

ARKANSAS COURT OF APPEALS

PROCEEDINGS OF DECEMBER 13, 2023

BRANDON J. HARRISON, CHIEF JUDGE:

[CR-23-269](#). Lea Merritt v. State of Arkansas, from Hot Spring County Circuit Court. Affirmed. Gladwin and Hixson, JJ., agree.

[CV-22-681](#). Terri Peek, Executor of the Estate of Emma Lou Friedrich, Deceased v. Sharon D. Diley, from Sebastian County Circuit Court, Greenwood District. Affirmed. Klappenbach and Barrett, JJ., agree.

RAYMOND R. ABRAMSON, JUDGE:

[CR-22-820](#). Darean Deshun Moore v. State of Arkansas, from Pulaski County Circuit Court, First Division. Affirmed. Gruber and Thyer, JJ., agree.

[CV-23-140](#). Scott Thomason v. Thomason Investments, LLC; and Mary Anne Thomason, from Boone County Circuit Court. Affirmed. Wood and Hixson, JJ., agree.

BART F. VIRDEN, JUDGE:

[CR-22-583](#). Albert B. Mitchell v. State of Arkansas, from Garland County Circuit Court. Affirmed. Gruber and Brown, JJ., agree.

[CR-23-278](#). Jarvis Dillard v. State of Arkansas, from Drew County Circuit Court. Affirmed. Gruber and Brown, JJ., agree.

ROBERT J. GLADWIN, JUDGE:

[CV-21-172](#). Mark Cambiano and Chris Cambiano v. Arkansas Oil and Gas Commission; Flywheel Energy Production, LLC; XTO Energy, Inc.; and Merit Energy Company, LLC, from Conway County Circuit Court. Affirmed. Thyer and Murphy, JJ., agree.

[CV-23-7](#). Juan Diego Morales v. Madeleine Morales, from Columbia County Circuit Court. Affirmed. Thyer and Murphy, JJ., agree.

N. MARK KLAPPENBACH, JUDGE:

[CV-22-733](#). Grant Mayner v. Leslie McCormack and Mark McCormack, from Franklin County Circuit Court, Southern District. Affirmed. Harrison, C.J., and Barrett, J., agree.

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RITA W. GRUBER, JUDGE:

[CV-23-107](#). Kathryn Losurdo v. Brian Losurdo, from Baxter County Circuit Court. Reversed and remanded. Virden and Brown, JJ., agree.

[E-22-499](#). Bridgette Robinson v. Director, Division of Workforce Services, from the Arkansas Board of Review. Remanded to settle and supplement the record. Virden and Brown, JJ., agree.

[E-22-500](#). Bridgette Robinson v. Director, Division of Workforce Services, from the Arkansas Board of Review. Remanded to settle and supplement the record. Virden and Brown, JJ., agree.

STEPHANIE POTTER BARRETT, JUDGE:

[CR-22-458](#). Jiggs Dean Compton v. State of Arkansas, from Newton County Circuit Court. Affirmed. Murphy and Brown, JJ., agree.

[E-22-513](#). Holly Hancock v. Director, Division of Workforce Services, from the Arkansas Board of Review. Remanded. Murphy and Brown, JJ., agree.

CINDY GRACE THYER, JUDGE:

[CR-22-657](#). Gary Wayne Johnson v. State of Arkansas, from Lonoke County Circuit Court. Affirmed. Gladwin and Murphy, JJ., agree.

[CR-23-126](#). Jonathan Chatman v. State of Arkansas, from Faulkner County Circuit Court. Affirmed. Gladwin and Murphy, JJ., agree.

[CV-22-506](#). Valiant Consultants, Inc.; Steven Mayer; Justin Preer; and Mike Fisher v. Courtney Lewis, from Pulaski County Circuit Court, Sixth Division. Affirmed in part; reversed and remanded in part. Abramson and Gruber, JJ., agree.

WENDY SCHOLTENS WOOD, JUDGE:

[CR-23-185](#). Minor Child v. State of Arkansas, from Pope County Circuit Court. Affirmed. Abramson, J., agrees. Hixson, J., concurs.

