

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 16, 2010

JIM HANNAH, CHIEF JUSTICE:

CR08-1386. Kenneth R. Isom v. State of Arkansas, from Drew Circuit. Affirmed. Special Justice James A. Simpson, Jr., joins this opinion. Corbin, J., not participating.

ROBERT L. BROWN, JUSTICE:

CR09-548. Kenneth R. Isom v. State of Arkansas, from Drew Circuit. Affirmed. Hannah, C.J., and Danielson, J., concur. Special Justice James A. Simpson, Jr., dissents. Corbin, J., not participating.

JIM GUNTER, JUSTICE:

10-562. Mike E. Carr, Michael L. Carr, C.L. Carr, C.L. Carr, Jr., and Tahoe Gaming, LLC v. Stewart Nance and John Pruett Nance, from Newton Circuit. Affirmed on Direct Appeal; Reversed on Cross-Appeal.

PAUL E. DANIELSON, JUSTICE:

10-498. McLane Southern, Inc. v. Arkansas Tobacco Control Board, from Pulaski Circuit, Third Division. Board Affirmed in Part and Reversed in Part; Circuit Court Affirmed.

PER CURIAM OPINIONS:

CR09-550. Scotty Joe Shipman v. State of Arkansas, from Saline Circuit. Affirmed.

09-314. Kenneth Ray Marshall v. State of Arkansas, from Lee Circuit. Affirmed.

09-413. James Mosley a/k/a James Mosely v. Larry Norris, Director, Arkansas Department of Correction, from Chicot Circuit. Affirmed.

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PETITION FOR REHEARING: Petition for rehearing was denied today in the following case.

CR10-103. Antwan Lavan Fowler v. State of Arkansas, from Faulkner Circuit. Brown, J., would grant.

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PETITIONS FOR REVIEW: Petitions for review were denied today in the following cases.

10-632. Ricky Gaskins v. Jeff Minner Trucking and Great American Insurance Company of New York, from Workers' Compensation Commission.

10-663. Cal Moore, Rayburn Moore, and Estate of Freddie Moore v. Karen Dunsworth and Kerry McClendon, from Union Circuit.

10-1195. David Rios, Jr. v. State of Arkansas, from Carroll Circuit, Eastern District.

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CR10-1077. Joe A. Newman v. State of Arkansas, from Jefferson Circuit. Appellee's motion for permission to submit a supplemental brief is granted.

CR10-1200. Lemuel Session Whiteside v. State of Arkansas, from Pulaski Circuit, Seventh Division. Motion of Clint Miller to be relieved as counsel for appellant is granted.

CR10-1200. Lemuel Session Whiteside v. State of Arkansas, from Pulaski Circuit, Seventh Division. Motion of J. Thomas Sullivan and Mark F. Hampton to appear as counsel on appeal. Noted.

10-257. Allstate Insurance Company v. Jon H. Dodson, M.D., from Pulaski Circuit, Sixteenth Division. Rebriefing ordered. See per curiam issued. (Proceedings of December 13, 2010)

10-1074. Cooper Tire & Rubber Company v. Ollie Neal, Circuit Judge, from Phillips Circuit. Petitioner's motion to supplement the record is granted.

10-1074. Cooper Tire & Rubber Company v. Ollie Neal, Circuit Judge, from Phillips Circuit. Tucker Plaintiff's motion for extension of time to file brief until February 18, 2011, is granted. Tucker Plaintiff's suggestion of style revision is denied without prejudice.

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10-1207. Michael A. Hayes v. Sandra L. Hayes Otto, from Pulaski Circuit, Fourteenth Division. Pro se motion for rule on clerk is granted. See **per curiam** this date.

10-1212. Tom Muccio and Nancy Muccio v. Johnelle Hunt, LLC, from Washington Circuit. Appellee's motion to dismiss appeal is granted.

10-1250. Mark Gibbs and Karla Gibbs v. PrimeLending, A Plains Capital Company, an Original Action. Motion to certify question of law. Certified Question Accepted. See **per curiam** this date.

