to dismiss appeal; and memorandum of authorities is denied. Harrison, C.J., not participating.

CV-23-495. Westwood Elementary/Greenwood School District and Arkansas School Boards Association v. Gail Tibbetts, from the Arkansas Worker's Compensation Commission. Appellants' motion to remand to the Arkansas Workers' Compensation Commission is granted. Status report is due by December 19, 2023.

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**Pursuant to Rule 4-3(g) and Rule 4-5 of the Rules of the Supreme Court and Court of Appeals, the following appeals have been dismissed for failure to file an appellant's brief.**

CV-21-149. Mario Antwan Baugh v. State of Arkansas, from Pulaski County Circuit Court, Third Division.

CV-21-219. Leah Floyd v. Mark Dillard, from Benton County Circuit Court.

CV-21-324. Aujontae J. Daniels v. Roma Investments, LLC., from Pulaski County Circuit Court, Seventeenth Division.

CV-21-512. Robert Walsh v. City of Little Rock, Arkansas; and Frank Scott, Jr., in His Capacity as Mayor of the City of Little Rock, from Pulaski County Circuit Court, Twelfth Division.

CV-22-198. Patricia Barnes v. Tariq Miller, from Jefferson County Circuit Court.

CV-22-416. (In the Matter of the Adoption of Minor Children) Michael Wayne Webb v. Amy Nicole Gregory and Odis Dean Gregory II, from Phillips County Circuit Court.

CV-22-440. David Hayes v. Larry Walther, in His Official Capacity as Secretary, Arkansas Department of Finance and Administration, from Benton County.

CV-22-541. (In the Matter of Patty Sue Edgecomb) Jessica Lynn Johnston, from Pulaski County Circuit Court, Fourteenth Division.

CV-22-780. Christobal Mancia v. Dana A. Reece, from Pulaski County Circuit Court, Seventeenth Division.

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**MOTIONS SUBMITTED**

CR-23-28. Cleotis Milton v. State of Arkansas, from Benton County Circuit Court. Appellant's pro se motion for writ of certiorari to complete the record.

CR-23-55. Rickie Nash v. State of Arkansas, from Craighead County Circuit Court, Western District. Appellant's motion to file a belated brief.

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.

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

CR-23-196. Devalin Wiseman v. State of Arkansas, from Howard County Circuit Court. Appellee's motion to remand to settle and supplement the record or, in the alternative, motion for extension of brief time.

CR-23-196. Devalin Wiseman v. State of Arkansas, from Howard County Circuit Court. Appellee's amended motion to remand to settle and supplement the record or, in the alternative, motion for extension of brief time.

CR-23-347. Joe Lester Cantrell v. State of Arkansas, from Cleburne County Circuit Court. Appellant's pro se motion for extension of time to file brief.

CV-23-27. Gary W. Horton v. Deborah L. Boggs, from Baxter County Circuit Court. Appellee's motion to dismiss appeal for want of a final order and alternative unopposed motion for extension of time to file appellee's brief.

CV-23-157. Lakewood Subdivision Homeowners Association, Inc. v. City of Fayetteville, Arkansas; City Council of the City of Fayetteville, Arkansas; Lioneld Jordan, in His Official Capacity as Mayor of Fayetteville, Arkansas; and La Hacienda of Northwest Arkansas, Inc., from Washington County Circuit Court. Appellant's petition for reconsideration.

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**MOTIONS SUBMITTED**

CV-23-280. Malik Muntaqim v. Dexter Payne, Director, Arkansas Division of Correction; Raymond Naylor, Disciplinary Hearing Administrator, Arkansas Division of Correction; Nurzuhal Faust, Warden, Arkansas Division of Correction; Wendy Kelley, Director, Arkansas Division of Correction; and Captain Joshua E. Crosby, Corporal Aaron T. Hisek, Sergeant Cheiana Sykes, Corporal Esmeralda Fraire, and Daniel Wayne Golden, Disciplinary Hearing Officers, Arkansas Division of Correction, from Jefferson County Circuit Court. Appellant's pro se petition for rehearing (reconsideration).

CV-23-280. Malik Muntaqim v. Dexter Payne, Director, Arkansas Division of Correction; Raymond Naylor, Disciplinary Hearing Administrator, Arkansas Division of Correction; Nurzuhal Faust, Warden, Arkansas Division of Correction; Wendy Kelley, Director, Arkansas Division of Correction; and Captain Joshua E. Crosby, Corporal Aaron T. Hisek, Sergeant Cheiana Sykes, Corporal Esmeralda Fraire, and Daniel Wayne Golden, Disciplinary Hearing Officers, Arkansas Division of Correction, from Jefferson County Circuit Court. Motion of Noah P. Watson for substitution of counsel.

