

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

PER CURIAM OPINIONS:

[CR09-427](#). Joseph M. Bienemy v. State of Arkansas, from White Circuit. Affirmed.

[CR09-445](#). Eric Keith Hoyle v. State of Arkansas, from Polk Circuit. Affirmed.

[CR09-813](#). Eugene Isaac Pitts v. State of Arkansas, from Pulaski Circuit, Fifth Division. Affirmed.

[CR09-1166](#). Terrance Lamont Walton v. State of Arkansas, from Pulaski Circuit, Fourth Division. Affirmed.

[CR09-1233](#). Bernard Marks v. State of Arkansas, from Jefferson Circuit. Affirmed.

[CR09-1248](#). Michael Allen Hatcher v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Affirmed.

[CR09-1309](#). Robert Heffernan v. State of Arkansas, from Saline Circuit. Affirmed.

[CR10-147](#). Jeffery Hayes v. State of Arkansas, from Pulaski Circuit, Fourth Division. Affirmed.

[CR10-244](#). George E. French v. State of Arkansas, from Saline Circuit. Affirmed.

[09-422](#). Carlos Raymond Aguilar v. Miriam Lester, Gleenover Knight Fitzpatrick, and State of Arkansas, from Lincoln Circuit. Affirmed.

[09-532](#). Harold Davy Cassell v. Larry Norris, Director, Arkansas Department of Correction, from Lincoln Circuit. Affirmed.

[09-576](#). Kiara Smith v. Larry Norris, Director, Arkansas Department of Correction, from Jefferson Circuit. Appeal dismissed.

[09-915](#). Charles Marshall v. Larry Norris, Director, Arkansas Department of Correction, from Chicot Circuit. Affirmed.

[09-1052](#). Frederick Smith v. State of Arkansas, from Lee Circuit. Affirmed.

[09-1228](#). Jimmy Doyle Bumgardner v. Larry Norris, Director, Arkansas Department of Correction, from Lincoln Circuit. Appeal dismissed.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

[09-1284](#). Roosevelt Abernathy v. Larry Norris, Director, Arkansas Department of Correction, from Jefferson Circuit. Affirmed.

[10-325](#). Timothy Edwards v. Ray Hobbs, Director, Arkansas Department of Correction, from Lincoln Circuit. Affirmed.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

PER CURIAM ORDERS

PETITION FOR REVIEW: Petition for review was granted today in the following case.

11-675. Derek and Andrea Pippinger v. Doris Benson et al., from Poinsett Circuit.

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

11-209. Dave Smith v. Decatur School District, from Benton Circuit.

11-218. Bill Montgomery v. J & J Lumber Company et al., from Workers' Compensation Commission.

11-253. Lucinda Ann Reynolds v. Keith Hendrix, from Craighead Circuit, Western District.

11-255. Bobby McMullen et al. v. Arkansas Elder Outreach of Little Rock, Inc., et al., from Hot Spring Circuit.

11-262. Holiday Inn Franchising, Inc., n/k/a Holiday Hospitality Franchising, Inc. v. Hotel Associates, Inc., from Crittenden Circuit.

11-307. Rene Cienfuegos-Mendoza v. Dobbs Coating System, from Workers' Compensation Commission.

11-338. Ben Williams and Ben Williams, Jr., Family Partnership v. Liberty Bank of Arkansas, from Clay Circuit, Western District.

11-342. Pamela Maiorano v. Samuel Maiorano, from Garland Circuit.

11-345. Hope School District et al. v. Charles E. Wilson, from Workers' Compensation Commission. Gunter, J., not participating.

11-393. Patsy Cato et al. v. Joyce Hightower et al., from Faulkner Circuit.

11-633. Larry Tucker and Jessica Tucker v. Arkansas Department of Human Services, from Perry Circuit.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

PER CURIAM ORDERS

CR08-1464. Justin Anderson v. State of Arkansas, from Miller Circuit. Motion to stay consideration of appeal and to remand and expand appointment of counsel to pursue claims of ineffective assistance of counsel in Rule 37 is denied.

CR10-456. Charles Jason Baldwin and Jessie L. Misskelley v. State of Arkansas, from Craighead Circuit, Western District. Motion of Appellant Jessie L. Misskelley to dismiss appeal is granted.