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KENNETH S. HIXSON, JUDGE:

[CR-22-616](#). Jimmie Holland v. State of Arkansas, from Washington County Circuit Court. Affirmed. Abramson and Wood, JJ., agree.

[E-22-510](#). Dustin Smith v. Director, Division of Workforce Services, from the Arkansas Board of Review. Affirmed in part; remanded in part. Abramson and Wood, JJ., agree.

MIKE MURPHY, JUDGE:

[CV-22-800](#). Tina Jones v. Austin Reddig, from Pulaski County Circuit Court, Fifteenth Division. Affirmed. Gladwin and Thyer, JJ., agree.

[E-22-531](#). Holly Hancock v. Director, Division of Workforce Services, from the Arkansas Board of Review. Remanded. Barrett and Brown, JJ., agree.

[E-22-532](#). Holly Hancock v. Director, Division of Workforce Services, from the Arkansas Board of Review. Remanded. Barrett and Brown, JJ., agree.

WAYMOND M. BROWN, JUDGE:

[CV-22-321](#). Shane Perry v. Walmart Stores, Inc., from Benton County Circuit Court. Affirmed. Barrett and Murphy, JJ., agree.

[CV-23-447](#). Shanna Moon and Christopher Moon v. Arkansas Department of Human Services and Minor Children, from Perry County Circuit Court. Affirmed. Virden and Gruber, JJ., agree.

[E-22-502](#). Lisa Langston v. Director, Department of Workforce Services, from the Arkansas Board of Review. Affirmed in part; remanded in part for further findings. 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-22-491. Luis F. Palafox v. Director et al.

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E-22-492. Luis F. Palafox v. Director et al.

E-22-493. Luis F. Palafox v. Director et al.

E-22-494. Luis F. Palafox v. Director et al.

E-22-496. Nellie Diane Atkins v. Director et al.

E-22-497. Darrien Edelen v. Director et al.

E-22-498. Bridgette Robinson v. Director et al.

E-22-501. Lisa Langston v. Director et al.

E-22-503. John Erwin Jr. v. Director et al.

E-22-504. Benjamin Butler v. Director et al.

E-22-505. Taylor Robinson v. Director et al.

E-22-506. Glen E. Morgan v. Director et al.

E-22-507. Casey Sheets v. Director et al.

E-22-508. Dustin Smith v. Director et al.

E-22-509. Sonya Y. Watkins v. Director et al.

E-22-511. Shelia Stanfield v. Director et al.

E-22-512. Alagae Poitier v. Director et al.

E-22-514. Shelia Ford v. Director et al.

E-22-515. Matthew Bufford v. Director et al.

E-22-516. Stephen Hindmarsh v. Director et al.

E-22-517. Charl'ee Spratt v. Director et al.

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E-22-518. Brandon Elliott v. Director et al.

E-22-521. Yorman Diaz Garcia v. Director et al.

E-22-522. Sonora Linton v. Director et al.

E-22-524. Matthew Bufford v. Director et al.

E-22-525. Steven Vasseau v. Director et al.

E-22-526. Steven Vasseau v. Director et al.

E-22-527. Steven Vasseau v. Director et al.

E-22-528. Steven Vasseau v. Director et al.

E-22-529. Dorris Alexander v. Director et al.

E-22-530. Holly Hancock v. Director et al.

E-22-533. Brian Remsing v. Director et al.

E-22-534. Brian Remsing v. Director et al.

E-22-536. Velma Taylor v. Director et al.

E-22-537. Robert L. Smith v. Director et al.

E-22-538. Robert Zachery v. Director et al.

E-22-539. Robert Zachery v. Director et al.

E-22-544. Ferdiando Green v. Director et al.

E-22-546. Sherry Holliman v. Director et al.

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PER CURIAM ORDERS

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

CV-21-443. (In the Matter of the Estate of Lexa Page, Sr., Deceased) Lexa Page, Jr. v. Annette Page and the Estate of Lexa Page, Sr., Deceased, from Ouachita County Circuit Court.

CV-22-719. David Treece and Nancy Treece v. Bree Calley and Richard Calley, from Garland County Circuit Court. Harrison, C.J., not participating.

E-22-416. Ronnie Robinson v. Director et al., from the Arkansas Board of Review.

