

# ARKANSAS SUPREME COURT

Opinions Delivered  
October 8, 2009

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JIM HANNAH, CHIEF JUSTICE:

CR09-321. David Craig Whitham v. State of Arkansas, from Faulkner Circuit. Affirmed.

DONALD L. CORBIN, JUSTICE:

CR09-339. Adam Davis, Jr. v. State of Arkansas, from Garland Circuit. Affirmed. Brown, J., not participating.

ROBERT L. BROWN, JUSTICE:

CR09-365. Joseph F. Rounsaville v. State of Arkansas, from Lonoke Circuit. Affirmed. Hannah, C.J., concurs. I concur based on the doctrine of stare decisis. See Cluck v. State, 365 Ark. 166, 179, 226 S.W.3d 780, 790 (2006).

08-396. Simpson Housing Solutions, LLC et al. v. Juan C. Hernandez et al., from Washington Circuit. Affirmed on Direct Appeal and Cross-Appeal; Motions to Dismiss Denied.

08-975. Jena Graham v. Darlene Matheny, from Pulaski Circuit, Thirteenth Division. Reversed and Remanded. Hannah, C.J., and Danielson, J., concur.

ANNABELLE CLINTON IMBER, JUSTICE:

CR09-51. Amanda Gail Holt v. State of Arkansas, from Pulaski Circuit, Seventh Division. Circuit Court Affirmed. Court of Appeals Affirmed in Part; Reversed in Part.

JIM GUNTER, JUSTICE:

CR09-95. Kevin Banks v. State of Arkansas, from Pulaski Circuit, First Division. Affirmed. Hannah, C.J., and Danielson, J., concur.

ELANA CUNNINGHAM WILLS, JUSTICE:

CR09-265. Vance Benton Rollins, Jr. v. State of Arkansas, from Perry Circuit. Circuit Court Affirmed; Court of Appeals Reversed. Hannah, C.J., dissents.

09-479. Arkansas Department of Human Services v. Tammy Denmon, from Grant Circuit. Writ of Prohibition Denied; Writ of Certiorari Granted; Appeal Dismissed.

## PER CURIAM ORDERS

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

09-590. J. Somers Matthews v. Katherine Matthews, from Pulaski Circuit, Seventeenth Division. Brown and Imber, JJ., not participating.

09-597. Nationwide Assurance Company v. Michael Lobov, from Washington Circuit.

09-746. Melissa Carol Thetford v. Electric Cowboy, Inc. et al., from Workers' Compensation Commission.

09-760. Heather Michelle Ussery v. Buddy Michael Ussery, from Pulaski Circuit, Seventeenth Division.

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08-396. Simpson Housing Solutions, LLC et al. v. Juan C. Hernandez et al., from Washington Circuit. Motion of A.R. Mays Construction Co. to dismiss designated cross-appeal of plaintiff-appellants is denied. See opinion this date.

08-396. Simpson Housing Solutions, LLC et al. v. Juan C. Hernandez et al., from Washington Circuit. Motion of appellee Atlas Construction of Arkansas, LLC to dismiss designated cross-appeal of plaintiff-appellants is denied. See opinion this date.

08-396. Simpson Housing Solutions, LLC et al. v. Juan C. Hernandez et al., from Washington Circuit. Motion of Arkansas Western Gas to join motion of A.R. Mays Construction Co. to dismiss designated cross-appeal of plaintiff-appellants is denied. See opinion this date.

08-396. Simpson Housing Solutions, LLC et al. v. Juan C. Hernandez et al., from Washington Circuit. Motion of L&L Plumbing & Heating to adopt motion of A.R. Mays Construction and Atlas Construction of Arkansas to dismiss designated cross-appeal of plaintiff-appellants is denied. See opinion this date.

08-396. Simpson Housing Solutions, LLC et al. v. Juan C. Hernandez et al., from Washington Circuit. Motion of Architecture Design & Development and Thomas O'Neill to dismiss designated cross-appeal of plaintiff-appellants is denied. See opinion this date.

CR08-262. Willie Clarence McLeod v. State of Arkansas, from Crittenden Circuit. Motion for extension of time to file substituted brief is granted. See **per curiam** this date.

CR08-1460. Wesley Barringer v. State of Arkansas, from Jefferson Circuit. Petition for writ of certiorari to complete the record is granted.

CR08-1493. Damien Wayne Echols v. State of Arkansas, from Craighead Circuit, Western District. Motion for permission to file an amicus curiae brief by the Center on Wrongful Convictions of Youth and the National Association of Criminal Defense Lawyers is granted. Wills, J., not participating.

