

ARKANSAS SUPREME COURT
PROCEEDINGS OF MARCH 17, 2016

COURTNEY HUDSON GOODSON, JUSTICE

[CV-15-711](#). Kenny Quarles, as Special Administrator of the Estate of Bennie Jean Quarles, Deceased, and On Behalf Of the Wrongful Death Beneficiaries of Bennie Jean Quarles, Deceased v. Courtyard Gardens Health and Rehabilitation, LLC a/k/a Courtyard Gardens Health and Rehabilitation; Arkadelphia Holdings, LLC; SLC Operations Master Tenant, LLC; SLC Operations, LLC; SLC Professionals of Arkansas, LLC; SLC Administrative Services of Arkansas, LLC; Capital SeniorCare Ventures, LLC; SLC Properties, LLC; 2701 Twin Rivers Drive, LLC; Senior Vantage Point, LLC; Senior Living Communities of Arkansas, LLC; EOR Group, Ltd.; EOR, LLC; EOR-ARK, LLC; VAJ, LLC; Quality Review, LLC; Angela Marlar, In Her Capacity as Administrator/Executive Director of Golden Living Center – Arkadelphia n/k/a Courtyard Gardens Health and Rehabilitation, LLC; Deborah Thornton, In Her Capacity as Administrator of Courtyard Gardens Health and Rehabilitation, LLC f/k/a Golden Living Center – Arkadelphia, from Clark County Circuit Court. Affirmed. Brill, C.J., Danielson and Hart, JJ., concur.

JOSEPHINE LINKER HART, JUSTICE

[CR-15-779](#). State of Arkansas v. Billy Gene Coble, from Jefferson County Circuit Court. Affirmed. Brill, C.J., and Danielson, J., dissent.

[CV-15-107](#). Bank of the Ozarks, Inc. and Bank of the Ozarks v. Robert Walker, Ann B. Hines, and Judith Belk, from Lonoke County Circuit Court. Affirmed. Special Justice Walter B. Cox joins. Goodson, J., concurs in part and dissents in part. Wood, J., not participating.

RHONDA K. WOOD, JUSTICE

[CR-15-417](#). Karl D. Roberts v. State of Arkansas, from Polk County Circuit Court. Reversed and remanded. Brill, C.J., Danielson and Goodson, JJ., dissent.

ROBIN F. WYNNE, JUSTICE

[CV-15-616](#). Baptist Health Medical Systems, Mercy Health Systems, and Washington Regional Medical Center v. Leslie Rutledge, Arkansas Attorney General; Arkansas Department of Health; and Nathaniel Smith, MD, MPH, Director, from Pulaski County Circuit Court, Sixth Division. Reversed on cross-appeal; direct appeal dismissed. Danielson and Wood, JJ., dissent.

[CV-15-785](#). Maurice R. Lipsey, William Larry Cox, and Connie L. Cox v. Karen Giles, from Cleburne County Circuit Court. Affirmed.

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PER CURIAM OPINIONS

[CR-15-501](#). Brian Keith Biggs v. State of Arkansas, from Saline County Circuit Court. Affirmed.

[CR-15-660](#). Rolandis Lorenzo Chatmon v. State of Arkansas, from Faulkner County Circuit Court. Affirmed; motion and amended motion to remand moot; motion for appointment of counsel moot.

[CV-15-889](#). Charles Lovett v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Affirmed.

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PER CURIAM ORDERS

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

CR-15-638. Ramon B. Trujillo v. State of Arkansas, from Benton County Circuit Court.

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

CR-15-1061. Jacqueline Ferguson v. State of Arkansas, from Lonoke County Circuit Court. Wood, J., would deny.

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

[CR-16-90](#). Trent A. Kimbrell v. State of Arkansas, from Polk County Circuit Court. Baker and **Hart**, JJ., dissent. Danielson, J., not participating.

CR-16-117. Derrick D. Morgan v. State of Arkansas, from Desha County Circuit Court.