CR10-1036. Calvin Washington v. State of Arkansas, from Garland Circuit. Supplemental addendum ordered. See per curiam issued. (Proceedings of September 2, 2011)

CR10-1143. Robert Lee Davis, Jr. v. State of Arkansas, from Pulaski Circuit, First Division. Supplemental addendum ordered. See per curiam issued. (Proceedings of September 2, 2011)

CR11-406. William Mack Eubanks v. State of Arkansas, from Franklin Circuit, Northern District. Appellant's motion to file partial nonconforming brief by use of original abstract is denied. Appellant has seven days to file a conforming brief.

CR11-406. William Mack Eubanks v. State of Arkansas, from Franklin Circuit, Northern District. Appellant's motion for brief time pending motion for nonconforming abstract is moot.

CR11-713. State of Arkansas v. Mark Tyson, from Pulaski Circuit, Fifth Division. Motion to declare Appellee indigent for purposes of appeal and counsel be appointed is denied without prejudice. See Arkansas Supreme Court Rule 6-6.

[CR11-736](#). Napoleon Johnson v. State of Arkansas, from Jefferson Circuit. Motion for rule on clerk. Motion treated as motion for belated appeal and granted. See **per curiam** this date.

[CR11-812](#). Dominic Anthony McPeak v. State of Arkansas, from Clark Circuit. Motion for rule on clerk is granted. See **per curiam** this date.

[CR11-813](#). Deondrae Sims v. State of Arkansas, from Jefferson Circuit. Motion for rule on clerk is granted. See **per curiam** this date.

10-60. John K. Kelly v. Christian Snowden Kelly, from Pulaski Circuit, Fifteenth Division. Appellant's motion to show cause is denied without prejudice. Special Justices Berger, McLarty, and Streett agree. Brown, Gunter, and Baker, JJ., not participating.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

PER CURIAM ORDERS

10-60. John K. Kelly v. Christian Snowden Kelly, from Pulaski Circuit, Fifteenth Division. Appellant's motion to strike appellee's response to motion to show cause is denied. Special Justices Berger, McLarty, and Streett agree. Brown, Gunter, and Baker, JJ., not participating.

10-870. M. Jay Carter v. Ernie Cline et al., from Pulaski Circuit, Third Division. Appellees' motion to strike portions of argument, abstract, and addendum in appellant's substituted brief is passed until case is submitted.

11-3. Tyson Poultry, Inc. v. Francisco Narvaiz, from Workers' Compensation Commission. Appellant's motion to file supplemental briefs is granted. Henry, J., not participating.

CA11-26. Theresa Renuart Paulino et al. v. QHG of Springdale, Inc., et al., from Washington Circuit. Appellants' motion to transfer is granted.

11-128. Julia Laney Machen v. Billy Randall Machen, from Columbia Circuit. Appellant's motion for leave to file supplemental briefs is granted.

11-128. Julia Laney Machen v. Billy Randall Machen, from Columbia Circuit. Appellant's motion for clarification of Rule 2-4 (f) is denied.

11-230. Ketan Bulsara, Administrator v. Julia Mortimer Watkins, M.D., from Pulaski Circuit, First Division. Appellee's motion to dismiss appeal is passed until case is submitted.

11-230. Ketan Bulsara, Administrator v. Julia Mortimer Watkins, M.D., from Pulaski Circuit, First Division. Motion of the Arkansas Medical Society for permission to file an amicus curiae brief in support of Appellee is granted.

11-483. Grand Valley Ridge, LLC, et al. v. Metropolitan National Bank et al., from Washington Circuit. Appellants' motion to file belated brief is granted. Brown, J., not participating.

11-577. Jason Farrell McGehee, Bruce Ward, Marcel Wayne Williams v. Ray Hobbs, Director, Arkansas Department of Correction, and Arkansas Department of Correction, from Pulaski Circuit, Sixth Division. Status Report from Honorable Tim Fox, Circuit Judge. Noted.

11-649. David A. Stebbins v. Honorable Shawn Womack, Circuit Judge, from Boone Circuit. Pro se request to clarify orders is denied.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

PER CURIAM ORDERS

11-652. Kenneth Joe May et al. v. White County, Arkansas, et al., from White Circuit. State of Arkansas ex rel. Dustin McDaniel, Attorney General's motion for leave to participate as amicus curiae in support of appellees is granted.

