

# ARKANSAS SUPREME COURT

Opinions Delivered  
September 23, 2010

JIM HANNAH, CHIEF JUSTICE:

CR09-1182. James E. Clemons v. State of Arkansas, from Union Circuit. Affirmed.

PAUL E. DANIELSON, JUSTICE:

09-1269. Tommy Reed, Executive Director of the Arkansas Professional Bail Bond Licensing Board, and Arkansas Professional Bail Bond Licensing Board v. Arvis Harper Bail Bonds, Inc. and Arvis Harper, Jr., from Pulaski Circuit, Fifth Division. Arkansas Professional Bail Bond Licensing Board Affirmed; Circuit Court Reversed. Brown, J., concurs. Hannah, C.J., dissents.

10-649. Monticello Healthcare Center, LLC, d/b/a Monticello Healthcare Center; Perennial Healthcare Management, LLC, Perennial Leaseholdings 6, LLC; Perennial Health Care Holdings, LLC; V. James Santarsiero; Sharon Drake, in her capacity as Administrator of Monticello Healthcare Center; John Doe I; John Doe II; John Doe III; John Doe IV; and John Doe V v. Jerry Goodman, as Special Administrator of the Estate of Leona Goodman, and on behalf of the Wrongful Death Beneficiaries of Leona Goodman, from Drew Circuit. Moot in Part; Reversed in Part; Dismissed in Part.

ELANA CUNNINGHAM WILLS, JUSTICE:

10-656. Monticello Healthcare Center, LLC, d/b/a Monticello Healthcare Center; Perennial Healthcare Management, LLC; Perennial Leaseholdings 6, LLC; Perennial Health Care Holdings, LLC; V. James Santarsiero; Sharon Drake, in her capacity as Administrator of Monticello Healthcare Center v. Cheyenne Forrest, as Special Administrator of the Estate of Kathleen Margaret Jones, and on behalf of the Wrongful Death Beneficiaries of Kathleen Jones, from Drew Circuit. Moot in Part; Reversed in Part; Dismissed in Part.

PER CURIAM OPINION:

CR08-1320. Kenny Travis, Jr. v. State of Arkansas, from Mississippi Circuit, Chickasawba District. Affirmed.

## PER CURIAM ORDERS

REVIEWS DENIED: Petitions for review were denied today in the following cases.

10-424. Donna Greenfield v. Conagra Foods, Inc., et al., from Workers' Compensation Commission.

10-445. Adrian David Minton v. Danny Minton, David Minton, and Estate of Freddie Lynn Minton, Deceased, from Montgomery Circuit.

10-477. Troy Blankenship v. Owen Kelly, M.D. and Russell B. Allison, M.D., P.A., d/b/a The Arkansas Orthopaedic Institute, from Pope Circuit.

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CR10-353. Vera Ann Arnold v. State of Arkansas, from Pulaski Circuit, Fifth Division. Appellant's motion for oral argument is denied.

CR10-598. Curtis Lavell Vance v. State of Arkansas, from Pulaski Circuit, Second Division. Appellant's motion for acceptance of tendered supplement argument and waiver of page limit is granted. Brief with incorporated supplemental argument due within seven days.

CR10-901. Connie Watkins v. State of Arkansas, from Greene Circuit. Appellant's pro se petition for writ of mandamus and additional remedies with affidavit of facts is denied.

CR10-901. Connie Watkins v. State of Arkansas, from Greene Circuit. Appellant's pro se motion pertaining to provision of supplemental record and to petition for writ of mandamus is denied.

10-60. John K. Kelly v. Christian Snowden Kelly, from Pulaski Circuit, Fifteenth Division. Appellee's Notice of Supersedeas Bond per Court's order of September 9, 2010, is moot. Brown, J., not participating.

10-60. John K. Kelly v. Christian Snowden Kelly, from Pulaski Circuit, Fifteenth Division. Appellant's supplemental motion to show cause is moot. Brown, J., not participating.

10-60. John K. Kelly v. Christian Snowden Kelly, from Pulaski Circuit, Fifteenth Division. Appellee's Order of Supersedeas with cashier's check is moot. Brown, J., not participating.

10-306. Audrey Hunter et al. v. Transamerica Life Insurance Company et al., from Pulaski Circuit, Third Division. Appellant Audrey Hunter's motion for leave to supplement the

record, or in the alternative, petition for certiorari to complete the record is denied.

CR86-222. Kenneth Ray Kindall v. State of Arkansas, from Jefferson Circuit. Pro se motion for reconsideration of petition pursuant to Arkansas Rule of Criminal Procedure 37.1 denied in 1997, or in the alternative, to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis and motion for leave to proceed in circuit court with over-length Rule 37.1 petition. Motion for reconsideration of Rule 37.1 petition is denied; petition to reinvest jurisdiction in trial court to consider petition for writ of error coram nobis is denied; motion for leave to proceed in circuit court with over-length Rule 37.1 petition is moot. See **per curiam** this date. Corbin, J., not participating.