CV-16-115. Melissa Johnson v. Arkansas Department of Human Services and L.R. and R.R., Minor Children, from Crawford County Circuit Court.

CR-15-608. Kareem Muhammad v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Motion to transfer to Arkansas Supreme Court is denied.

CR-15-724. Darrell Napoleon Dennis v. State of Arkansas, from Pulaski County Circuit Court, Second Division. Petition of Paramount Operations, LLC d/b/a Golden Food Mart and Golden Groceries, Inc., to be allowed to copy an exhibit is granted.

CR-16-125. Arthur L. Hicks v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Motion of Dennis R. Molock to withdraw as attorney on direct appeal and for appointment of counsel and to stay briefing time is granted. Ms. Misty Borkowski appointed as counsel for appellant. Clerk is directed to set new briefing schedule.

[CR-16-134](#). Frank P. Campbell v. State of Arkansas, from Carroll County Circuit Court, Eastern District. Appellant's motion to declare defendant indigent and to order the circuit clerk and court reporter to prepare the record is remanded with instructions. See **per curiam** this date.

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CV-15-362. Richard H. Ashley and J.D. Ashley, Jr., as Personal Representatives of the Estate of J.D. Ashley, Sr.; Candace Baughman; and the Estate of Charolette Ashley, Deceased v. Todd H. Ashley, from Pulaski County Circuit Court, Sixteenth Division. Appellee's motion for consideration of oral argument. Motion stricken. Special Justice Robert Hudgins joins. Goodson, J., not participating.

CV-15-603. Markita Bell v. Arkansas Department of Human Services, from Sebastian County Circuit Court, Fort Smith District. Motion of Frank W. Booth to be relieved as counsel for appellant is granted. Arkansas Public Defender Commission appointed as counsel for appellant.

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. Joint status report. Duly noted; status report due in 90 days (June 15, 2016).

CV-16-153. Arkansas Department of Human Services v. Gloria Daniel, from Pulaski County Circuit Court, Sixth Division. Appellant's motion and amended motion for stay pending appeal is granted.

CV-16-187. In Re Arkansas Bar Association Petition to Amend Rules 1.2, 4.2, and 4.3 of the Arkansas Rules of Professional Conduct. See **per curiam** this date.

CV-16-209. Alyssa Ekbert and Jerry Ashmore v. Circuit Court of Pulaski County, Arkansas Department of Human Services, and Minor Child, from Pulaski County Circuit Court, Eleventh Division. Emergency petition for a writ of certiorari, writ of prohibition, and/or writ of mandamus is denied. Danielson, J., would deny without prejudice. (Proceedings of March 14, 2016)

D-16-194. In Re Clinton C. Carter, Arkansas Bar No. 2001099, an Original Action. Petition of Clinton C. Carter, Arkansas Bar No. 2001099, for voluntary surrender of license (resignation) is granted.

D-16-197. In Re Susan A. Shubert, Arkansas Bar No. 96067, an Original Action. Petition of Susan A. Shubert, Arkansas Bar No. 96067, for voluntary surrender of license (resignation) is granted.

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[CR-00-210](#). Russell J. Berger v. State of Arkansas, from Faulkner County Circuit Court. Petitioner's pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis; motion to subpoena transcript; motion to supplement information provided in error coram nobis petition. Petition denied; motions moot. See **per curiam** this date.

CR-07-277. Jimmy Smith, Jr. v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Petitioner's pro se motion for extension of time to file a motion for reconsideration is denied. Hart, J., would grant.

In Re Administrative Order Number 8 – Forms for reporting case information in all Arkansas trial courts. See **per curiam** this date.

In Re Administrative Order Number 15.1 – Qualifications and standards for attorneys appointed to represent children and parents. See **per curiam** this date.

In Re Arkansas Code Revision Commission. See **per curiam** this date.

