

ARKANSAS SUPREME COURT

PROCEEDINGS OF JUNE 9, 2016

PAUL E. DANIELSON, JUSTICE

[CR-15-618](#). State of Arkansas v. Vann Bragg, from Phillips County Circuit Court. Appeal dismissed. Special Justices T. Collier Moore and Shannon L. Blatt join. Wood and Wynne, JJ., not participating.

KAREN R. BAKER, JUSTICE

[CV-15-824](#). Temika Donley v. Lakitcher Donley, from Pulaski County Circuit Court, Seventh Division. Reversed and remanded in part; affirmed in part; court of appeals' opinion vacated. Special Justice Debby Linton Ferguson joins. Brill, C.J., and Danielson and Wood, JJ., concur in part and dissent in part. Wynne, J., not participating.

COURTNEY HUDSON GOODSON, JUSTICE

[CR-15-825](#). Robert Friar v. State of Arkansas, from Jackson County Circuit Court. Affirmed. Baker, J., concurs. Brill, C.J., and Danielson and Hart, JJ., dissent.

ROBIN F. WYNNE, JUSTICE

[CR-07-1155](#). Steven Victor Wertz v. State of Arkansas, from Sharp County Circuit Court. Motion granted; death sentence reversed and remanded for resentencing. Danielson and Wood, JJ., dissent.

[CV-15-345](#). Romario V. Waller v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Affirmed in part; reversed in part.

[CV-15-480](#). Calvin Johnson, In His Official Capacity, and Board of Trustees of the University of Arkansas v. Eugene Butler, from Pulaski County Circuit Court, Sixth Division. Reversed and dismissed. Special Justice R. Margaret Dobson concurs. Danielson and Hart, JJ., and Special Justice Robert L. Jones III dissent. Brill, C.J., and Goodson, J., not participating.

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PER CURIAM ORDERS

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

CV-16-182. Gerald Stow v. State of Arkansas, from Baxter County Circuit Court.

CV-16-198. Arkansas Department of Parks & Tourism and Public Employee Claims Division v. Bill J. Price, from the Arkansas Workers' Compensation Commission.

CV-16-199. Laroy Foster v. Gerald L. Wasson and Lisa Wasson, Trustees of the Wasson Family Trust UTA Dated March 28, 2007, from Fulton County Circuit Court.

CV-16-255. Vernon Keith Dillard v. Sex Offender Assessment Committee, from Garland County Circuit Court.

CR-02-228. James E. Smith v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se motion for reconsideration is denied.

CR-02-228. James E. Smith v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se motion for reconsideration of motion for appointment of counsel is moot.

CR-02-228. James E. Smith v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se motion to subpoena copy of "no merit" direct appeal brief is moot.

CR-16-63. Kenneth Ray Marshall v. State of Arkansas, from Columbia County Circuit Court. Motion of Terrence Cain to appear as an additional attorney for the appellant is noted.

CR-16-63. Kenneth Ray Marshall v. State of Arkansas, from Columbia County Circuit Court. Appellant's motion to correct the record is granted.

CR-16-63. Kenneth Ray Marshall v. State of Arkansas, from Columbia County Circuit Court. Appellant's motion to stay the briefing schedule is granted.

CV-15-198. SEECO, Inc. n/k/a/ SWN Production (Arkansas), Inc.; DeSoto Gathering Company, LLC; and Southwestern Midstream Services Company v. Sara Stewmon et al., from St. Francis County Circuit Court. Appellant's motion for leave to file supplemental abstract, brief, and addendum is granted. Special Justice Bob Estes, Special Justice Scott Willhite, and Special Justice Scott Richardson agree. Danielson, Baker, and Goodson, JJ., not participating.

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CV-15-558. Brenda Hendrix, Individually and as Special Administrator for the Estate of Guy D. Hendrix, Deceased v. Alcoa, Inc., and Breeding Insulation Company, from Saline County Circuit Court. Motion of William A. Kohlburn to appear pro hac vice is granted. Wynne, J., not participating.

[CV-15-816](#). Jessie Hill v. Richard H. Gallagher, Custodian of Records, Arkansas State Crime Lab, from Jefferson County Circuit Court. Motion for reconsideration. Motion treated as petition for writ of mandamus and granted. See **per curiam** this date.

CV-15-1045. Antonio Martini v. Christopher Price, from Faulkner County Circuit Court. Appellant's motion for permission to file supplemental brief is granted.

CV-15-1045. Antonio Martini v. Christopher Price, from Faulkner County Circuit Court. Appellee's motion for permission to file supplemental brief, and motion to require appellant to supplement abstract and addendum granted in part; denied in part. Appellee's motion for permission to file supplemental brief is granted. Motion to require appellant to supplement abstract and addendum is denied.

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; 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. Appellee's motion to supplement the record is granted.

