

# ARKANSAS SUPREME COURT

Opinions delivered  
May 14, 2009

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JIM HANNAH, CHIEF JUSTICE:

CR08-523. Joseph Sherman v. State of Arkansas, from Mississippi Circuit, Chickasawba District. Affirmed. PUBLISHED

08-611. Russ Skallerup and Beauford E. Myers, Individually and o/b/o a class of similarly situated persons, Burchwood Bay Sewer Improvement District and Carpenter Dam-Catherine Heights Sewer Improvement District v. City of Hot Springs, Arkansas and Honorable Mike Bush, Mayor of Hot Springs, Arkansas, in his official capacity, from Garland Circuit. Court of Appeals Reversed; Circuit Court Affirmed. PUBLISHED

JIM GUNTER, JUSTICE:

08-1199. Western Sizzlin Corporation and Western Sizzlin of Little Rock, Inc. v. Parks Land Company, LLLP and Parks Management Corporation, from Pulaski Circuit, Fifth Division. Reversed and Remanded. PUBLISHED

PER CURIAM OPINION:

CR08-475. Wilson McCrackin v. State of Arkansas, from Ashley Circuit. Affirmed. UNPUBLISHED

## PER CURIAM ORDERS

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

09-308. Daryl Guffy v. Kim Billings Counts & Office of Child Support Enforcement, from Washington Circuit.

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

CR09-219. Rickey Strain v. State of Arkansas, from Jefferson Circuit.

CR09-330. Bobby Weatherford v. State of Arkansas, from Faulkner Circuit.

09-204. Dorothy Jean Rice et al. v. Duncan Ragsdale, from St. Francis Circuit.

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CR08-356. Robert Lee Williams a/k/a R.J. Williams v. State of Arkansas, from Nevada Circuit. Rebriefing ordered. See **per curiam** this date. Gunter, J., not participating. PUBLISHED

CR08-770. Cristobal Mancia v. State of Arkansas, from Benton Circuit. Order issued. See **per curiam** this date. PUBLISHED

CR08-770. Cristobal Mancia v. State of Arkansas, from Benton Circuit. Appellee's motion to dismiss appeal is denied; appellant's motion to file belated brief is granted.

CR08-770. Cristobal Mancia v. State of Arkansas, from Benton Circuit. Pro se motion for dismissal and appointment of counsel is denied.

CR09-390. Jeffery Moss v. State of Arkansas, from Perry Circuit. Motion for leave to proceed in forma pauperis and for appointment of counsel; motion for belated appeal. Motions granted. See **per curiam** this date. PUBLISHED

08-1031. Arkansas Department of Correction v. Frank Williams, Jr., from Pulaski Circuit, Sixth Division. Appellant's motion to dismiss lawsuit. Passed until case submitted. Special Justice Stuart Jackson joins. Wills, J., not participating.

08-1031. Arkansas Department of Correction v. Frank Williams, Jr., from Pulaski Circuit, Sixth Division. Motion for supplemental briefing. Motion granted. See **per curiam** this date. Special Justice Stuart Jackson joins. Wills, J., not participating. PUBLISHED

09-404. In Re: F. Scott Straub, Arkansas Bar No. 98019, from Supreme Court Committee on Professional Conduct. Motion and amended motion to reciprocally disbar; respondent's motion for stay pending appeal. Motion to stay granted; remanded to Arkansas Supreme Court Committee on Professional Conduct. See **per curiam** this date. PUBLISHED

09-404. In Re: F. Scott Straub, Arkansas Bar No. 98019, from Supreme Court Committee on Professional Conduct. Petition for writ of mandamus is denied without prejudice; motion for evidentiary hearing on petition to reciprocally disbar is denied. See per curiam issued this date.

CR09-265. Vance B. Rollins v. State of Arkansas, from Perry Circuit. Appellee's motion for permission to file supplemental brief is granted.

08-1089. Bernice McWhorter v. Gene McWhorter, from Phillips Circuit. Appellant's motion to include supplemental abstract in reply brief and for extension of brief time is denied.