11-664. Donald B. Bedell et al. v. Brenda Williams, from Pulaski Circuit, Thirteenth Division. Motion of Arkansas State Chamber of Commerce and Associated Industries of Arkansas, Inc., for permission for leave to file amicus curiae brief in support of Appellants is granted.

11-664. Donald B. Bedell et al. v. Brenda Williams, from Pulaski Circuit, Thirteenth Division. Motion of Arkansas Health Care Association and Arkansas Hospital Association for permission for leave to file amicus curiae brief in support of Appellants is granted.

11-664. Donald B. Bedell et al. v. Brenda Williams, from Pulaski Circuit, Thirteenth Division. Separate Appellant Donald B. Bedell's motion to file a supplement electronic appellant's brief is granted.

11-692. David A. Stebbins v. Boone County Circuit Court, from Boone Circuit. Pro se request to clarify orders is denied.

11-693. David A. Stebbins v. Boone County Circuit Court, from Boone Circuit. Pro se request to clarify orders is denied.

11-725. Kimberly Hardison v. Dinah Arnold, from Phillips Circuit. Motion for rule on clerk is denied.

11-726. Roselyn G. Gira, Trustee v. Frank Bryant et al., from Newton Circuit. Petition for writ of certiorari to complete the record is granted Tendered record filed this date.

11-734. Donald Thompson v. Arkansas Department of Human Services, from Carroll Circuit, Eastern District. Petition for writ of certiorari to complete the record and to stay briefing time is granted. Completed record due within thirty days.

11-781. Alice Spinks v. Thomas Albert Martin, Jr., from Newton Circuit. Pro se petition for writ of mandamus is denied.

11-781. Alice Spinks v. Thomas Albert Martin, Jr., from Newton Circuit. Pro se motion to return \$165.00 filing fee is denied.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

PER CURIAM ORDERS

11-781. Alice Spinks v. Thomas Albert Martin, Jr., from Newton Circuit. Pro se motion to move Grand Jury from Northwest Arkansas is moot.

11-781. Alice Spinks v. Thomas Albert Martin, Jr., from Newton Circuit. Pro se withdrawal of motion to move Grand Jury out of Northwest Arkansas is granted.

11-793. Laketha Brown Fluker et al. v. Helena-West Helena School District et al., from Phillips Circuit. Appellees' motion for substitution of counsel and entry of appearance. Motion to relieve counsel is denied without prejudice. See Ark. R. App. P.–Civ. 11. Entry of appearance noted.

[11-822](#). In Re: Kevin Harold Lewis, Arkansas Bar No. 93019, from Committee on Professional Conduct. Petition for voluntary surrender of law license. Petition granted. See **per curiam** this date.

[11-837](#). In Re: David Bruce Hawkins, Arkansas Bar No. 2001182, from Committee on Professional Conduct. Petition for voluntary surrender of law license. Petition granted. See **per curiam** this date.

11-839. N.D. v. State of Arkansas, from Jefferson Circuit. Emergency petition for stay is denied. Petition for emergency writ of mandamus or, in the alternative, for an emergency writ of prohibition is denied. Corbin, J., not participating. (Proceedings of August 22, 2011)

11-855. Armstrong Remodeling, LLC, Armstrong Investments, LLC and James Eric Armstrong v. Circuit Court of Sebastian County, First Division, from Sebastian Circuit, Fort Smith District. Petitioner's motion for emergency stay of trial court proceedings and petition for writ of prohibition are denied. (Proceedings of August 31, 2011)

[CR10-1021](#). William Roy Tubbs v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Pro se motion for belated appeal and motions to amend motion for belated appeal. Motions denied. See **per curiam** this date.

CR11-36. LaQuince Hogan v. State of Arkansas, from Little River Circuit. Pro se motions for extension of time to file appellant's reply brief are granted. Tendered reply brief filed as of date of this per curiam order.

