

# ARKANSAS SUPREME COURT

Opinions Delivered  
January 14, 2010

DONALD L. CORBIN, JUSTICE:

09-386. DeSoto Gathering Company, LLC v. Janice Smallwood, from White Circuit. Reversed and Remanded. Bowen, J., not participating in final opinion.

ROBERT L. BROWN, JUSTICE:

09-462. Farm Bureau Mutual Insurance Company of Arkansas, Inc. v. Barbara Gadbury-Swift, from Pulaski Circuit, Fifth Division. Reversed and Remanded; Petition for Writ of Certiorari Moot. Bowen, J., not participating in final opinion.

JIM GUNTER, JUSTICE:

CR08-1033. Lloyal Willie Bryant v. State of Arkansas, from Boone Circuit. Affirmed. Bowen, J., not participating in final opinion.

PAUL E. DANIELSON, JUSTICE:

09-531. Charles Archer and Linda Archer, individually and as next friends of Braden Archer and Mason Archer v. Sigma Tau Gamma Alpha Epsilon, Inc.; Sigma Tau Gamma Fraternity, Inc.; The Alpha Epsilon Chapter of Sigma Tau Gamma Fraternity, an unincorporated association; and their named members, Matthew D. Brown; Christopher M. Fogerty; Jason A. Fogerty; Greg G. Harrison; Robert L. Hollingsworth; Blake A. Hughes; John A. Hughes; Marcus G. Jones; Caleb D. McClain; Richard L. Milam; Stephen R. Roberts; Ryan T. Sanders and Robert G. Winn, from Clark Circuit. Affirmed. Bowen, J., not participating in final opinion.

ELANA CUNNINGHAM WILLS, JUSTICE:

09-438. Kathy Travis Gilbow v. Patrick Travis, from Benton Circuit. Circuit Court Reversed and Remanded in Part; Affirmed in Part; Court of Appeals Reversed in Part; Affirmed in Part. Bowen, J., not participating in final opinion.

## PER CURIAM ORDERS

REHEARING DENIED. Petition for rehearing was denied today in the following case.

09-11. Darryl V. Talley, Sr. v. City of North Little Rock, from Pulaski Circuit, Thirteenth Division. Referred to Professional Conduct Committee because of language used in petition for rehearing. Bowen, J., not participating.

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

CR09-1254. Colten Cockrell v. State of Arkansas, from Pulaski Circuit, Second Division. Bowen, J., not participating.

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REVIEW DENIED: Petition for review was denied today in the following case.

CR09-1237. Routy Abernathy v. State of Arkansas, from Sebastian Circuit, Greenwood District. Bowen, J., not participating.

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CR02-811. Rickey Dale Newman v. State of Arkansas, from Crawford Circuit. Application for permission to be appointed as counsel granted in part and denied in part; motion to withdraw as counsel moot. See **per curiam** this date. Danielson, J., would grant. Corbin, J., would deny. Bowen, J., not participating.

CR09-632. Lee Anthony Croy v. State of Arkansas, from Pulaski Circuit, Fifth Division. Amended motion to be relieved as counsel. Motion granted. See **per curiam** this date. Bowen, J., not participating.

CR95-975. Jimmy Don Wooten v. State of Arkansas, from Pope Circuit. Motion to recall the mandate. Motion to be submitted as a case. Bowen, J., not participating.

CR08-1481. Jessie Lloyd Misskelley, Jr. v. State of Arkansas, from Clay Circuit, Western District. Appellant's motion to stay appeal and to remand for consideration of new evidence of actual innocence is dismissed for lack of jurisdiction. Wills and Bowen, JJ., not participating.

CR09-609. Hutson Burks v. State of Arkansas, from Pulaski Circuit, Seventh Division. Motion of John Hout for leave to intervene in order to file petition for rehearing is denied. Bowen, J., not participating.

CR09-609. Hutson Burks v. State of Arkansas, from Pulaski Circuit, Seventh Division. Motion of Sandra Cordi for leave to intervene in order to file petition for rehearing is denied. Bowen, J., not participating.

CR09-952. State of Arkansas v. Clarence Richardson, from Phillips Circuit. Motion for extension of time or stay of appeal. Stay granted; final extension of thirty days. Bowen, J., not participating.

CR09-1182. James E. Clemons v. State of Arkansas, from Union Circuit. David O. Bowden's motion for entry of appearance. Noted. Bowen, J., not participating.

CR09-1182. James E. Clemons v. State of Arkansas, from Union Circuit. Motion for extension of time to file appellant's brief is granted. Bowen, J., not participating.

CR09-1329. Kenneth Tucker, Jr. v. State of Arkansas, from Ashley Circuit. Motion for rule on clerk is granted. See **per curiam** this date. Bowen, J., not participating.

CR09-1371. Jennifer Ramsey v. State of Arkansas, from Pulaski Circuit, First Division. Motion for rule on clerk. Motion treated as motion for belated appeal and granted. See **per curiam** this date. Bowen, J., not participating.

