

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 17, 2015

KAREN R. BAKER, JUSTICE

[CR-14-286](#). Howard Wood v. State of Arkansas, from Scott County Circuit Court. Affirmed. Hart, J., dissents.

[CR-15-12](#). James E. Hinton III v. State of Arkansas, from Pulaski County Circuit Court, First Division. Affirmed. Danielson, Wood, and Wynne, JJ., concurring in part and dissenting in part. Hart, J., concurring in part and dissenting in part.

JOSEPHINE LINKER HART, JUSTICE

[CV-15-118](#). Kenyghatta Davis, Individually and as a Representative of a Class of Persons Similarly Situated v. City of Blytheville, Arkansas, and its Water Department, from Mississippi County Circuit Court, Chickasawba District. Affirmed. Danielson and Wynne, JJ., dissent.

RHONDA K. WOOD, JUSTICE

[CR-14-1030](#). Z.L. v. State of Arkansas, from Jackson County Circuit Court. Reversed and dismissed.

ROBIN F. WYNNE, JUSTICE

[CR-15-291](#). Chad Steve Laymon v. State of Arkansas, from Pope County Circuit Court. Affirmed.

PER CURIAM OPINION

[CV-15-249](#). Billy Joe Kelley v. State of Arkansas, from Lee County Circuit Court. Affirmed.

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PER CURIAM ORDERS

REHEARINGS DENIED: Petitions for rehearing were denied today in the following cases.

CR-15-174. James Johnson III v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-15-266. William Dewey Gill v. State of Arkansas, from White County Circuit Court.

CV-14-1059. Cheri Suzanne McCoy v. Vernon Jeffrey Kincade, from Baxter County Circuit Court. Special Justices Henry Kinslow and Joseph Self join. Baker and Hart, JJ., would grant. Goodson and Wynne, JJ., not participating.

CV-15-27. Arkansas Highway & Transportation Department et al. v. O.J.'s Service Two, Inc., from Pulaski County Circuit Court, Twelfth Division.

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

CV-15-809. Wendy Jones et al. v. Ted Douglas et al., from Garland County Circuit Court.

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

CR-15-919. Antwan Fowler v. State of Arkansas, from Faulkner County Circuit Court. Danielson, J., would grant.

CR-02-213. Kenneth R. Isom v. State of Arkansas, from Drew County Circuit Court. Motion for expedited release of exhibit is granted upon substitution of copies. (Proceedings of December 7, 2015)

CR-13-438. Edward Thompson III v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Motion of Patrick J. Benca for attorney's fees is granted. Allowed \$2,069.03.

CR-13-775. Ivor Gordon v. State of Arkansas, from Pulaski County Circuit Court, First Division. Motion of Patrick J. Benca for attorney's fees is granted. Allowed \$3,250.00.

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CR-14-580. Kou Her v. State of Arkansas, from Johnson County Circuit Court. Motion of John Cameron Burnett for attorney's fees and costs is granted. Allowed \$2,348.00.

CR-14-833. Robert Holland v. State of Arkansas, from Lincoln County Circuit Court. Motion of Charlene Davidson Henry and Paul J. Teufel for attorney's fees is granted. Allowed \$3,250.00.

CR-14-1088. Fred L. Williams v. State of Arkansas, from Drew County Circuit Court. Motion of Gary W. Pott for attorney's fees is granted. Allowed \$675.00.

CR-15-165. Eric Scott Paulson v. State of Arkansas, from Logan County Circuit Court, Southern District. Motion of R. Kevin Barham for attorney's fees is granted. Allowed \$1,125.00.

CR-15-189. Deonte Edison v. State of Arkansas, from Pulaski County Circuit Court, First Division. Motion of Dale E. Adams for attorney's fees and costs is granted. Allowed \$3668.68.

CR-15-273. Tevarius Green v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District. Motion of John H. Bradley for attorney's fees is granted. Allowed \$2,750.00.

CR-15-601. Robert W. Glover, Jr. v. State of Arkansas, from Garland County Circuit Court. Appellee's motion to dismiss appeal is granted.

