

ARKANSAS SUPREME COURT

PROCEEDINGS OF NOVEMBER 29, 2012

JIM HANNAH, CHIEF JUSTICE:

[11-961](#). Frank B. Whitbeck; Firethorne, LLC; Belle Meade, LLC; The Gardens, LLC; Butterfield Gardens, LLC; H.F.R., LLC; and Winrock Grass Farm, Inc. v. Jay Bradford, Successor in Interest to Mike Pickens, Insurance Commissioner for the State of Arkansas, and In His Capacity as Receiver for Signature Life Insurance Company of America, from Pulaski Circuit, Third Division. Affirmed. Brown, J., not participating.

DONALD L. CORBIN, JUSTICE:

[05-501](#). Stark Ligon, as Executive Director of the Arkansas Supreme Court Committee on Professional Conduct v. Fred D. Davis, III, Arkansas Bar No. 72033, an Original Action. Petition for disbarment denied; five-year prospective suspension ordered.

[11-1266](#). Kenneth Smith, Jr., and Geraldean Smith, as Co-Special Administrators of the Estate of Mark Anthony Smith v. Rebsamen Medical Center, Inc., d/b/a North Metro Medical Center; Richard Young, M.D.; James Landry, M.D.; et al., from Pulaski Circuit, Sixth Division. Reversed and remanded.

PAUL E. DANIELSON, JUSTICE:

[CR12-63](#). Kevin Kyle Crouse v. State of Arkansas, from Crittenden Circuit. Affirmed; Court of Appeals' opinion vacated.

[11-1289](#). Thomas W. Kimbrell, Commissioner of the Arkansas Department of Education, in His Official Capacity Only; the Arkansas Department of Education; and Martha Shoffner, Treasurer of the State of Arkansas, in Her Official Capacity Only v. Bob Allen McCleskey, Individually and as a Representative of all Similarly Situated Taxpayers Who Pay Ad Valorem School Taxes for the Support of the Fountain Lake School District; the Fountain Lake School District; Rusty Windle, Individually and as a Representative of all Similarly Situated Taxpayers Who Pay Ad Valorem School Taxes for the Support of the Eureka Springs School District; and the Eureka Springs School District, from Pulaski Circuit, Sixth Division. Affirmed on direct appeal; reversed and remanded on cross-appeal. Hannah, C.J., Brown, J., and Special Justice George D. Ellis dissent. Gunter, J., not participating.

KAREN R. BAKER, JUSTICE:

[CR12-441](#). James Stewart v. State of Arkansas, from Pulaski Circuit, Fourth Division. Affirmed.

[12-336](#). City of Rockport, Arkansas v. City of Malvern, Arkansas; Gene Beason; Brenda Beason; Loy Porterfield; and Joan Porterfield, from Hot Spring Circuit. Affirmed.

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PER CURIAM ORDERS

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

CR12-838. Myrickki McClendon v. State of Arkansas, from Pulaski Circuit, First Division.

10-127. Joe Louis Kelley, Jr. v. Ray Hobbs, Director, and Shelli Maroney, Records Supervisor, Arkansas Department of Correction, from Jefferson Circuit. ADC is ordered to appear and comply at 9:00 a.m. today.

CR00-803. Timothy Lamont Howard v. State of Arkansas, from Little River Circuit. Motion of the Arkansas Federal Public Defender to withdraw as counsel for appellant is dismissed. Jurisdiction lies with the circuit court. Corbin, J., not participating.

CR00-803. Timothy Lamont Howard v. State of Arkansas, from Little River Circuit. Motion of Patrick Benca to be substituted as counsel on behalf of appellant is dismissed. Jurisdiction lies with the circuit court. Corbin, J., not participating.

[CR12-933](#). Brandon Clark Fritts v. State of Arkansas, from Sebastian Circuit, Fort Smith District. Motion of John Joplin to withdraw as attorney on behalf of appellant is granted. See **per curiam** this date.

CR12-968. Jeff Johnston v. Faulkner Circuit Court, Fifth Division (Hon. Rhonda Wood, Circuit Judge), from Faulkner Circuit. Motion for accelerated consideration of petition for writs of prohibition and certiorari is granted. (Proceeding of November 27, 2012)

CR12-968. Jeff Johnston v. Faulkner Circuit Court, Fifth Division (Hon. Rhonda Wood, Circuit Judge), from Faulkner Circuit. Petition for temporary and permanent writs of prohibition and certiorari is denied without prejudice. (Proceeding of November 27, 2012)

10-127. Joe Louis Kelley v. Ray Hobbs, Director, and Shelli Maroney, Records Supervisor, Arkansas Department of Correction, from Jefferson Circuit. Motion for reconsideration or clarification is denied.

11-900. Chase Bank USA, N.A. v. Dyke, Henry, Goldsholl & Winzerling, P.L.C., et al., from Pulaski Circuit, Thirteenth Division. Rebriefing ordered. See **per curiam** issued. (Proceedings of November 19, 2012)

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12-41. Regions Bank, N.A., et al. v. Chase Bank USA, N.A., from Pulaski Circuit, Thirteenth Division. Rebriefing ordered. See per curiam issued. (Proceedings of November 19, 2012)

12-500. Porocel Corporation v. Circuit Court of Saline County, Arkansas, and Booker T. Washington, from Saline Circuit. Motion of Arkansas American Federation of Labor and Congress of Industrial Organizations (Arkansas AFL-CIO) to file amicus curiae brief in support of respondent is granted.