CR-22-814. Matthew David Kimery v. State of Arkansas, from Faulkner County Circuit Court. Motion of Grace Casteel for award of attorney's fees is granted. Allowed \$2,250.

CR-23-79. Rhonda Lynn Hogue v. State of Arkansas, from Drew County Circuit Court. Motion of Gary W. Potts to be relieved as appellate counsel is granted. Tim Cullen is appointed as counsel for the appellant. Appellant's brief is due January 12, 2024.

CR-23-141. Mark Mosier v. State of Arkansas, from Drew County Circuit Court. Motion of Gary W. Potts for costs and attorney fees is granted. Allowed \$750. Klappenbach, J., not participating.

[CR-23-191](#). Gene Jackson v. State of Arkansas, from Benton County Circuit Court. Special master appointed. See **per curiam** this date. Klappenbach, J., not participating.

CR-23-191. Gene Jackson v. State of Arkansas, from Benton County Circuit Court. Appellant's motion for extension of time to file supplemental record is granted. Tendered supplemental record filed this date. Klappenbach, J., not participating.

CR-23-191. Gene Jackson 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 is granted. Writ issued; returnable in fifteen days (December 28, 2023). Klappenbach, J., not participating.

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CR-23-480. Cortez Banks v. State of Arkansas, from Phillips County Circuit Court. Appellant's pro se motion for permission to file belated addendum is denied.

CR-23-531. Jeremy Jermane Hawkins v. State of Arkansas, from Ouachita County Circuit Court. Appellant's pro se motion for extension of time to file brief is granted. Appellant's brief is due January 2, 2024.

CR-23-657. Patrick Ables v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Motion of Gary W. Potts to be relieved as appellate counsel is granted. Robert M. "Robby" Golden is appointed as counsel for the appellant. Appellant's brief is due January 12, 2024.

CR-23-698. Dewayne Tilmon v. State of Arkansas, from Garland County Circuit Court. Appellant's pro se motion for appointment of counsel is denied. Harrison, C.J., and Abramson, J., not participating.

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 status report is noted. Status report is due March 12, 2024.

CV-23-553. Bank OZK f/k/a Bank of the Ozarks v. Paul Summers, as Trustee of the Paul Summers Revocable Trust, Dated August 19, 2004, on Behalf of Himself and All Other Taxpayers Similarly Situated; Ozark Mountain Solid Waste District; and Carroll County Tax Collector, Kay Phillips, from Carroll County Circuit Court, Eastern District. Motion of separate appellee Paul Summers for stay and consolidation is denied.

CV-23-553. Bank OZK f/k/a Bank of the Ozarks v. Paul Summers, as Trustee of the Paul Summers Revocable Trust, Dated August 19, 2004, on Behalf of Himself and All Other Taxpayers Similarly Situated; Ozark Mountain Solid Waste District; and Carroll County Tax Collector, Kay Phillips, from Carroll County Circuit Court, Eastern District. Motion of separate appellee Paul Summers for extension of time to file appellee's brief is granted. Brief of separate appellee Paul Summers is due December 30, 2023.

CV-23-598. LaTara Davis and Jared Davis v. Arkansas Department of Human Services and Minor Children, from Benton County Circuit Court. Appellees' motion to expand word count is granted. Tendered appellees' brief filed this date.

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CV-23-636. City of Pine Bluff, Arkansas, Advertising and Promotion Commission v. Aramark Educational Services, LLC, from Jefferson County Circuit Court. Appellant's motion to complete the record is denied.

CV-23-642. Cody Wayne Elkins and Cherokee Nation v. Arkansas Department of Human Services and Minor Child, from Sebastian County Circuit Court, Fort Smith District. Motion of separate appellant Cody Wayne Elkins to enlarge word count is granted. Tendered appellant's brief filed this date.

CV-23-722. Eddie Bunch and Donald Bunch v. Angela Ryland; Anna Lee Ivey; The Unknown Heirs of David Floyd; and The Unknown Heirs of Louis Floyd, from Woodruff County Circuit Court. Motion of separate appellee Angela Ryland to dismiss appeal is passed until the case is submitted. Harrison, C.J., and Abramson, J., not participating.