- 08-73. Stark Ligon, As Executive Director of the Supreme Court Committee on Professional Conduct v. Oscar A. Stilley, an Original Action. Second motion for stay of briefing is denied; brief due within thirty days. Brown, J., would grant. Bowen, J., not participating.
- 09-462. Farm Bureau Mutual Insurance Company of Arkansas v. Pulaski County Circuit Court, from Pulaski Circuit, Fifth Division. Petition for writ of certiorari and stay of proceedings. Moot. See opinion issued this date. Bowen, J., not participating.
- 09-487. Bobby Stewart v. Arkansas Glass Container, from Workers' Compensation Commission. Appellant's motion for permission to file belated brief is denied. Bowen, J., not participating.
- 09-718. Hempstead County Hunting Club, Inc. et al. v. Public Service Commission et al., from Arkansas Public Service Commission. Motion of Entergy Arkansas, Inc. to file amicus curiae brief is granted. Special Justices Danyelle Walker and Whit Fowlkes agree. Gunter, Danielson, and Bowen, JJ., not participating.
- 09-718. Hempstead County Hunting Club, Inc. et al. v. Public Service Commission et al., from Arkansas Public Service Commission. Appellants' motion for permission to file response briefs to amicus briefs is denied. Special Justices Danyelle Walker and Whit Fowlkes agree. Gunter, Danielson, and Bowen, JJ., not participating.
- CA09-873. Terrist Parramore v. Retirement Properties, Inc. d/b/a Ramada Inn of Fort Smith, from Sebastian Circuit, Fort Smith District. Appellant's motion for reassignment to the Arkansas Supreme Court is denied. Bowen, J., not participating.
- 09-1070. Baptist Health v. Bruce Murphy, M.D., from Pulaski Circuit, Thirteenth Division. Motion of appellant, Baptist Health, to admit document into the record is granted. Corbin, Danielson, and Bowen, JJ., not participating.
- 09-1093. State of Louisiana et al. v. The City of El Dorado Waste Utilities et al., from Union Circuit. Appellants' motion for certiorari to correct the record and stay of briefing schedule is granted. Bowen, J., not participating.
- 09-1192. Alfred (John) Henry Racine, III v. Helane Marie Nelson, from Pulaski Circuit, Seventeenth Division. Appellant's motion for certiorari, to remand and to stay briefing schedule. Granted thirty days. Bowen, J., not participating.
- 09-1192. Alfred (John) Henry Racine, III v. Helane Marie Nelson, from Pulaski Circuit, Seventeenth Division. Appellant's motion for enlargement of time to file brief. Moot. Clerk to reset briefing schedule. Bowen, J., not participating.
- 09-1199. Bruce J. Bennett v. Supreme Court Committee on Professional Conduct, an Original Action. Appellee's motion to dismiss appeal is granted. Bowen, J., not participating.
- 09-1200. Bruce J. Bennett v. Supreme Court Committee on Professional Conduct, an Original Action. Appellee's motion to dismiss appeal is granted. Bowen, J., not participating.
- 09-1226. State of Arkansas Office of Child Support Enforcement v. Kendrick L. Jacks, from Jefferson Circuit. Appellant's motion to dismiss appeal is granted. Bowen, J., not participating.
- 09-1272. Exigence, LLC et al. v. Courtney Baylark, from Phillips Circuit. Appellants' motion to supplement the record is granted. Bowen, J., not participating.
- 09-1272. Exigence, LLC et al. v. Courtney Baylark, from Phillips Circuit. Appellants' motion to amend the record is granted. Bowen, J., not participating.
- 09-1283. A.H., a Minor v. Honorable Terry M. Sullivan, Circuit Judge, from Conway Circuit. Petition for rehearing of the denial of writ of certiorari is denied. Corbin, J., would grant. Bowen, J., not participating.

09-1331. West End Garage & Auto Sales Inc. et al. v. Circuit Court of Pulaski County, from Pulaski Circuit, Thirteenth Division. Petition for writ of prohibition, or in the alternative, writ of certiorari is denied. Bowen, J., not participating.

09-1334. K & S Development, LLC v. Kristin J. Thomsen, Carl Becker, and Vicki Becker, from Garland Circuit. Motion for rule on clerk is denied. See **per curiam** this date. Bowen, J., not participating.

09-1363. Marx Real Estate Investments, LLC et al. v. Dr. Victor Coloso et ux., from Sebastian Circuit, Fort Smith District. Petition for writ of certiorari to complete the record. Granted thirty days.

CACR08-969. Wilbert L. Johnson v. State of Arkansas, from Pulaski Circuit, Seventh Division. Pro se motion for use of trial transcript. Motion treated as motion for photocopying at public expense and denied. See **per curiam** this date. Bowen, J., not participating.