CA08-1405. Charles V. Grassi, Sr. v. James W. Hyden and Hyden, Miron & Foster, P.L.L.C., from Pulaski Circuit, Third Division. Appellees'™ motion to reassign to the Arkansas Supreme Court is denied.

08-1496. Marcovous L. Williams v. Director et al., from Board of Review. Appellant's motion for reconsideration is denied.

09-68. Don Clayton Cooksey v. Supreme Court Committee on Professional Conduct, an Original Action. Appellee's motion to dismiss appeal is granted.

CR08-160. Ledell Lee v. State of Arkansas, from Pulaski Circuit, Fourth Division. Appellant's pro se motion to file motion to relieve counsel under seal is denied.

CR08-160. Ledell Lee v. State of Arkansas, from Pulaski Circuit, Fourth Division. Appellant's pro se motion to relieve counsel is denied.

09-443. Judicial Discipline and Disability Commission v. L.T. Simes, Circuit Judge, an Original Action. Motion for extension of time to file brief and to supplement the record; granted. Motion to suspend with pay; denied. See **per curiam** this date. Wills, J., not participating. PUBLISHED

CR08-1164. Christopher Lee Dunn v. State of Arkansas, from Grant Circuit. Pro se motion for reconsideration of dismissal of appeal. Motion denied. See **per curiam** this date. UNPUBLISHED

CR09-101. Marion Alfred Lovell, II v. State of Arkansas, from Saline Circuit. Pro se motions for appointment of counsel and for brief time. Appeal dismissed; motions moot. See **per curiam** this date. UNPUBLISHED

CR09-124. Joe Francis Rounsaville v. State of Arkansas, from Pulaski Circuit, Fifth Division. Appellee State's motion to dismiss appeal. Motion granted; appeal dismissed. See **per curiam** this date. UNPUBLISHED

CR09-129. Undra Williams v. State of Arkansas, from Saline Circuit. Appellee State's motions to dismiss appeal or for extension of brief time. Motion to dismiss appeal granted; appeal dismissed; motion for brief time moot. See **per curiam** this date. UNPUBLISHED

CR09-286. Arthur E. Dickerson v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Pro se motion for appeal by permission. Motion treated as motion for rule on clerk and denied. See **per curiam** this date. UNPUBLISHED

CR09-379. Mark Holsombach v. Honorable David Reynolds, Circuit Judge, from Van Buren Circuit. Pro se petition for writ of mandamus. Petition moot. See **per curiam** this date. UNPUBLISHED

08-433. Karon D. Trotter, Jr. and \$31,130 v. State of Arkansas, from Drew Circuit. Pro se motion for reconsideration of denial of motion to supplement record. Motion denied. See **per curiam** this date. UNPUBLISHED

09-268. James Nelson v. State of Arkansas, from Jefferson Circuit. Pro se motions for belated appeal and for appointment of counsel. Motion for belated appeal denied; motion for appointment of counsel moot. See **per curiam** this date. UNPUBLISHED

In Re: Appointments to the Committee on Professional Conduct. See **per curiam** this date. PUBLISHED

Phillip D. Hout of Newport, attorney member of Panel A for the First Congressional District, has submitted to the Court his resignation from the Committee on Professional Conduct, effective immediately. The Court expresses its gratitude to Mr. Hout for his dedicated and faithful service to the Committee since 2002.

Thomas Benton Smith, Jr. of Jonesboro, attorney member of Panel D for the First Congressional District, is hereby appointed to serve as the attorney member of Panel A for the First Congressional District. This term is effective immediately and will expire on December 31, 2014.

Attorney Laura E. Partlow of Marion is hereby appointed to replace Mr. Smith as the attorney member of Panel D for the First Congressional District. This term is effective immediately and will expire on December 31, 2014.

The Court expresses its appreciation to Mr. Smith and Ms. Partlow for their willingness to serve in these positions for the Committee on Professional Conduct.