CV-15-1068. Kenneth W. Tilley, Individually and as Trustee of the Kenneth Tilley Family Trust v. Malvern National Bank and Stephen Moore, from Garland County Circuit Court. Appellant's motion for reassignment of this appeal to the Arkansas Supreme Court is denied. Danielson, J., would grant.

CV-16-442. Anthony Creasy and Tammy Creasy v. BRM Foods, Inc., from Mississippi County Circuit Court, Chickasawba District. Appellee's motion to dismiss appeal is granted.

D-16-467. In Re Donna J. Hodges, Arkansas Bar No. 97073, an Original Action. Petition of Donna J. Hodges, Arkansas Bar No. 97073, for voluntary surrender of license (resignation) is granted.

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D-16-468. In Re David Bradley Olsen, Arkansas Bar No. 87127, an Original Action. Petition of David Bradley Olsen, Arkansas Bar No. 87127, for voluntary surrender of license (resignation) is granted.

D-16-469. In Re Suzanne Irwin Calvert, Arkansas Bar No. 92097, an Original Action. Petition of Suzanne Irwin Calvert, Arkansas Bar No. 92097, for voluntary surrender of license (resignation) is granted.

CR-15-1017. Albert E. McHan v. State of Arkansas, from Lee County Circuit Court. Appellee's motion to dismiss for mootness or, alternatively, for an extension of brief time and appellant's motion to extend time to file response to motion to dismiss. Appellee's motion to dismiss for mootness granted; appellee's motion for extension of brief time and appellant's motion to extend time to respond to motion to dismiss moot.

[CR-16-349](#). Johnnie L. Hill v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellant's pro se motions to be provided with a copy of the record, to enter supplemental exhibit, and for extension of time. Appeal dismissed; motions moot. See **per curiam** this date.

[CV-15-958](#). Kenny Halfacre v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appointment of the Arkansas Attorney General's Office. Danielson, J., dissents. See **per curiam** this date.

In Re Updated List of Attorneys Suspended For Failure to Pay 2016 Annual Attorney-License Fee. See [per curiam](#) this date.

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MOTIONS SUBMITTED

PETITION FOR REHEARING:

CR-06-1327. Terry Lee Ward v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division.

PETITIONS FOR REVIEW:

CR-16-427. Derrick Gerade Lambert v. State of Arkansas, from Drew County Circuit Court.

CV-16-110. India Bishop v. Farm Bureau Mutual Insurance Company of Arkansas, Inc., from Pulaski County Circuit Court, Third Division.

CV-16-132. Eileen Madden v. Mercedes-Benz USA, Inc. et al., from Jackson County Circuit Court.

CV-16-163. Teresa Bloodman v. Bank of America N.A., from Saline County Circuit Court.

CV-16-179. Liberty Bank of Arkansas, as Successor Trustee of the Vernon E. Arnold Revocable Trust v. Clyde E. Byrd, Jr., Executor of the Estate of Ardellia D. Byrd Arnold, Deceased, from Pope County Circuit Court.

CV-16-185. Elizabeth Ann Williamson, as Administrator of the Estate of Cynthia Frazier, Deceased, and on Behalf of the Wrongful Death Beneficiaries of Cynthia Frazier v. Baptist Health Medical Center, from Pulaski County Circuit Court, Third Division.

CV-16-222. Ricky Whitecotton and Denene Whitecotton v. Arlis Ray Owen and Jeannie Owen, from Logan County Circuit Court, Northern District.

CV-16-236. Sharon K. Barton, Robert Franklin Bryant, Gallie Thomas Bryant, and Frances Paulette Bryant v. Bobby and Sheila Brockinton, from Faulkner County Circuit Court.

CV-16-238. Joshua Kilgore v. Robert Mullenax and Senior Dental Care, LLC, from Pulaski County Circuit Court, Second Division.

CV-16-257. Sarah C. Gildehaus v. Arkansas Alcoholic Beverage Control Board and Christopher Moore, from Benton County Circuit Court.

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CR-15-948. Randy William Gay v. State of Arkansas, from Garland County Circuit Court. Appellant's motion to file enlarged brief.

CR-16-165. Chris Aaron Schnarr v. State of Arkansas, from Pulaski County Circuit Court, First Division. Appellant's motion for certification to the Supreme Court.

CR-16-266. Rashune Leon Raglon v. State of Arkansas, from Jefferson County Circuit Court. Appellant's motion for extension of time to lodge record.

CR-16-487. Christopher Beverage v. State of Arkansas, from Jefferson County Circuit Court. Appellant's motion for rule on clerk.

CR-16-505. Cohen James Davis v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's motion for belated appeal and motion to withdraw.

CV-15-912. Convent Corporation, Individually and on Behalf of All Others Similarly Situated v. City of North Little Rock, Arkansas, a Municipal Corporation; Joe Smith, Mayor, Individually and In His Official Capacity; City Council Members Debi Ross, Beth White, Linda Robinson, Maurice Taylor, Steve Baxter, Bruce Foutch, Murry Witcher, and Charlie Hight, Each Individually and In His or Her Official Capacity; Tom Wadley, Director, Code Enforcement Division, Individually and In His Official Capacity; and Felicia McHenry, Code Enforcement Officer, Individually and In Her Official Capacity, from Pulaski County Circuit Court, Twelfth Division. Appellant's motion for costs on appeal.