CR08-1104. Antonio Deshun Sartin v. State of Arkansas, from Pulaski Circuit, Fourth Division. Appellant's counsel's motion to withdraw as attorney of record on appeal. Certified question answered; remand to Court of Appeals. See **per curiam** this date. Bowen, J., not participating.

CR09-273. Robert Reddin v. State of Arkansas, from Union Circuit. Appellee's motion to dismiss appeal is granted. Bowen, J., not participating.

CR09-917. William Thomas Hale v. State of Arkansas, from Saline Circuit. Pro se motion for belated appeal. Motion granted. See **per curiam** this date. Bowen, J., not participating.

CR09-951. Jonathan E. Murphy v. State of Arkansas, from Calhoun Circuit. Appellee's motion to dismiss appeal is granted. Bowen, J., not participating.

CR09-1148. Monte Rashad Gentry v. State of Arkansas, from Pulaski Circuit, Fourth Division. Pro se motion for belated appeal of order. Motion dismissed. See **per curiam** this date. Bowen, J., not participating.

CR09-1208. Richard Strong v. Honorable Cindy Thyer, Circuit Judge, from Greene Circuit. Pro se petition for writ of mandamus. Petition moot. See **per curiam** this date. Bowen, J., not participating.

CR09-1287. George E. French v. Honorable Grisham Phillips, Circuit Judge, from Saline Circuit. Pro se petition for writ of mandamus. Petition dismissed. See **per curiam** this date. Bowen, J., not participating.

09-1027. Eugene Wesley v. Greg Harmon, Warden, Arkansas Department of Correction, from Lee Circuit. Pro se motion for belated appeal. Motion denied. See **per curiam** this date. Bowen, J., not participating.

09-1157. Matthew W. Barnett v. Honorable Stephen Tabor, Circuit Judge, and Rachel Sims, Clerk, District Court of Fort Smith, Arkansas, from Sebastian Circuit, Fort Smith District. Pro se motion for rule on clerk to file petition for writs of prohibition or certiorari and mandamus without certified record is denied; pro se motion to stay fees pending disposition of motion for rule on clerk, and pro se motion for appointment of counsel are moot. See **per curiam** this date. Bowen, J., not participating.

In Re: Amendment to Section 14 of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. See **per curiam** this date.

## MOTIONS SUBMITTED

### PETITIONS FOR REHEARING:

CR09-77. Timothy Wayne Kemp v. State of Arkansas, from Pulaski Circuit, First Division.

09-361. Jimmy Rettig v. Alton Ballard, from Pulaski Circuit, Fifth Division.

09-671. J.B. Robinson et al. v. Floyd G. "Buddy" Villines et al., from Pulaski Circuit, Sixth Division.

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PETITIONS FOR REVIEW:

09-1075. Donna Hanna v. Burt Hanna, from Washington Circuit.

09-1169. Troy Butcher, as Guardian of Thelma Healy v. Diane Beatty, as Personal Representative of John Healy's Estate, from Hot Springs Circuit.

09-1246. J.S., a Minor v. State of Arkansas, from Benton Circuit.

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CR08-1481. Jessie Lloyd Misskelley, Jr. v. State of Arkansas, from Clay Circuit, Western District. Renewed motion for remand for further fact-findings on issue of Judge Burnett's political plans and for designation of special judge to make fact-findings.

CR09-1372. Jimmy Smith v. State of Arkansas, from Pulaski Circuit, Fifth Division. Motion to be relieved.

09-671. J.B. Robinson et al. v. Floyd G. "Buddy" Villines et al., from Pulaski Circuit, Sixth Division. Motion for expedited consideration of, and ruling on, the petition for reconsideration filed by Bobby Roberts and by the Central Arkansas Library System appellees.

09-710. Newton Donald Jenkins, Jr. v. Arkansas Supreme Court Committee on Professional Conduct, an Original Action. Resubmission of appellant's motion to strike.

09-1128. T.C. v. State of Arkansas, from Ouachita Circuit. Motion to file an amicus curiae brief by the Center on Wrongful Convictions of Youth.

09-1128. T.C. v. State of Arkansas, from Ouachita Circuit. Appellant's motion to file a supplemental brief.

10-8. Patsy Simmons Limited Partnership et al. v. Honorable Jay T. Finch, Circuit Judge, from Benton Circuit. Petition for writ of prohibition.

**SUBMISSIONS**

08-1352. David Stills v. Amber Stills, from Washington Circuit. Argued orally.

09-738. Arkansas Judicial Discipline and Disability Commission v. Honorable Willard Proctor, Jr. Argued orally.

09-290. Mike E. Carr et al. v. Stewart Nance, from Newton Circuit.

09-636. Dewayne Provence et al. v. National Carriers, Inc., from Washington Circuit.

09-710. Newton Donald Jenkins, Jr. v. Supreme Court Committee on Professional Conduct, an Original Action.