

ARKANSAS SUPREME COURT
PROCEEDINGS OF MARCH 31, 2016

PAUL E. DANIELSON, JUSTICE

[CV-15-606](#). Southwest Power Pool, Inc. v. Kanis and Denny Roads Suburban Water Improvement District No. 349 of Pulaski County, Arkansas, by and through its Commissioners Barry Haas, Rod Neal, James Fontenoy, Shirley Herndon, Bill Adair (Deceased), and Mike Rebick, from Pulaski County Circuit Court, Thirteenth Division. Reversed and remanded.

KAREN R. BAKER, JUSTICE

[CR-15-522](#). Ardwin Frank Sylvester v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Affirmed.

JOSEPHINE LINKER HART, JUSTICE

[CV-15-856](#). Malik (Saba) Ka Makkali v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Reversed and remanded.

RHONDA K. WOOD, JUSTICE

[CV-15-391](#). Covenant Presbytery v. First Baptist Church, Osceola, Arkansas, and Sun Trust Bank, as Trustee under the Will of Stanley D. Carpenter, from Mississippi County Circuit Court, Osceola District. Reversed on direct appeal; cross-appeal dismissed; court of appeals' opinion vacated. Danielson and Goodson, JJ., dissent.

PER CURIAM OPINION

[CR-15-967](#). Duane Gonder v. State of Arkansas, from Drew County Circuit Court. Affirmed; motions moot.

[CV-15-587](#). Duane Jefferson Gonder v. Franklin Spain, Deputy Prosecuting Attorney, from Drew County Circuit Court. Affirmed.

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

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. Danielson, Wynne, JJ., and Special Justice Ryan Allen would grant. Wood, J., not participating.

CV-15-264. James McCafferty v. The Oxford American Literary Project, Inc., from Pulaski County Circuit Court, Sixteenth Division. Brill, C.J., and Wynne, J., would grant.

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

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

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.

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

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

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.

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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 is denied. Clerk is directed to issue mandate immediately.

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 is granted.

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. Sup. Ct. R. 3-3(16) is granted.

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 is granted.

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 is granted.

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. Appellants' motion to correct the record or, in the alternative, petition for writ of certiorari to complete the record. Motion to correct the record is granted. Clerk is directed to set briefing schedule upon receipt of corrected 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 is denied. Wynne, J., not participating.

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 is denied. Wynne, J., not participating.

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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) is granted.

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) is granted.

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) is granted.

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) is granted.

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) is granted.

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 is denied.

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. Motions moot.

[CR-16-56](#). George 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. Motion to dismiss appeal is granted; motion for extension of brief time moot. See **per curiam** this date.

[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. Remanded with directions. See **per curiam** this date.

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[Cr-16-59](#). Eric C. Burgie v. State of Arkansas, from Garland County Circuit Court. Appellant'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. Appeal dismissed; motions moot. See **per curiam** this date.

In Re Arkansas Supreme Court Committee on Criminal Practice – Arkansas Rule of Appellate Procedure – Crim. 19. See **per curiam** this date.

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PETITIONS FOR REHEARING:

CR-16-74. Calvin Eugene Jackson v. State of Arkansas, from Craighead County Circuit Court, Western District.

CV-15-231. Owen Kelly v. Mandy Kelly, from Washington County Circuit Court.

CV-15-428. Joe E. Morgan v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court.

CV-15-629. GGNSC Holdings, LLC, et al. v. Nellie R. Lamb, by and through Richard Williams, as Guardian of the Estate and Person of Nellie R. Lamb, et al., from Ouachita County Circuit Court.

PETITIONS FOR REVIEW:

CR-16-142. State of Arkansas v. Ramon Perez, from Lonoke County Circuit Court.

CR-16-152. David Adam Johnson v. State of Arkansas, from Independence County Circuit Court.

CR-90-198. Lonnie Strawhacker v. State of Arkansas, from Washington County Circuit Court. Appellant's motion requesting oral argument and suggesting consolidation of oral argument with *Pitts v. State*.

CR-16-63. Kenneth Ray Marshall v. State of Arkansas, from Columbia County Circuit Court. Appellant's motion to substitute counsel and for appointment of new counsel.

CR-16-134. Frank P. Campbell v. State of Arkansas, from Carroll County Circuit Court, Eastern District. Appellant's petition for writ of certiorari to complete the record.

CR-16-224. Eric Lenderman v. State of Arkansas, from Greene County Circuit Court. Appellant's motion for rule on clerk.

CR-16-228. Willie Noble v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Appellant's motion for rule on clerk.

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CV-15-595. Randeep S. Mann, M.D. v. Trent Pierce, M.D., et al., from Crittenden County Circuit Court. Motion to transfer and for oral argument.