CR09-761. Patricia McClanahan v. State of Arkansas, from Scott Circuit. Appellee's motion to file a supplemental brief is granted. Danielson, J., not participating.

CR09-788. Robert D. Loggins v. State of Arkansas, from Union Circuit. Motion of Lea Ellen Fowler for entry of appearance and substitution of counsel is granted.

CR09-788. Robert D. Loggins v. State of Arkansas, from Union Circuit. Motions of Robert N. Jeffrey for reconsideration of motion to withdraw as counsel, substitution of other counsel, to stay briefing schedule or to extend time for filing brief is granted.

CACR09-817. James Michael McKim v. State of Arkansas, from Saline Circuit. Appellant's motion to transfer to the Arkansas Supreme Court is denied.

CR09-911. Kimberly Ann Webb v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion to waive filing fee is granted.

CR09-1021. Dorothy Brown v. Phillips County Circuit Court, from Phillips Circuit. Petition for extraordinary writ; writ of prohibition or alternatively, petition for writ of certiorari, stay, and expedited hearing is denied.

09-408. Monte Red et ux. v. U. S. Bank, from Saline Circuit. Appellee's motion to dismiss is denied.

09-668. John David Terry v. John A. White et al., from Washington Circuit. Appellant's motion to dismiss appeal is granted.

09-684. John Doe et al. v. Stark Ligon, in his capacity as Director of the Arkansas Supreme Court Committee on Professional Conduct et al., an Original Action. Joint petition for writ of certiorari is denied without prejudice.

09-1003. M.M. v. State of Arkansas, from Pulaski Circuit, Tenth Division. Appellant's motion to dismiss appeal is granted.

CR04-920. Micah Lamar Webb v. State of Arkansas, from Pulaski Circuit, Seventh Division. Pro se petition to reinvest jurisdiction in trial court to consider petition for writ of error coram nobis. Petition dismissed. See **per curiam** this date.

CR05-472. Wallace A. Gardner v. State of Arkansas, from Pulaski Circuit, Sixth Division. Pro se motion for duplication of documents at public expense. Motion denied. See **per curiam** this date.

CR09-140. Brandon Carter v. State of Arkansas, from Columbia Circuit. Pro se motions for belated appeal and appointment of counsel granted; motions for transcript, for record on remand, and to supplement motion for belated appeal moot. See **per curiam** this date.

CR09-206. Conneal Buckhanna v. State of Arkansas, from Pulaski Circuit, Fourth Division. Pro se motion to file belated brief. Appeal dismissed; motion moot. See **per curiam** this date.

CR09-632. Lee A. Croy v. State of Arkansas, from Pulaski Circuit, Fifth Division. Pro se motion for appointment of counsel and for extension of time to file appellant's brief. Motion treated as motion to relieve counsel and proceed in forma pauperis and granted in part and denied in part. See **per curiam** this date.

CR09-686. Paul D. Stuart v. State of Arkansas, from Newton Circuit. Pro se motion for access to record and extension of time to file appellant's brief. Appeal dismissed; motion moot. See **per curiam** this date.

CR09-701. Myron Newjean Anderson, Jr. v. State of Arkansas, from Ashley Circuit. Pro se motions for extension of time to file appellant's brief and for access to record. Appeal dismissed; motions moot. See **per curiam** this date.

CR09-713. Tommy D. Hall v. Honorable Joe Griffin, Circuit Judge, from Miller Circuit. Pro se motion for rule on clerk. Motion denied. See **per curiam** this date.

CR09-716. Teddy Lee Clarks v. State of Arkansas, from Pulaski Circuit, Fourth Division. Pro se motions for appointment of counsel denied; motion for extension of time to file appellant's brief granted; motion to subpoena DNA sample treated as motion to supplement record and denied. See **per curiam** this date.

CR09-827. Brian Dwight Higgins v. Honorable Richard Proctor, Circuit Judge, from St. Francis Circuit. Pro se petition for writ of mandamus. Petition granted in part and denied in part. See **per curiam** this date.

No. 5776. David Webb v. State of Arkansas, from Pulaski Circuit, Fourth Division. Pro se petition to reinvest

jurisdiction in trial court to consider a petition for writ of error coram nobis. Petition denied. See **per curiam** this date.

09-614. Damont Ewells v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Pro se motion to file belated brief. Motion granted. See **per curiam** this date.