CV-23-464. Morris Koontz v. Dexter Payne, Director, Arkansas Department of Correction; Dale Reed, Deputy Director; William Straughn, Deputy Director; Randy Watson, Warden; Jeremy Andrews, Deputy Warden; Gaylon Lay, Warden; James Dycus, Deputy Warden; Anthony Jackson, Deputy Warden; and State of Arkansas Representatives and Senators, from Pulaski County Circuit Court, Twelfth Division. Motion of Noah P. Watson for substitution of counsel.

CV-23-530. Ross Warren Ferguson v. Maria Guadalupe Campos Ferguson, from Washington County Circuit Court. Motion of Brenda Horn Austin to withdraw as attorney of record for appellant.

CV-23-530. Ross Warren Ferguson v. Maria Guadalupe Campos Ferguson, from Washington County Circuit Court. Motion for extension of time in which to file appellant's brief.

E-23-378. Whitney Shane Brooks v. Director et al., from the Arkansas Board of Review. Petitioner's pro se motion to strike evidence from the evidentiary record.

E-23-378. Whitney Shane Brooks v. Director et al., from the Arkansas Board of Review. Petitioner's motion to dually confirm receipt of evidence.



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**CASES SUBMITTED**

CR-22-3. Sterling D. Woolford v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division.

CR-22-291. James Ricks, Jr. v. State of Arkansas, from Arkansas County Circuit Court, Northern District.

CR-22-548. Robert Dean Penny v. State of Arkansas, from Baxter County Circuit Court.

CR-22-667. David Wayne Railey v. State of Arkansas, from Nevada County Circuit Court.

CR-22-784. Joshua Fleming v. State of Arkansas, from Drew County Circuit Court.

CR-23-40. Pablo Flores v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-23-47. Ryan Cockrell v. State of Arkansas, from Faulkner County Circuit Court.

CR-23-128. William Breshears v. State of Arkansas, from Cleveland County Circuit Court.

CR-23-141. Mark Jay Mosier v. State of Arkansas, from Drew County Circuit Court.

CV-21-549. Charles “Chuck” Frankhouse v. City of Russellville, Arkansas, from Pope County Circuit Court.

CV-22-136. Kenmark Optical, Inc. v. Charles Ford, from Carroll County Circuit Court, Western District.

CV-22-213. Forrest Harrison and Shelby Harrison, Husband and Wife v. Larrie Stolfi and Carol A. Stolfi, from Washington County Circuit Court.

CV-22-294. Linzy Moore v. Collin Moore, from Saline County Circuit Court.

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**CASES SUBMITTED**

CV-22-397. Nursing and Rehabilitation Center at Good Shepherd, LLC; Central Arkansas Nursing Centers, Inc.; Michael S. Morton; and John Doe 1 through 10 v. Mary Richardson, as Special Administratrix of the Estate of Jeffrey James Joy, Deceased; and on Behalf of the Wrongful Death Beneficiaries of Jeffrey Joy, from Pulaski County Circuit Court, Sixteenth Division.

CV-22-410. Carl E. Roberts v. Karen Roberts, from Benton County Circuit Court.

CV-22-490. Troy Christopher Brewer v. Alexis Patterson, from Van Buren County Circuit Court.

CV-22-543. (In the Matter of the Adoption of a Minor) Staci Ellis v. James Smith and Nancy Carolyn Smith, from Garland County Circuit Court.

CV-22-586. Mineral Springs-Saratoga School District and Arkansas School Board Association, WTC v. Bron Bell and Death and Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission.

CV-22-687. Arkansas Department of Transportation and Public Employee Claims Division v. Rose Hill, from the Arkansas Workers' Compensation Commission.

CV-22-699. Barbara Howell v. Arkadelphia Human Development Center and Public Employee Claims Division, Insurance Carrier/TPA, from the Arkansas Workers' Compensation Commission.

CV-23-163. Sahara Gonzalez v. Arkansas Department of Human Services and Minor Children, from Sebastian County Circuit Court, Fort Smith District.

CV-23-165. Sahara Gonzalez v. Arkansas Department of Human Services and Minor Child, from Sebastian County Circuit Court, Fort Smith District.

CV-23-220. Bailey Cothran v. Arkansas Department of Human Services and Minor Children, from Saline County Circuit Court.

CV-23-243. Crystal Jurls v. Arkansas Department of Human Services and Minor Children, from Columbia County Circuit Court.