

Bobby ROBERTS, *et al.*, Petitioners *v.* Sharon PRIEST,  
Secretary of State, Respondent *v.* John Hoyle, *et al.*, Intervenors

98-1052

979 S.W.2d 453

Supreme Court of Arkansas  
Opinion delivered November 12, 1998

COSTS — ORIGINAL ACTION — COSTS TO BE SHARED EQUALLY BY  
REAL PARTIES IN INTEREST. — In an original action, the master's  
hearing and the transcript of it are for the mutual benefit of the  
parties; accordingly, the supreme court held that the real parties in  
interest, petitioner and intervenor, would share equally the obliga-  
tion of costs; respondent was not subject to payment of costs  
because of sovereign immunity.

*Friday, Eldredge & Clark*, by: *Elizabeth Robben Murray, Robert S. Shafer*, and *Ellen M. Owens*, for petitioner.

*Winston Bryant*, Att’y Gen., by: *Tim Humphries*, Ass’t Att’y Gen., for respondent.

*Oscar Stilley*, for intervenors.

PER CURIAM. [1] Presently pending in this matter is the obligation to pay the costs of the master’s fact-finding and the cost of the court reporter for transcription of the three-day hearing conducted by the master. The master, the Honorable Jack L. Lessenberry, was appointed as a fact-finder by per curiam order of this court dated September 11, 1998. See *Roberts v. Priest*, 334 Ark. 244, 973 S.W.2d 797 (1998). On that same date, we required petitioner’s counsel and intervenor’s counsel each to post a bond for costs in the amount of \$1,000. *Id.* Pursuant to Ark. Sup. Ct. Rule 6-5, which deals with an original action and the costs incurred by a master’s taking of evidence, we have held that the master’s hearing and the transcript of it are for the mutual benefit of the parties. See *Bailey v. McCuen*, 319 Ark. 369, 370, 891 S.W.2d 797 (1995). Accordingly, we hold that the real parties in interest, the petitioner and the intervenor, shall share equally the obligation of costs. The respondent, Sharon Priest, Secretary of State, is not subject to payment of costs because of sovereign immunity. *Id.* at 369. After being credited with the \$1,000 bond amount for their share of the \$4,682.50 master’s bill and the \$2,788.50 reporter’s bill, petitioner is directed to pay \$2,735.50 into the registry of this court. Likewise, the intervenor is directed to pay \$2,735.50 into the registry of this court.