Haley Burks, Esq., of Little Rock, and Candice Settle, Esq., of Van Buren, are appointed to the Arkansas Code Revision Commission for four-year terms to expire on March 31, 2020. The court thanks them for their willingness to undertake this important work. Bettina Brownstein, Esq., of Little Rock is reappointed to the Arkansas Code Revision Commission for a four-year term to expire on March 31, 2020, and we thank her for her continued service.

The court expresses its gratitude to David Matthews of Rogers and Don Schnipper of Hot Springs, whose terms have expired, for their years of dedicated service to the commission.

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PETITIONS FOR REHEARING:

CR-15-237. Terry Lee Ward v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division.

CV-14-1105. Courtyard Gardens Health and Rehabilitation, LLC; et al. v. Malinda Arnold, et al., from Clark County Circuit Court.

CV-15-264. James McCafferty v. The Oxford American Literary Project, Inc., from Pulaski County Circuit Court, Sixteenth Division.

CV-15-887. Melvin Smith v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court.

PETITIONS FOR REVIEW:

CR-15-1064. Freddie L. Sharp III v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District.

CV-16-114. Priscilla Ponder v. Arkansas Department of Human Services and A.P., E.P., and J.P., Minor Children, from Union County Circuit Court.

CV-16-155. Partne A. Kiesling-Daugherty v. Judge Floyd "Buddy" Villines, Amanda Mankin, and Chastity Black-Scifres, from Pulaski County Circuit Court, Sixth Division.

CV-14-1082. Wendy Kelley, Director, Arkansas Department of Correction v. Ulonzo Gordon, from Lee County Circuit Court. Appellant's motion to continue stay of the appellate mandate.

CV-15-362. Richard H. Ashley and J.D. Ashley, Jr., as Personal Representatives of the Estate of J.D. Ashley, Sr.; Candace Baughman; and the Estate of Charolette Ashley, Deceased v. Todd H. Ashley, from Pulaski County Circuit Court, Sixteenth Division. Motion of Andy Taylor and Tasha Taylor to withdraw as counsel.

CV-15-362. Richard H. Ashley and J.D. Ashley, Jr., as Personal Representatives of the Estate of J.D. Ashley, Sr.; Candace Baughman; and the Estate of Charolette Ashley, Deceased v. Todd H. Ashley, from Pulaski County Circuit Court, Sixteenth Division. Appellant's motion for sanctions.

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CV-15-362. Richard H. Ashley and J.D. Ashley, Jr., as Personal Representatives of the Estate of J.D. Ashley, Sr.; Candace Baughman; and the Estate of Charolette Ashley, Deceased v. Todd H. Ashley, from Pulaski County Circuit Court, Sixteenth Division. Appellee's combined brief and motion to disqualify

CV-15-992. Wendy Kelley, Director, Arkansas Department of Correction, et al. v. Stacey Johnson et al., from Pulaski County Circuit Court, Fifth Division. Appellees' motion to expand page limit.

CV-15-1057. City of Little Rock, Arkansas; Stuart Thomas; Wayne Bewley; Laura Martin; Linda Wilson; Sharon Martin; Alan Cate; Marquita Dooley; Candace Middleton; Karen Grimm; Gregory L. Summers; Robert Sharp; Frank Scott; and Eddie Rhine; and; Little Rock Ambulance Authority d/b/a Metropolitan Emergency Medical Services v. Dayong Yang, as Special Administrator of the Estate of Le Yang, deceased, from Pulaski County Circuit Court, Sixth Division. Appellants' motion to correct the record to conform with Ark. R. Sup. Ct. 3-3(16).

CV-16-113. Theresa Marshall v. Deutsche Bank National Trust Company, as Trustee for Vendee Mortgage Trust 1993-1, from Pulaski County Circuit Court, Fifth Division. Petitioner's pro se petition for leave to proceed in forma pauperis.

CV-16-137. Jesse Everett v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Eleventh Division. Appellant's petition for writ of certiorari to complete the record and to set briefing schedule.