CR-15-1005. Cornell Huell v. Circuit Court of Hot Spring County, from Hot Spring County Circuit Court. Petition for writ of certiorari or for other relief is denied. Motion for accelerated consideration and oral argument on petition for writ of certiorari. Accelerated consideration granted; oral argument denied. Motion concerning sealing of the record and petition. Record sealed in regard to Dr. Woods only. Danielson, J., is constrained by the precedent of *Pedraza v. Circuit Court of Drew County*, 2013 Ark. 116, 426 S.W. 3d 441, to concur in the denial of the petition for writ of certiorari.

CV-15-422. Marilyn J. Worsham v. Director et al., from the Arkansas Board of Review. Emergency motion to waive appellant and reply brief copying fees is denied.

CV-15-692. In Re Joseph H. "Joe" O'Bryan, Lonoke County District Judge, from the Judicial Discipline and Disability Commission. Joint petition to reinstate District Court Judge Joseph H. "Joe" O'Bryan is granted.

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CV-15-788. APH&R Nursing, LLC., et al. v. Angela Burnett, as Special Administratrix of the Estate of Amy Cleveland, et al., from Pulaski County Circuit Court, Sixteenth Division. Appellants' motion to withdraw appeal is granted.

[CV-15-961](#). J. David John v. Megan Marie Bolinder, from Benton County Circuit Court. Appellant's motion for rule on clerk is remanded to circuit court to determine compliance with Arkansas Rule of Appellate Procedure – Civil 5(b)(1)(C). See **per curiam** this date.

[CV-15-988](#). Nathaniel Smith, MD, MPH, et al. v. Marisa N. Pavan et al., from Pulaski County Circuit Court, Sixth Division. Petition for emergency stay granted in part and denied in part; motion for expansion of page limit granted. Wood, J., concurs in part and dissents in part. Danielson J., dissents. See **per curiam** this date. (Proceedings of December 10, 2015)

CV-15-992. Wendy Kelley, Director, Arkansas Department of Correction, et al. v. Stacey Johnson et al., from Pulaski County Circuit Court, Fifth Division. Emergency motion for immediate stay of all proceedings in the circuit court pending appeal or, alternatively, for a temporary stay. Temporary stay of the circuit court's order of December 3, 2015, is granted and briefing ordered on the propriety of a stay pending appeal. Danielson, J., would deny temporary stay. (Proceedings of December 4, 2015)

[CR-11-494](#). Joe E. Butler v. State of Arkansas, from Pulaski County Circuit Court, Second Division. Pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis is denied. See **per curiam** this date.

CR-15-8. Nickarlos Banks v. State of Arkansas, from Pulaski County Circuit Court, Second Division. Pro se petition for rehearing is denied.

[CR-15-811](#). Gifford Ray v. State of Arkansas, from Hot Spring County Circuit Court. Pro se petitions for writ of certiorari and motions for appointment of counsel and extension of brief time. Appeal dismissed; petitions and motions moot. See **per curiam** this date.

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[CV-15-573](#). David Lee Allen v. Wendy Kelley, Director, Arkansas Department of Correction, from Lee County Circuit Court. Pro se motion to file belated brief. Appeal dismissed; motion moot. See **per curiam** this date.

[CV-15-740](#). Kenneth Tucker v. State of Arkansas, from Chicot County Circuit Court. 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 Civil Practice. See **per curiam** this date.

Bob Edwards, Esq., of Pulaski County, is appointed to the Committee on Civil Practice for a three-year term to expire on July 31, 2018. We thank him for accepting appointment to this important committee.

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

Chief of Police Michael J. Davis of North Little Rock is appointed to the Arkansas Supreme Court Committee on Security and Emergency Preparedness for a three-year term to expire on December 17, 2018. We thank him for his willingness to serve on this committee.

The court expresses its gratitude to outgoing member, Chief of Police A.J. Gary, of Conway, for his service on this committee.

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In Re Supreme Court Committee on Professional Conduct. See **per curiam** this date.

The terms of the following members of the Supreme Court Committee on Professional Conduct expire December 31, 2015:

Panel B: James Dunham – (Russellville) attorney, Third Congressional District

Panel B: Sylvia Orton – (Little Rock) non-attorney, statewide at large

Panel C: Judge Kathleen Bell (Helena) attorney, First Congressional District

Mr. Dunham is eligible for another term and has accepted reappointment in the present position. Appointment is hereby made to a new six-year term, which shall expire on December 31, 2021.