CV-23-765. Nationwide Mutual Insurance Company v. N.W.A. Restore-It, Inc., from Benton County Circuit Court. Appellee's motion to substitute counsel and entry of appearance is granted.

CV-23-765. Nationwide Mutual Insurance Company v. N.W.A. Restore-It, Inc., from Benton County Circuit Court. Appellee's unopposed motion to stay briefing schedule and for extension of time to file appellee's brief is granted. Appellee's brief is due January 12, 2024.

CV-23-765. Nationwide Mutual Insurance Company v. N.W.A. Restore-It, Inc., from Benton County Circuit Court. Appellee's motion to dismiss appeal is denied. Gruber, J., would pass until the case is submitted.

CV-23-766. (In the Matter of the Adoption of a Minor) Skyla Sutherland v. Alexandra Miller, from White 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 is denied. Harrison, C.J., not participating.

E-22-577. James Turner v. Director et al., from the Arkansas Board of Review. Petitioner's pro se motion to supplement the record is denied.

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MOTIONS SUBMITTED

PETITION FOR REHEARING:

CV-22-241. Amy Smith v. Brad Smith, from Hot Spring County Circuit Court.

CR-21-488. Macon Carter, Jr. v. State of Arkansas, from Phillips County Circuit Court. Motion of Don Etherly for award of attorney's fees.

CR-22-392. Charles Greeno v. State of Arkansas, from Hot Spring County Circuit Court. Motion of Gregory Crain for attorney fees.

CR-22-407. George Gitchell v. State of Arkansas, from Hot Spring County Circuit Court. Motion of Gregory Crain for attorney fees.

CR-22-460. Bryan Smith v. State of Arkansas, from Crawford County Circuit Court. Motion of Erin W. Lewis for attorney's fees.

CR-22-534. Mario Palmer v. State of Arkansas, from Ashley County Circuit Court. Motion of Gary W. Potts for costs and attorney's fees.

CR-22-545. Leonard C. Stephenson v. State of Arkansas, from Garland County Circuit Court. Appellant's motion for extension of time to file brief.

CR-23-67. Jarvis Dillard v. State of Arkansas, from Desha County Circuit Court. Motion of Gary W. Potts for costs and attorney's fees.

CR-23-68. Jarvis Dillard v. State of Arkansas, from Desha County Circuit Court. Motion of Gary W. Potts for costs and attorney's fees.

CR-23-162. James Williams v. State of Arkansas, from Union County Circuit Court. Motion of Andrew W. Best for award of attorney's fees.

CR-23-407. Tony McCoy v. State of Arkansas, from Bradley County Circuit Court. Appellant's motion for reconsideration.

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MOTIONS SUBMITTED

CR-23-576. Martavion T. Oliver v. State of Arkansas, from Crittenden County Circuit Court. Motion of Sharon Kiel for award of attorney's fees.

CR-23-724. Larry Mathis v. State of Arkansas, from Pulaski County Circuit Court, First Division. Motion of Matt Kezhaya to supplement counsel of record.

CR-23-782. Assefa Gabriel Egziabher v. State of Arkansas, from Washington County Circuit Court. Appellant's pro se motion for rule on clerk.

CV-22-410. Carl Roberts v. Karen Roberts, from Benton County Circuit Court. Motion of Matt Kezhaya for attorney's fees.

CV-22-805. Janet Nicholas v. Mike Jones, from Sebastian County Circuit Court, Fort Smith District. Appellant's letter containing status report.

CV-23-114. Barbra Davis, Individually and as Personal Representative of the Estate of Alex Davis, Deceased v. Jefferson Hospital Association, Inc., D/B/A Jefferson Regional Medical Center; Jefferson Regional Medical Center Preferred Provider Organization; Steven H. Wright, M.D.; Ayman Abdul Hameed Alshami, M.D.; and Mai Salah Abd-Alqader, M.D., from Jefferson County Circuit Court. Motion to allow Kristen S. Moyers to withdraw and be removed as counsel.

CV-23-328. H. C.; L. S.; R. T.; and T. K. v. James Darrell Nesmith, from Pulaski County Circuit Court, Sixth Division. Motion of Stuart P. Miller for leave to file amicus brief on behalf of Ms. Shirley Suhl.