12-540. First Arkansas Bank & Trust, Trustee, et al. v. Gill, Elrod, Ragon, Owen & Sherman, P.A., et al., from Pulaski Circuit, Fifth Division. Motion of appellees Gill, Elrod, Ragon, Owen and Sherman, P.A.; Christopher L. Travis, P.A.; and Christopher L. Travis for permission to file brief with additional pages of argument is denied. Brief extension granted for seven days.

12-937. Thomas W. Thornton, Jr. v. Teresa A. Thornton, from Little River Circuit. Motion for rule on clerk is denied.

12-954. Dedrick Logan v. Director et al., from Board of Review. Pro se motion for rule on clerk to file belated petition for review is denied.

12-957. Southern Farm Bureau Casualty Insurance Company v. Stuart Parsons et al., and Honorable Mackie M. Pierce, Circuit Judge, from Pulaski Circuit, Seventeenth Division. Petition for writ of prohibition is taken as a case.

CR12-347. David Ferrell v. State of Arkansas, from Hot Spring Circuit. Pro se motion for extension of time to file brief is granted. Brief filed this date.

CR12-704. Daniel Lewis v. State of Arkansas, from Pulaski Circuit, Fourth Division. Appellee's motion to dismiss appeal and motion for extension of brief time. Appellee's motion to dismiss appeal granted; motion for extension of brief time moot.

CR12-870. Timothy Arness Young v. Hon. Harold S. Erwin, Circuit Judge, from Randolph Circuit. Pro se petition for writ of mandamus moot.

CR12-944. Eugene Thomas III v. State of Arkansas, from Ashley Circuit. Pro se motion to recall mandate and to file belated pro se petition for review. Motion to recall mandate and for leave to file belated petition for review treated as motion to file belated petition for review and denied.

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[12-797](#). James Girley v. Ray Hobbs, Director, Arkansas Department of Correction, from Lincoln Circuit. Pro se appellant's motion for extension of time to file brief. Appeal dismissed; motion moot. See **per curiam** this date.

12-929. Winston Holloway v. Benny Magness et al., from Lincoln Circuit. Pro se motion for rule on clerk is denied.

In Re Supreme Court Committee on Professional Conduct. See [per curiam](#) this date.

The Court recognizes the following outgoing and incoming members of the Supreme Court Committee on Professional Conduct. The second terms of Win A. Trafford of Pine Bluff (Fourth Congressional District attorney member of Committee Panel A), Valerie L. Kelly of Jacksonville (At Large attorney member of Committee Panel B), and Kenneth R. Mourton of Fayetteville (Third Congressional District attorney member of Panel C) expire December 31, 2012. The Court thanks them for their invaluable and faithful service to the Court, the Committee, the legal profession, and the public.

The Court hereby appoints in their places Michael W. Boyd of Magnolia (Fourth Congressional District attorney member of Committee Panel A), Niki T. Cung of Fayetteville (At Large attorney member of Committee Panel B), and Tonya L. Patrick of Fayetteville (Third Congressional District attorney member of Panel C), for initial six-year terms expiring December 31, 2018. The Court expresses its appreciation to these new Committee members for their willingness to accept this important assignment.

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MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

11-1192. Courtney Baylark v. Helena Regional Medical Center, Phillips Hospital Corporation d/b/a Helena Regional Medical Center, and Exigence, LLC, from Phillips Circuit.

12-276. 40 Retail Corporation v. City of Clarksville, from Johnson Circuit.

PETITIONS FOR REVIEW:

12-788. Ann Shull Bell and Nelson Keith Bell v. Bank of America, N.A., from Lonoke Circuit.

12-821. Michael Douglas v. Director et al., from Board of Review.

12-847. Ricky Johnson, Jr. v. Arkansas Department of Human Services, from Craighead Circuit, Western District.

CACR11-1137. Partne Kiesling-Daugherty v. State of Arkansas, from Pulaski Circuit, Seventh Division. Motion of Charles Daniel Hancock for award of costs.

CR12-694. Andrew R. Engram v. State of Arkansas, from Pulaski Circuit, Seventh Division. Appellant's application for writ of certiorari to complete the record.

CR12-739. State of Arkansas v. Telecia Colvin, from Pulaski Circuit, Fourth Division. Motion requesting substitution of appellate counsel and for extension of time to file brief.

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CASES SUBMITTED

11-1086. Joey McCutchen v. City of Fort Smith, Arkansas, Dennis Kelly, Gary Campbell, Andre Good, and Ken Pyle, from Sebastian Circuit, Fort Smith District. Argued orally.

CR12-412. State of Arkansas v. Natasha Jones, from Sebastian Circuit, Fort Smith District.

CR12-413. State of Arkansas v. Harold Myers, from Sebastian Circuit, Greenwood District.

Opinions are available on the Internet at

<http://courts.arkansas.gov>