[CR11-300](#). Eric Lavell Murry v. State of Arkansas, from Crittenden Circuit. Pro se motion for extension of brief time. Appeal dismissed; motion moot. See **per curiam** this date.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

PER CURIAM ORDERS

[CR11-518](#). Keith Edward Miller v. State of Arkansas, from Polk Circuit. Appellee's motion to dismiss appeal and motion to stay brief time pending determination of motion to dismiss appeal. Motion to dismiss appeal granted; motion to stay brief time moot. See **per curiam** this date.

[CR11-583](#). James E. Clemons v. State of Arkansas, from Union Circuit. Pro se motion for extension of time to file brief. Appeal dismissed; motion moot. See **per curiam** this date.

CR11-674. Ke'Ondra Chestang v. Hon. Larry Chandler, Circuit Judge, from Columbia Circuit. Pro se petition for writ of mandamus. Moot.

09-301. James C. Lumley v. State of Arkansas, from Lee Circuit. Pro se petition for rehearing on affirmation of denial of petition for writ of habeas corpus. Petition for rehearing denied.

[11-422](#). Barry Lynn Simpson v. Ray Hobbs, from Lincoln Circuit. Appellant's pro se motion for rule on clerk to file non-conforming brief. Appeal dismissed; motion moot. See **per curiam** this date.

11-590. Isaac Russell v. Hon. Jodi Raines Dennis, Circuit Judge, from Jefferson Circuit. Pro se petition and amended petition for writ of mandamus and motion to supplement mandamus petition. Motion to amend petition for writ of mandamus is denied. Petition and amended petition for writ of mandamus is moot.

11-661. Lemuel David Walker v. Richard B. Burton and Julie Burton, from Lafayette Circuit. Pro se motion for extension of time to file a pro se petition for review is denied.

11-715. Anthony E. Owens v. Office of Child Support Enforcement, from Sebastian Circuit, Fort Smith District. Pro se motion to appeal mandate issued and pro se motion to appeal the Court of Appeal decision, judgment in Arkansas. Pro se motion to appeal Court of Appeals' decision and motion to appeal mandate treated as motions to file belated petition for review and denied.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

MOTIONS SUBMITTED

PETITIONS FOR REVIEW:

11-398. Billy K. Berry, derivatively on behalf of Dillard's, Inc. v. William Dillard, II, et al., from Pulaski Circuit, Second Division.

11-418. Combined Healthcare Federal Credit Union et al. v. The Arands Corporation d/b/a Mr. Mark's Autos, from Garland Circuit.

CR11-97. Bruce Wade Pennington v. State of Arkansas, from Poinsett Circuit. Appellant's motion to file belated brief.

CR11-872. Chad Lee White v. State of Arkansas, from Benton Circuit. Motion to be relieved as attorney for appellant and stay briefing schedule.

11-699. Beverly Health & Rehabilitation Services, Inc., et al. v. Valerie Keaton, from Ouachita Circuit. Motion of The Committee to Save Arkansas Jobs, Inc., and Arkansas State Chamber/Associated Industries of Arkansas for permission to file amicus curiae brief.

11-699. Beverly Health & Rehabilitation Services, Inc., et al. v. Valerie Keaton, from Ouachita Circuit. Motion for permission to supplement parties amici.

11-781. Alice Spinks v. Thomas Albert Martin, Jr., from Newton Circuit. Motion to consider Appellant's counter to the Appellee's response to the petition for writ of mandamus.

11-871. Benjamin Thomas Donathan, Arkansas Bar No. 2008167 v. Supreme Court Committee on Professional Conduct, an Original Action. Petition to surrender Arkansas law license.

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 8, 2011

SUBMISSIONS

CR10-1200. Lemuel Session Whiteside v. State of Arkansas, from Pulaski Circuit, Seventh Division. Argued orally in the Old Supreme Court Chamber at the State Capitol Building.

10-966. Mark F. Duncan v. Cheryl Anne Duncan, from Cleburne Circuit.

10-1208. Robert Robinette v. Arkansas Department of Finance and Administration, Richard Weiss, Director, from Pulaski Circuit, Fifth Division.

10-1283. Jamie R. Mahone v. Arkansas Department of Human Services et al., from Washington Circuit.

11-143. Roberta Morningstar and Doyle Shirley et al. v. Mike Bush, in his official capacity as Mayor of the City of Hot Springs, Arkansas, et al., from Garland Circuit.