In Re: Arkansas Supreme Court Committee on Security and Emergency Preparedness. See **per curiam** this date. PUBLISHED

We designate Honorable Hamilton Singleton, Circuit Judge, 13th Judicial Circuit, a current member of the Arkansas Supreme Court Committee on Security and Emergency Preparedness, to succeed Judge Jim Hudson as the Chair of the Committee. We thank Judge Singleton for accepting this important position.

We briefly note here Judge Hudson's service to this committee and to the cause of court security in this State. A separate per curiam order acknowledges the untimely passing of Judge Hudson and recognizes his service to the State of Arkansas.

In Re: Passing of Honorable James Hudson. See **per curiam** this date. PUBLISHED

On May 3, 2009, the State of Arkansas lost one of its outstanding jurists, Honorable James Hudson, of Texarkana. Judge Hudson served as Circuit Judge for the Eighth-South Judicial Circuit from 1991 until cancer and related complications struck him down in the prime of his life. 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, Kathy, his daughters, and the rest of his family.

Judge Hudson graduated from Hendrix College and SMU Law School. Prior to assuming the bench, he practiced law and served as City Attorney in Texarkana and Prosecuting Attorney in the Eighth Judicial District. In addition to tending to the duties in his judicial circuit, Judge Hudson served this court and the state judiciary. At the time of his death, he was Chair of the Supreme Court Committee on Criminal Practice and Chair of the Supreme Court Committee on Security and Emergency Preparedness. He had previously served as the Chair of the Arkansas Task Force on Court Security. Judge Hudson distinguished himself on the bench and had the respect and admiration of his fellow judges.

The Arkansas Supreme Court recognizes Judge Jim Hudson for an extraordinary life of service. He will be sorely missed on both a professional and personal level by his many friends and colleagues. His untimely death leaves big shoes to fill not only in the Eighth-South Circuit but the entire State.

In Memory of Honorable Tom Digby. See **per curiam** this date. PUBLISHED

Upon the occasion of his death, the Arkansas Supreme Court wishes to express its sincere condolences to Honorable Tom Digby's family and takes this moment to recognize his service to the State of Arkansas.

Judge Digby led a full life that included service in the United States Army, the practice of law, and service as a circuit judge. He was a circuit judge for the Sixth Judicial Circuit from 1967 until his retirement in 1991. His fellow judges elected him President of the Arkansas Judicial Council in 1978. Judge Digby was a proud alumnus of Ouachita Baptist University, and he continued to serve that institution throughout his life.

The Arkansas Supreme Court salutes Judge Tom Digby for a life well lived. His community, his church, his friends, and his family have been enriched by his presence.

**MOTIONS SUBMITTED**

PETITIONS FOR REVIEW:

CR09-191. Dwayne Clarence Durell v. State of Arkansas, from Washington Circuit.

09-229. James Dale Ellenberg v. Burnett Gibbs Motors, Inc., from Workers' Compensation Commission.

09-348. Tajuana Kay Coker Holman v. Vincent Everett Coker, from Miller Circuit.

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CR02-811. Rickey D. Newman v. State of Arkansas, from Crawford Circuit. Pro se request to withdraw all proceedings.

CR08-1297. James Aaron Miller v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Appellant's motion to file enlarged brief.

CR09-370. Antonio Daniels v. State of Arkansas, from Drew Circuit. Resubmission of motion for rule on clerk.

09-254. Arkansas Department of Human Services v. J.D., from Bradley Circuit. Resubmission of motion for rule on clerk.

09-276. Anna Geiger et al. v. Hipp Lumber & Hardware et al., from Cleburne Circuit. Resubmission of motion for rule on clerk.

**SUBMISSIONS**

08-890. Arkansas Department of Environmental Quality v. Oil Producers of Arkansas et al., from Union Circuit. Argued orally.

CR08-459. Darius Jackson v. State of Arkansas, from Pulaski Circuit, Fifth Division.

CR08-1232. Montrell Dashone Ventry v. State of Arkansas, from Saline Circuit.

CR08-1336. Martin Hinojosa v. State of Arkansas, from Pope Circuit.

08-916. Travis Lumber Company v. Joe Richard Deichman et al., from Yell Circuit, Northern District.