CV-16-196. Cynthia Lou Horton and Anthony Bryce Brewer, as the Special Administrators of the Estate of Prentice Byars Young v. Deborah Ann Mitchell, from Marion County Circuit Court. Appellant's motion to correct the record or, in the alternative, petition for writ of certiorari to complete the record.

CV-16-201. Linda Sue Lee v. Honorable Richard Moore, Circuit Judge; Sherlyn E. Jones; and Susan M. Scroggins, from Perry County Circuit Court. Petitioner's pro se petition for writ of certiorari.

CV-16-201. Linda Sue Lee v. Honorable Richard Moore, Circuit Judge; Sherlyn E. Jones; and Susan M. Scroggins, from Perry County Circuit Court. Petitioner's pro se petition for writ of certiorari to complete the record.

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CV-16-205. Patricia Garrett v. Arkansas Department of Human Services and Minor Child, from Saline County Circuit Court. Appellant's motion for out of time appeal and for rule on clerk.

D-16-213. In Re Judith A. Lemke, Arkansas Bar No. 2006243, an Original Action. Petition of Judith A. Lemke, Arkansas Bar No. 2006243, for voluntary surrender of license (resignation).

D-16-214. In Re Michael L. Harris, Arkansas Bar No. 91173, an Original Action. Petition of Michael L. Harris, Arkansas Bar No. 91173, for voluntary surrender of license (resignation).

D-16-215. In Re Karen Fisher Moskowitz, Arkansas Bar No. 97026, an Original Action. Petition of Karen Fisher Moskowitz, Arkansas Bar No. 97026, for voluntary surrender of license (resignation).

D-16-216. In Re M. Gail Smart, Arkansas Bar No. 87213, an Original Action. Petition of M. Gail Smart, Arkansas Bar No. 87213, for voluntary surrender of license (resignation).

D-16-217. In Re Justin Wayne Rucker, Arkansas Bar No. 2005289, an Original Action. Petition of Justin Wayne Rucker, Arkansas Bar No. 2005289, for voluntary surrender of license (resignation).

CR-95-872. Tommy Mosley v. State of Arkansas, from Garland County Circuit Court. Petitioner's pro se motion for copy of appeal briefs at public expense.

CR-15-967. Duane Gonder v. State of Arkansas, from Drew County Circuit Court. Pro se appeal and motions to supplement record, to file a supplemental argument, and for appointment of counsel.

CR-15-1048. Bruce Echols v. State of Arkansas, from Saline County Circuit Court. Petitioner's pro se motion for transcript for Rule 37 appeal, motion to expand argument section, and motion for transcript.

CR-16-56. George L. Rhoades v. State of Arkansas, from Little River County Circuit Court. Appellee's motion to dismiss appeal and motion for brief time in event court denies motion to dismiss appeal.

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CR-16-58. Douglas Cook v. State of Arkansas, from Pope County Circuit Court. Petitioner's pro se motion for belated appeal and certiorari to complete the record.

CR-16-59. Eric C. Burgie v. State of Arkansas, from Garland County Circuit Court. Petitioner's pro se motions to supplement addendum and file substituted brief, to supplement brief with extended page limit, for appointment of counsel and to expedite ruling on motions to supplement addendum and file substituted brief and motion for extension of time.

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CASES SUBMITTED

CR-15-522. Ardwin Frank Sylvester v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District.

CR-15-68. Latavious D. Johnson v. State of Arkansas, from Lee County Circuit Court.

CV-15-114. Ken Blevins v. David Hudson, from Sebastian County Circuit Court, Fort Smith District.

CV-15-894. Hammerhead Contracting and Development, LLC, and Brandon Holmes v. Dale Ladd, from Independence County Circuit Court.

CR-15-336. Calvin Stover v. State of Arkansas, from Benton County Circuit Court.

Opinions are available on the internet at

<http://courts.arkansas.gov>