09-687. James Wingfield v. State of Arkansas, from Lee Circuit. Pro se motion for extension of time to file appellant's brief. Appeal dismissed; motion moot. See **per curiam** this date.

In Re: Arkansas Supreme Court Committee on Criminal Practice. See **per curiam** this date.

We appoint Honorable Grisham Phillips, Circuit Judge, of Benton to the Arkansas Supreme Court Committee on Criminal Practice to fill the unexpired term of the late Judge Jim Hudson. This term expires on January 31, 2012. We thank Judge Phillips for accepting this appointment.

## MOTIONS SUBMITTED

### PETITIONS FOR REVIEW:

09-718. Hempstead County Hunting Club, Inc. et al. v. Arkansas Public Service Commission et al., from Arkansas Public Service Commission. (Appellee Public Service Commission)

09-718. Hempstead County Hunting Club, Inc. et al. v. Arkansas Public Service Commission et al., from Arkansas Public Service Commission. (Appellee Southwestern Electric Power Company)

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CR08-356. Robert Lee Williams, Jr. v. State of Arkansas, from Nevada Circuit. Motion of Cathleen Compton to withdraw as attorney of record.

CR08-1353. Billy Terrell Adams v. State of Arkansas, from White Circuit. Appellant's motion for recall of mandate in order to petition for writ of certiorari.

CR09-410. Kitaka Lauderdale v. State of Arkansas, from Craighead Circuit, Western District. Appellant's motion for extension of time to file record and/or for other relief.

CR09-1068. Shawn Dell Whiteside v. State of Arkansas, from Lonoke Circuit. Motion for rule on clerk.

08-1031. Arkansas Department of Correction v. Frank Williams, Jr., from Pulaski Circuit, Sixth Division. Resubmission of motion to dismiss lawsuit.

09-408. Monte Red et ux. v. U. S. Bank, from Saline Circuit. Appellee's motion to file supplemental brief.

09-561. Angie Fletcher v. Kevin Scorza, from Pulaski Circuit, Seventeenth Division. Appellee's motion to file supplemental brief.

09-705. Perry L. Linder, Jr. et ux. v. Arkansas Midstream Gas Services Corporation, from Cleburne Circuit. Appellants' motion for consolidation of appeals and reconsideration of request for oral argument.

09-718. Hempstead County Hunting Club, Inc. et al. v. Arkansas Public Service Commission et al., from Arkansas Public Service Commission. Motion of Arkansas Electric Cooperative Corporation for leave to file amicus curiae brief.

09-718. Hempstead County Hunting Club, Inc. et al. v. Arkansas Public Service Commission et al., from Arkansas Public Service Commission. Appellants' motion to file belated response to motion to file amicus curiae brief.

09-718. Hempstead County Hunting Club, Inc. et al. v. Arkansas Public Service Commission et al., from Arkansas Public Service Commission. Motion to strike appellants' objections to motion to file amicus curiae brief.

09-742. Natalie Willis v. Honorable Ellen Bass Brantley, Circuit Judge, from Pulaski Circuit, Sixteenth Division. Appellant's petition for rehearing on motion to proceed in forma pauperis.

09-941. Financial Freedom Senior Funding Corporation v. Woody Pearce, from Craighead Circuit, Western District. Petition for rehearing on appellant's motion for rule on clerk.

09-1070. Baptist Health v. Bruce E. Murphy, M.D. et al., from Pulaski Circuit, Thirteenth Division. Appellant's motion for an extension of time to file its brief and for an expansion of the page limit and to consolidate the brief of appellees, plaintiffs and intervenors.

09-1070. Baptist Health v. Bruce E. Murphy, M.D. et al., from Pulaski Circuit, Thirteenth Division. Appellant's substituted motion for an extension of time to file its brief and for an expansion of the page limit.

## **SUBMISSIONS**

08-1031. Arkansas Department of Correction v. Frank Williams, Jr., from Pulaski Circuit, Sixth Division. Argued orally.

CR09-139. Anne Throneberry v. State of Arkansas, from Van Buren Circuit.

CR09-263. Gordon Randall Gwathney v. State of Arkansas, from Lee Circuit.

07-1254. Billie Jo Greenlee v. J.B. Hunt Transport Services, Inc. et al., from Benton Circuit.

08-999. Riceland Foods, Inc. v. Randy Pearson et al., from St. Francis Circuit.

08-1383. PH, LLC v. City of Conway, Arkansas, from Faulkner Circuit.