10-1264. Little Rock Municipal Airport Commission of the City of Little Rock, Arkansas v. Circuit Court of Pulaski County, Sixth Division and Redstone Construction Group, Inc., from Pulaski Circuit, Sixth Division. Petition to expedite the petition for temporary relief to stay proceedings in the circuit court pending consideration of the writ of prohibition is granted.

10-1264. Little Rock Municipal Airport Commission of the City of Little Rock, Arkansas v. Circuit Court of Pulaski County, Sixth Division and Redstone Construction Group, Inc., from Pulaski Circuit, Sixth Division. Petition for writ of prohibition is denied without prejudice.

10-1264. Little Rock Municipal Airport Commission of the City of Little Rock, Arkansas v. Circuit Court of Pulaski County, Sixth Division and Redstone Construction Group, Inc., from Pulaski Circuit, Sixth Division. Petition for temporary relief to stay proceedings in the circuit court pending consideration of the writ of prohibition is moot.

10-1271. Tom Muccio and Nancy Muccio v. Johnelle Hunt, LLC, from Washington Circuit. Motion for rule on clerk is denied.

CR09-1346. John Steven Croft v. State of Arkansas, from Pulaski Circuit, Second Division. Pro se motion to file belated motion for reconsideration is denied.

CR10-812. Jeff Morgan v. State of Arkansas, from Miller Circuit. Pro se motion to file belated reply brief. Appeal dismissed; motion moot. See **per curiam** this date.

CR10-1004. Jessie Hill v. Honorable Chris E Williams, Circuit Judge, from Grant Circuit. Pro se "Motion to Contend, Debate, Argue November 11, 2010 Decision; ARCivP Rule 34 Oral Argument." Motion treated as a motion for reconsideration and denied.

CR10-1172. Albert Lee Lewis, Jr. v. State of Arkansas, from Crittenden Circuit. Pro se motion to proceed with belated appeal or rule on clerk. Motion treated as a motion for rule on clerk and granted.

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In Re Honorable Elana Cunningham Wills. See **per curiam** this date.

Justice Elana Cunningham Wills was appointed to serve as an Associate Justice of the Arkansas Supreme Court in 2008, and she has drawn praise from the bench and bar for the quality of her work. Prior to joining the court, she had a distinguished career in the Office of the Attorney General, working twenty years in the Opinions Division, including more than eleven years as the Deputy Attorney General for Opinions.

She is meticulous in her research, an indefatigable worker, and a precise legal wordsmith, which, of course, comes from her years of experience as an opinion writer. Her expertise in researching legislative history and statutory construction assisted the court immeasurably. She was articulate in conference and ably presented her point of view, which usually prevailed. We know that the state of Arkansas has not heard the last of Justice Wills, and we wish her the best of luck in her future endeavors.

In Re Honorable Ronald Sheffield. See **per curiam** this date.

Associate Justice Ronald Sheffield was appointed to the Arkansas Supreme Court in 2010 by Governor Beebe. At that time, the Governor said, “Ron Sheffield has the knowledge and experience with the Supreme Court to hit the ground running. The unique circumstances of this appointment mean shouldering a significant caseload immediately, and Ron is well qualified to accomplish this with the skill and honor befitting our Supreme Court.”

Although Justice Sheffield’s time on the court has been brief, he has proven the Governor’s words to be true. He ably served the court and the people of Arkansas in this position as he did in his previous service to the state during his tenures with the Arkansas Insurance Department and the Office of Secretary of State. His expertise in the business world served to provide a valuable perspective in conference debates. He was measured and insightful and approached the job with a clear mind and a big heart. His beaming smile and strong intellect will be sorely missed. We wish him Godspeed and best wishes in the years ahead.

# ARKANSAS SUPREME COURT

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In Re: Passing of Honorable Randall L. Williams. See **per curiam** this date.

On December 14, 2010, the State of Arkansas lost one of its outstanding jurists, Honorable Randall Williams, of Little Rock. Judge Williams served as Circuit Judge for the Eleventh Judicial Circuit (West) from 1970 until his retirement in 1993. On the sad occasion of his passing, the Arkansas Supreme Court wishes to acknowledge his life of service to the Arkansas legal system and to express our sympathy to his wife Joan, his daughter Camille, and the rest of his family.