CV-15-934. First United Methodist Church of Ozark v. Harness Roofing, Inc., Mid-Continental Restoration Company, Inc., and K&K Electric, Inc., from Franklin County Circuit Court. Notice of settlement and withdrawal of petitions for review.

CV-15-944. Integrated Direct Marketing, LLC v. Drew May and Merkle, Inc., from United States District Court, Eastern District of Virginia. Petitioner's motion to continue oral argument.

CV-15-966. Gerber Products Company v. David Hewett II, Aaron Johnson, James Lane, Ralph Larossa, Jr., and Jerry Osborne, from Sebastian County Circuit Court, Fort Smith District. Motion of Brittany Falkowski to appear pro hac vice.

CV-15-966. Gerber Products Company v. David Hewett II, Aaron Johnson, James Lane, Ralph Larossa, Jr., and Jerry Osborne, from Sebastian County Circuit Court, Fort Smith District. Motion for permission to file an amicus curiae brief by Conagra Foods, Inc., in support of Appellant's reply brief.

CV-15-999. Capitol SeniorCare Ventures, LLC; SLC Operations Master Tenant, LLC; Senior Living Communities of Arkansas, LLC; SLC Professionals, LLC f/k/a SLC Professionals of Arkansas, LLC; Senior Vantage Point, LLC; ADDIT, LLC; John W. Dwyer; Capital Funding Group, Inc.; CSCV Holdings, LLC; Arkansas SNF Operations Acquisition, LLC; Arkansas Nursing Home Acquisition, LLC; Premier Health and Rehabilitation, LLC; North Little Rock Holdings, LLC; Steve Hudgens, In His Capacity as Administrator of Premier Health and Rehabilitation, LLC; and John Does 1 through 5 v. The Circuit Court of Pulaski County, Arkansas, and Cindy Clough, Personal Representative of the Estate of Joyce Lee Vinson, Deceased, from Pulaski County Circuit Court, Sixth Division. Appellees' motion to dismiss review of case no. 60CV-13-230 due to lack of jurisdiction.

CV-16-122. Mountain Pure, LLC D/B/A Mountain Pure Water Company, and John B. Stacks v. Clearwater Holdings, LLC, as Successor in Interest to Simmons First National Bank, from Pulaski County Circuit Court, Seventeenth Division. Petitioners' motion to extend writ of certiorari to complete the record.

CV-16-233. Truman Arnold Companies v. Miller County Circuit Court and Teresa Jones, from Miller County Circuit Court. Petitioner's petition for writ of prohibition.

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CV-16-234. Truman Arnold Companies v. Miller County Circuit Court and Patricia Adams, from Miller County Circuit Court. Petitioner's petition for writ of prohibition.

D-11-1259. Stark Ligon, Executive Director, Committee on Professional Conduct v. Bruce J. Bennett, Arkansas Bar No. 92140, an Original Action. Findings of fact and conclusions of law.

D-16-174. Stark Ligon, Executive Director, Committee on Professional Conduct v. Jeffery H. Kearney, Arkansas Bar No. 91249, an Original Action. Petition for disbarment.

D-16-251. In Re William T. Finnegan, Arkansas Bar No. 79063, an Original Action. Petition of William T. Finnegan, Arkansas Bar No. 79063, for voluntary surrender of license (resignation).

D-16-252. In Re Emily Ann Abernathy, Arkansas Bar No. 80028, an Original Action. Petition of Emily Ann Abernathy, Arkansas Bar No. 80028, for voluntary surrender of license (resignation).

D-16-253. In Re Michael Edward Harris, Arkansas Bar No. 76168, an Original Action. Petition of Michael Edward Harris, Arkansas Bar No. 76168, for voluntary surrender of license (resignation).

D-16-254. In Re Bradley Watkins Butler, Arkansas Bar No. 92061, an Original Action. Petition of Bradley Watkins Butler, Arkansas Bar No. 92061, for voluntary surrender of license (resignation).

D-16-282. In Re Terrance J. Cirocco, Arkansas Bar No. 98229, an Original Action. Petition of Terrance J. Cirocco, Arkansas Bar No. 98229, for voluntary surrender of license (resignation).

D-16-283. In Re Ivy Glen Lincoln, Arkansas Bar No. 78094, an Original Action. Petition of Ivy Glen Lincoln, Arkansas Bar No. 78094, for voluntary surrender of license (resignation).

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CASES SUBMITTED

CR-15-857. Alvin T. Fukunaga v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CV-15-422. Marilyn J. Worsham v. Director et al., from the Arkansas Board of Review.

CV-15-809. Wendy Jones and Lynn Gangemella v. Ted Douglas, Individually, and John Paul Morrison, Individually, and D/B/A Polymers, Inc., from Garland County Circuit Court.

Opinions are available on the internet at

<http://courts.arkansas.gov>