Sylvia Orton and Judge Bell will both be ending their second full terms, and therefore are not eligible for reappointment.

The court hereby appoints Keith Chrestman of Jonesboro to Panel C as the First Congressional District attorney member, and Elmer J. Ritchie of Little Rock to Panel B as the non-attorney member, statewide at large. Each of these members are also appointed for a six-year term ending December 31, 2021.

The court expresses its appreciation to each of these members for their service on this most important Committee.

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MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CR-15-330. Derreck Pelletier v. State of Arkansas, from Faulkner County Circuit Court.

CV-15-224. Johnny Key, In His Official Capacity as Commissioner of the Arkansas Department of Education, et al. v. Diane Curry et al., from Pulaski County Circuit Court, Fifth Division.

CR-15-997. Tony Lenzaro Brooks v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Motion of Julia B. Jackson to be relieved as attorney for appellant and stay briefing schedule.

CV-14-986. Bank of the Ozarks v. Susan Cossey (In the Matter of the Hamilton Living Trust), from Pulaski County Circuit Court, Sixteenth Division. Motion of David W. Kamps for attorney's fees.

CV-15-596. James B. Mitchell v. Erwin L. Davis, from Washington County Circuit Court. Pro se motion to appeal dismissal of appeal.

CV-15-677. Corina Mendoza v. WIS International, Inc., et al., from the United States District Court, Eastern District of Arkansas. Motion of American Trucking Associations, Inc., and Arkansas Trucking Association, Inc. to file an amicus brief.

CV-15-788. APH&R Nursing, LLC., et al. v. Angela Burnett, as Special Administratrix of the Estate of Amy Cleveland, et al., from Pulaski County Circuit Court, Sixteenth Division. Motion of Gene A. Ludwig for attorney's fees and costs.

CV-15-979. Evette Moore v. Arkansas Department of Human Services, from St. Francis County Circuit Court. Appellant's motion for rule on clerk.

CV-15-986. George F. Gorman, Jr. v. Tamara Anderson Gorman and Minor Child, from Union County Circuit Court. Appellant's motion for rule on clerk.

CV-15-992. Wendy Kelley, Director, Arkansas Department of Correction, et al. v. Stacey Johnson et al., from Pulaski County Circuit Court, Fifth Division. Appellants' motion for expansion of page limit. Resubmission of emergency motion for immediate stay of all proceedings in the circuit court pending appeal.

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MOTIONS SUBMITTED

CV-15-999. Capitol SeniorCare Ventures, LLC., et al. v. Circuit Court of Pulaski County, Arkansas, et al., from Pulaski County Circuit Court, Sixth Division. Appellants' petition for writ of certiorari.

CR-15-336. Calvin Stover v. State of Arkansas, from Benton County Circuit Court. Petitioner's pro se motions for reconsideration and authenticate trial court's authority and jurisdiction.

CR-15-398. Damien Ford v. State of Arkansas, from Miller County Circuit Court. Pro se motion for extension of time, motion for transcript, and motion to hold in avail.

CR-15-515. Michael Hinkton v. State of Arkansas, from Crawford County Circuit Court. Pro se motion for extension of time to file brief and petition for writ of mandamus.

CR-15-522. Ardwin Frank Sylvester v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's pro se motion requesting use of trial transcript.

CR-15-682. Gregory W. Nickels v. State of Arkansas, from Faulkner County Circuit Court. Pro se motion to correct and restore records of transcription and docket history and for appointment of counsel.

CR-15-724. Darrell Napoleon Dennis v. State of Arkansas, from Pulaski County Circuit Court, Second Division. Pro se motion to relieve appellate counsel and reappoint new counsel.

CR-15-862. James Brian Wright v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Petitioner's pro se petition for leave of court to file a belated appeal.

CR-15-875. Androus Hall v. State of Arkansas, from Phillips County Circuit Court. Pro se motion for belated appeal of deemed-denied order.

CR-15-891. Ardwin Frank Sylvester v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Pro se petition for review.

CV-15-597. James B. Mitchell v. Gregory Klebanoff, from Washington County Circuit Court. Appellant's pro se motion to file belated brief.

CV-15-780. Lonnie E. Mitchell v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Pro se motion for copy of the record.