Judge Williams graduated from the University of Arkansas at Monticello and received his law degree at the University of Arkansas in Fayetteville. Prior to assuming the bench, Judge Williams was a valuable asset to our state's legal system practicing law in Monticello; serving as deputy prosecuting attorney, municipal judge, and state representative for Drew County; serving in the USDA General Counsel's office in Little Rock; practicing law in downtown Pine Bluff; and serving as deputy prosecuting attorney for Jefferson County.

During his judicial service, Judge Williams distinguished himself on and off the bench, serving the State of Arkansas in a vast array of appointments. He was appointed to serve on the Executive Board of the Arkansas Crime Commission, the Arkansas Adult Probation Commission (later changed to the Arkansas Board of Correction and Community Punishment), and the Alternatives to Imprisonment Advisory Committee of the United States Sentencing Commission. He also served as president of the Arkansas Judicial Council from 1984 to 1985. Following his retirement from the bench, he was appointed to the Arkansas Board of Correction, serving as chair until 2000. In 2008, the Arkansas Department of Correction recognized Judge Williams by naming the Pine Bluff correctional facility in his honor.

The Arkansas Supreme Court recognizes Judge Randall Williams for an extraordinary life of service. He will be sorely missed on both a professional and personal level by his many friends and colleagues.

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In Re Child Support Committee. See **per curiam** this date.

Circuit Judge Mackie Pierce of Little Rock and Circuit Judge Craig Hannah of Searcy are appointed to the Supreme Court Child Support Committee for four-year terms to expire on November 30, 2014. The court thanks these new members for accepting appointment to this important committee.

The court expresses its appreciation to Circuit Judge Melinda Gilbert of Little Rock and Hon. Graham Partlow, Circuit Judge-Retired, of Blytheville, whose terms have expired, for their service to the committee.

In Re State Board of Law Examiners. See **per curiam** this date.

The court appoints Robert W. Schroeder III of Texarkana to the State Board of Law Examiners. Mr. Schroeder shall be a representative of the Fourth Congressional District and will serve a six-year term concluding on September 30, 2016. Mr. Schroeder succeeds Winford Dunn of Texarkana, Texas.

The court appoints Melissa McJunkins Duke of Little Rock to the Arkansas State Board of Law Examiners. Ms. Duke shall be a representative “at large” and will serve a six-year term concluding on September 30, 2016. Ms. Duke succeeds Steve Engstrom of Little Rock.

The court thanks Mr. Schroeder and Ms. Duke for accepting appointment to this important board. The court extends its sincere appreciation to Winford Dunn and Steve Engstrom for their many years of service to the board, including Mr. Engstrom’s leadership as chair of the board in 2010.

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MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CR10-300. Deon Markregus Neely v. State of Arkansas, from Pulaski Circuit, Seventh Division.

09-454. Julia Carole Gunn v. Farmers Insurance Exchange et al., from Sebastian Circuit, Fort Smith District.

10-259. Christopher LaFont and Erin LaFont v. Jana C. Mooney Mixon, from Clark Circuit.

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PETITIONS FOR REVIEW:

CR10-1236. Phillip W. Holloway v. State of Arkansas, from Scott Circuit.

10-507. Mary E. Young v. Ronnie Young, from Lonoke Circuit.

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09-454. Julia Carole Gunn v. Farmers Insurance Exchange et al., from Sebastian Circuit, Fort Smith District. Appellees' motion for taxation of costs.

CA10-925. Stephen Toof Brown et al. v. Brian Kelton, from Pulaski Circuit, Second Division. Appellant Brown's motion to transfer.

10-929. Harrill & Sutter, PLLC v. Hank Farrar et al., from Saline Circuit. Appellees' motion to stay briefing deadline.

10-929. Harrill & Sutter, PLLC v. Hank Farrar et al., from Saline Circuit. Appellees' motion to compel appellant to file an abstract in compliance with Rule 4-2.

10-1165. Olice Westbrook-Hill and Monumental Life Insurance Company v. Teresa L. Tucker-Jones, from Lee Circuit. Petitioners' motion for reconsideration and clarification.

10-1242. Marty Kilman v. Catherine L. Kennard, from Cleveland Circuit. Motion for rule on clerk.