CV-23-328. H. C.; L. S.; R. T.; and T. K. v. James Darrell Nesmith, from Pulaski County Circuit Court, Sixth Division. Motion of Arkansas Trial Lawyers Association to file brief amicus curiae.

CV-23-328. H. C.; L. S.; R. T.; and T. K. v. James Darrell Nesmith, from Pulaski County Circuit Court, Sixth Division. Motion of Child USA to file brief amicus curiae.

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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. Appellees' motion for extension of time to file belated brief.

CV-23-753. Robert F. Boerner; Kristina Kendall; Joy E. Martsching; Richard L. Martsching; Sherry Lynn Owens; Renita J. Philley Hale; Hans D. Purkott; Ilse M. Purkott; Cynthia L. Schreimel; Ulrich G. Schreimel; Barbara Schuette; Renee Sharboneau; Gary Welch, Either Individually or as Trustee of the Gary Welch Trust; Sharon Williams; Zachary Williams; Ronald E. Rivers; Alice E. Rivers; and Rivers Living Trust, Individually and in Their Capacity as Owners in Stony Brook Chateau Horizontal Property Regime v. Celina Richards; Arlene V. Rose; Terrell M. Rose; Markilyn Davis Spainhour; Edward Tallach; Ellen Tallach; Christie White; and Donald White, from Garland County Circuit Court. Appellees' motion to dismiss appeal, memorandum of authorities, and supporting brief.

CV-23-772. Kevin Cheri v. Laura Cheri, from Boone County Circuit Court. Appellant's motion to consolidate the record on appeal.

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CASES SUBMITTED

- CR-22-564. Seth Fontenot v. State of Arkansas, from Lonoke County Circuit Court.
- CR-23-119. James Earl Harris v. State of Arkansas, from White County Circuit Court.
- CR-23-180. Larra Gabrielleh Compton v. State of Arkansas, from Bradley County Circuit Court.
- CR-23-215. Michael Landon Stewart v. State of Arkansas, from Clark County Circuit Court.
- CR-23-235. Arlene Edwards v. State of Arkansas, from Saline County Circuit Court.
- CR-23-254. Rocky McGahey v. State of Arkansas, from Logan County Circuit Court, Northern District.
- CR-23-255. Jamel Gardner v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District.
- CR-23-262. Samuel McLeod v. State of Arkansas, from Columbia County Circuit Court.
- CR-23-266. Cecil Sixkiller v. State of Arkansas, from Benton County Circuit Court.
- CR-23-275. Kamen Winston v. State of Arkansas, from Jefferson County Circuit Court.
- CR-23-287. Christon Houston v. State of Arkansas, from Saline County Circuit Court.
- CR-23-288. Christon Houston v. State of Arkansas, from Saline County Circuit Court.
- CR-23-295. Kimberlie Tilley v. State of Arkansas, from Craighead County Circuit Court, Western District.
- CR-23-323. Toby Yancy v. State of Arkansas, from Franklin County Circuit Court, Northern District.
- CR-23-329. Jason Hicks v. State of Arkansas, from Hot Spring County Circuit Court.

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CASES SUBMITTED

CR-23-388. Daniel Hernandez v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District.

CR-23-390. Mercedes Cuellar v. State of Arkansas, from Grant County Circuit Court.

CR-23-446. Lacey Cheyenne Hogue v. State of Arkansas, from Saline County Circuit Court.

CR-23-492. Raymond Page v. State of Arkansas, from Saline County Circuit Court.

CV-23-338. Jennifer Thorton v. Arkansas Department of Human Services and Minor Child, from Garland County Circuit Court.

CV-23-355. Catherine Cody v. Arkansas Department of Human Services and Minor Child, from Miller County Circuit Court.

CV-23-382. Kirstie McCullar and Marsheon Darnell Nunn, Sr. v. Arkansas Department of Human Services and Minor Children, from Poinsett County Circuit Court.

CV-23-459. Mikayla Mitchell v. Arkansas Department of Human Services and Minor Child, from Logan County Circuit Court, Southern District.

CV-23-494. Charles Allen Kirtley v. Arkansas Department of Human Services and Minor Child, from Lonoke County Circuit Court.