CR10-54. Barry G. Aaron v. State of Arkansas, from Miller Circuit. Pro se motion for reconsideration of dismissal of appeal is denied. Gunter, J., not participating.

CR10-457. Melvin Hawthorne v. State of Arkansas, from Garland Circuit. Pro se motion for extension of time to file appellant's brief. Appeal dismissed; motion moot. See **per curiam** this date.

CR10-510. Wallace A. Gardner v. State of Arkansas, from Pulaski Circuit, Second Division. Pro se motion for production of documents. Appeal dismissed; motion moot. See **per curiam** this date.

CR10-536. Robert L. Washington v. State of Arkansas, from Saline Circuit. Pro se motion for belated appeal of order. Motion dismissed. See **per curiam** this date.

CR10-560. Donald Felix Winnett v. State of Arkansas, from Saline Circuit. Pro se motions for extension of time to file brief, for change of venue, to represent statement of facts, for sentence reduction, to correct charge, to dismiss judgment, to argue case in person, to allege illegal search and seizure, to allege lack of jurisdiction, and for appointment of counsel. Appeal dismissed; motions moot. See **per curiam** this date.

CR10-602. Ernest Dean Wade v. State of Arkansas, from Washington Circuit. Appellee's motion to dismiss appeal is denied.

CR10-606. Kenneth D. Riley v. State of Arkansas, from Miller Circuit. Pro se motion for rule on clerk. Motion treated as a motion for belated appeal and denied. See **per curiam** this date. Corbin, J., not participating.

CR10-612. Davaron L. Bowers v. David N. Laser, Circuit Judge, from Crittenden Circuit. Pro se petition for writ of mandamus. Petition moot. See **per curiam** this date.

CR10-630. Nickol E. Carter v. State of Arkansas, from Pulaski Circuit, Fourth Division. Pro se motion for appointment of counsel, petition for writ of mandamus, motion to stay brief time, and petition for writ of certiorari. Appeal dismissed; motions and petitions moot. See **per curiam** this date.

CR10-637. Rodney Eugene Weston v. State of Arkansas, from Chicot Circuit. Pro se motion

to lodge appeal without a certified record. Motion treated as a motion for rule on clerk and denied.

09-1054. Melvin Smith, Jr. v. Leroy Brownlee et al., from Jefferson Circuit. Pro se motions for reconsideration of dismissal of appeal and to amend motion for reconsideration are denied.

10-326. Johnny Lee Hill v. State of Arkansas, from Lincoln Circuit. Pro se motion for reconsideration of dismissal of appeal is denied.

10-640. Robert Heffernan v. Leroy Brownlee, from Pulaski Circuit, Sixth Division. Pro se motion to file belated appeal without a certified record. Motion treated as a motion for rule on clerk to file motion for belated appeal without certified record and denied.

In Memory of the Honorable Carol Crafton Anthony. See **per curiam** this date.

On July 18, 2010, the State of Arkansas lost one of its outstanding jurists, Honorable Carol Crafton Anthony of El Dorado. Judge Anthony served on the bench in the Thirteenth Judicial Circuit from 1993 until she lost her valiant sixteen-year battle with leukemia. On the sad occasion of her death, the Arkansas Supreme Court wishes to acknowledge her distinguished service to the State of Arkansas and to express its sympathy to her husband, Aubra, her four children, and the rest of her family.

Judge Anthony graduated from the University of Arkansas School of Law in Fayetteville. Following graduation, she clerked for Judge Marian Penix on the Arkansas Court of Appeals, then for United States District Court Judge Oren Harris. After these clerkships, she practiced law in El Dorado from 1984 to 1993. During these years, she also served as a part time United States Magistrate Judge for the Western District of Arkansas and Chairman of the Union County Elections Commission.

In 1993, she was appointed circuit judge, and in 1994, she was elected circuit-chancery judge. Among her duties in this latter position was to preside over juvenile court, and she brought energy and innovation to this role. She created programs aimed at making a meaningful difference in the lives of juveniles. One of these programs was the School in School Program, a collaborative effort among her office, the police department, and the schools. In 1998, she was elected circuit judge and was subsequently reelected to the position, and was serving in it at the time of her death. As a circuit judge, she was a pioneer in the establishment of the Arkansas Drug Court Program, and presiding over drug court was richly rewarding to her in that she could see how the courts could positively improve the lives of the participants. Judge Anthony was proud of a record of only eleven reversals in more than fifty appeals to the Arkansas Supreme Court or Court of Appeals.

Her fellow judges of the Thirteenth Circuit chose her to serve as their Administrative Judge, a position she held from 2005 until her death. In addition to these duties in her judicial circuit, Judge Anthony served on the Supreme Court Board of Continuing Legal Education from 1996-2002, chairing the Board during part of that time, and as a member of the Board of Trustees of the Arkansas Judicial Retirement System.

We would be remiss if we did not acknowledge that, despite her dedication to her job, everyone who knew her remarked that her family, and especially her children, did not take a backseat. She was involved in their lives, their education, and their activities in a very special way.