CV-15-988. Nathaniel Smith, MD, MPH, Director of the Arkansas Department of Health, In His Official Capacity, and His Successors in Office v. Marisa N. Pavan and Terrah D. Pavan, Individually and as Parents, Next Friends, and Guardians of T.R.P., a Minor Child; Leigh D.W. Jacobs and Jana S. Jacobs, Individually and as Parents, Next Friends, and Guardians of F.D.J, a Minor Child; and Courtney M. Kassel and Kelly L. Scott, Individually and as Parents, Next Friends, and Guardians of A.G.S., a Minor Child, from Pulaski County Circuit Court, Sixth Division. Motion for permission to file amicus curiae brief of the American Civil Liberties Union and the Arkansas Civil Liberties Union.

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. Appellant's motion for reconsideration for extension of time to file record on appeal, waiver of filing fee, waiver of transcript and record.

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CV-16-161. Progressive Eldercare Services-Bryant, Inc. d/b/a Southern Trace Rehabilitation and Care Center v. Wilda Price, as Personal Representative of the Estate of Dovie Price, from Saline County Circuit Court. Appellant's petition to transfer case to the Arkansas Supreme Court.

CV-16-249. Hiawatha J. Covington v. United States of America, Rural Housing Service, from Hempstead County Circuit Court. Appellee's motion to dismiss and brief in support.

CV-16-269. Arkansas Department of Human Services/ Division of Youth Services v. State of Arkansas, Stephanie Daniels, and J.D., Minor Child, from Pulaski County Circuit Court, Eleventh Division. Appellant's motion for belated filing of record.

CV-16-270. Arkansas Department of Human Services/Division of Youth Services v. State of Arkansas and J.J., Minor Child, from Pulaski County Circuit Court, Eleventh Division. Appellant's motion for belated filing of record.

CV-16-271. Arkansas Department of Human Services/Division of Youth Services v. State of Arkansas, Linda Goodwin, and E.W., Minor Child, from Pulaski County Circuit Court, Eleventh Division. Appellant's motion for belated filing of record.

CV-16-500. Stasia Scarver v. Arkansas Department of Human Services and Minor Children, from Pulaski County Circuit Court, Eleventh Division. Appellant's motion for rule on clerk.

CV-16-501. Kelion Bowman v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Eleventh Division. Appellees' motion to dismiss appeal.

CV-16-502. Shanice Cox v. Arkansas Department of Human Services and Minor Children, from Pulaski County Circuit Court, Eleventh Division. Appellees' motion to dismiss appeal.

D-16-491. In Re Thomas J. Demarco, Arkansas Bar No. 80175, an Original Action. Petition of Thomas J. Demarco, Arkansas Bar No. 80175, for voluntary surrender of license (resignation).

D-16-492. In Re Russell A. Hollrah, Arkansas Bar No. 84185, an Original Action. Petition of Russell A. Hollrah, Arkansas Bar No. 84185, for voluntary surrender of license (resignation).

D-16-493. In Re P. Maureen Bock-Dill, Arkansas Bar No. 91020, an Original Action. Petition of P. Maureen Bock-Dill, for voluntary surrender of license (resignation).

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D-16-494. In Re Kevin E. Reed, Arkansas Bar No. 2005103, an Original Action. Petition of Kevin E. Reed, Arkansas Bar No. 2005103, for voluntary surrender of license (resignation).

D-16-495. In Re David Brock East, Arkansas Bar No. 2006107, an Original Action. Petition of David Brock East, Arkansas Bar No. 2006107, for voluntary surrender of license (resignation).

D-16-498. In Re Lynn Jeanne Bush, Arkansas Bar No. 76155, an Original Action. Petition of Lynn Jeanne Bush, Arkansas Bar No. 76155, for voluntary surrender of license (resignation).

CV-16-472. Reginald L. Dunahue v. Honorable Jodi Raines Dennis, Circuit Judge, and Cindy Glover, Circuit Clerk of Lincoln County, from Lincoln County Circuit Court. Petitioner's pro se petition for intervention and order to comply filed as motion for rule on Arkansas Supreme Court Clerk.

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CASES SUBMITTED

CV-15-944. Integrated Direct Marketing, LLC. v. Drew May and Merkle, Inc., from the United States District Court for the Eastern District of Virginia. Orally argued.

CR-15-971. Clint Jacob Beavers v. State of Arkansas, from Garland County Circuit Court.

CV-15-953. Katie D. Stehle v. Ernest W. Zimmerebner III, from Faulkner County Circuit Court.

CV-16-25. McCain Mall Company Limited Partnership v. Pulaski County Circuit Court et al., from Pulaski County Circuit Court, Twelfth Division.