The Arkansas Supreme Court recognizes Judge Carol Crafton Anthony,

an extraordinary woman, for an extraordinary – but much too short – life of service. She had the respect and admiration of her fellow judges and will be sorely missed on both a professional and personal level by her many friends and colleagues.

In Memory of the Honorable William H. Enfield. See **per curiam** this date.

On August 23, 2010, the Honorable William H. Enfield of Bentonville died at the age of 89. The Arkansas Supreme Court extends its sympathy to his family and wishes to acknowledge his life of service to his country, his community, and the Arkansas judiciary.

Originally from Kansas, Judge Enfield's family moved to Arkansas, and he eventually enrolled in the University of Arkansas Law School. His legal studies were interrupted by World War II. He enlisted in the Marine Corps and served in the South Pacific, participating in the Battles of Midway, Guadalcanal, and Bougainville. After the war, he completed his legal studies and embarked on what proved to be a very successful private law practice. In addition, he taught part time at the law school and had a tenure as county judge for Benton County upon his appointment by Governor Sid McMath.

In 1968, after twenty years in practice, he was elected circuit judge and served in that capacity for twenty years until his retirement. In addition to his regular judicial duties, Judge Enfield served for many years on the Supreme Court Committee on Model Jury Instructions–Criminal and chaired the Committee on Rules of Criminal Procedure. An endowed professorship at the University of Arkansas Law School bears his name.

Throughout his life, Judge Enfield was very active in his church and in civic affairs in Northwest Arkansas. Among these interests, he was instrumental in establishing the Miriam Enfield Community Center for Mental Health and the Rosen Center at the University of Arkansas. He also was very involved in the campaign to establish the Buffalo River as a national river.

The Arkansas Supreme Court joins the attorneys, judges, and citizens of this state in saluting Judge William H. Enfield for a full life and distinguished career.

**MOTIONS SUBMITTED**

PETITION FOR REVIEW:

10-427. R.C. Landscaping and FirstComp Insurance Company v. William B. Jones, Death and Permanent Total Disability Trust Fund and Second Injury Fund, from Workers' Compensation Commission.

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CR91-36. Bruce Earl Ward v. State of Arkansas, from Pulaski Circuit, First Division. Petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CR95-549. Timothy Wayne Kemp v. State of Arkansas, from Pulaski Circuit, First Division. Application to reinvest jurisdiction in circuit court to consider petition for writ of error coram nobis.

CR10-786. Benjamin L. Eagle v. Circuit Court of Pulaski County, from Pulaski Circuit, Fourth Division. Appellant's pro se motion for reconsideration for writ of prohibition or alternatively, certiorari.

CR10-838. Denisse Serrano v. State of Arkansas, from Saline Circuit. Appellant's second motion for rule on the clerk.

CR10-838. Denisse Serrano v. State of Arkansas, from Saline Circuit. Appellant's motion to file belated appeal.

CR10-911. Jessie Lee Miller, Jr. v. State of Arkansas, from Mississippi Circuit, Osceola District. Appellant's petition for bond pending appeal.

CR10-936. Cleveland Evans v. State of Arkansas, from Pulaski Circuit, Seventh Division. Appellant's motion to be relieved as attorney and stay briefing schedule.

10-149. Omar Chavez et al. v. The Medical Assurance Company, Inc., et al., from Pulaski Circuit, Fifth Division. Appellees' motion to dismiss appeal.

10-337. Minor Lee McNeil v. Richard Weiss, Director, Department of Finance and Administration, from Saline Circuit. Appellant's pro se motion for judicial order.

10-575. Otis Campbell, et al. v. Asbury Automotive Group, Inc. et al., from



Pulaski Circuit, Third Division. Motion of the Arkansas Automobile Dealers Association to file an amicus curiae brief in support of appellees' cross-appeal.

10-575. Otis Campbell, et al. v. Asbury Automotive Group, Inc. et al., from Pulaski Circuit, Third Division. Appellants' motion for leave to expand page limit for reply brief.

10-926. Billy Hallum v. Estate of Mel Hallum, from Craighead Circuit, Western District. Appellant's motion for rule on the clerk.

10-947. In Re: John Montell Robinson, Jr. Arkansas Bar No. 81137, an Original Action. Petition to surrender Arkansas law license.

## **SUBMISSIONS**

09-1093. State of Louisiana et al. v. Joint Pipeline Group et al., from Union Circuit. Argued orally.

CR08-1464. Justin Anderson v. State of Arkansas, from Miller Circuit.

CR09-405. Larry Eugene Barker v. State of Arkansas, from Baxter Circuit.

CR09-833. Myka Talley v. State of Arkansas, from Miller Circuit.

CR10-50. Jason Taylor v. State of Arkansas, from Saline Circuit.

CR10-103. Antwan Lavan Fowler v. State of Arkansas, from Faulkner Circuit.

CR10-401. Michael Lee Sturd, Jr. v. Circuit Court of Lonoke County, from Lonoke Circuit.