

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF APRIL 20, 2017**

**JOSEPHINE LINKER HART, JUSTICE**

[CV-16-144](#). Marilyn Curry Troutman v. Ronald Troutman, from Washington County Circuit Court. Reversed and dismissed; court of appeals opinion vacated. Special Justices Jerrold John Scholtens and David Hogue join. Kemp, C.J., and Wood and Womack, JJ., dissent. Goodson and Wynne, JJ., not participating.

**RHONDA K. WOOD, JUSTICE**

[CR-16-228](#). Willie Noble v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Affirmed. Hart, J., concurring in part and dissenting in part.

[CV-16-545](#). Department of Arkansas State Police v. Keech Law Firm, P.A., from Pulaski County Circuit Court, Seventeenth Division. Affirmed.

**PER CURIAM OPINION**

[CR-16-961](#). Don Earl Lewis v. State of Arkansas, from Miller County Circuit Court. Affirmed.

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PER CURIAM ORDERS

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

CR-16-427. Derrick Gerade Lambert v. State of Arkansas, from Drew County Circuit Court. Baker and Hart, JJ., would grant.

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REVIEW MOOT: Petition for review was moot today in the following case.

CV-16-1137. Chelsea S. Harley v. Wyndham S. Dempster, Sr., from Pulaski County Circuit Court, Fourteenth Division.

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

CR-17-194. George Wesley Bates, Jr. v. State of Arkansas, from Poinsett County Circuit Court. Hart, J., would grant

CV-16-1120. Southern Farm Bureau Casualty Insurance Company v. Shelter Mutual Insurance Company and Tommy Roberson, from Ashley County Circuit Court.

CV-16-1147. Judith L. Arnold v. Jerry K. Ashworth, from Newton County Circuit Court.

CV-17-10. James Branch v. Stephanie Branch, from Saline County Circuit Court.

CV-17-108. Carolyn Lawson v. Simmons Sporting Goods, Inc., from Ashley County Circuit Court. Kemp, C.J., and Wood and Womack, JJ., would grant.

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CR-92-1385. Don William Davis v. State of Arkansas, from Benton County Circuit Court. Appellant’s motion to recall the mandate and for stay of execution. Stay of execution granted; motion to recall the mandate taken as a case. Baker, Wood, and Womack, JJ., would deny. See **dissenting opinions**. (Proceedings of April 17, 2017)

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CR-98-657. Bruce Earl Ward v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Appellant's motion to recall the mandate and for stay of execution. Stay of execution granted; motion to recall the mandate is taken as a case. Baker, Wood, and Womack, JJ., would deny. See **dissenting opinions**. (Proceedings of April 17, 2017)

CR-00-528. Don William Davis v. State of Arkansas, from Benton County Circuit Court. Appellant's motion to recall the mandate and for stay of execution. Stay of execution granted; motion to recall the mandate taken as a case. Baker, Wood, and Womack, JJ., would deny. See **dissenting opinions**. (Proceedings of April 17, 2017)

CR-17-312. Stacey Eugene Johnson v. State of Arkansas, from Sevier County Circuit Court. Petitioner's motion for stay of execution and for an order remanding for a hearing on petitioner's motion for postconviction DNA testing. Stay of execution granted. Remanded to circuit court for a hearing on petitioner's motion for postconviction DNA testing. Baker, Wood, and Womack, JJ., would deny. See **dissenting opinions**. (Proceedings of April 19, 2017)

CV-15-992. Wendy Kelley, Director, Arkansas Department of Correction and Arkansas Department of Correction v. Stacey Johnson, Jason McGehee, Bruce Ward, Terrick Nooner, Jack Harold Jones, Marcel Wayne Williams, Kenneth Williams, Don William Davis, and Ledell Lee, from Pulaski County Circuit Court, Fifth Division. Appellees' motion to recall the mandate and stay executions is denied. Goodson, Hart, and Wynne, JJ., would grant the motion to stay pending resolution of rehearing of petition for writ of certiorari in United States Supreme Court case no. 16-6496. (Proceedings of April 17, 2017)

CV-16-899. The W L Harper Company and American Zurich Insurance Company v. George T. Woods, from the Arkansas Workers' Compensation Commission. Appellants' motion to dismiss appeal is granted.

CV-16-1072. John E. Kiesling, Jr. v. Arkansas Professional Bail Association, from Pulaski County Circuit Court, Twelfth Division. Appellant's pro se motion for transfer back to the Arkansas Supreme Court is granted.

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CV-16-1080. Geraldine Henson, as Personal Representative of the Estate of David Henson, Deceased v. Kelley Craddock, in His Official Capacity; Keith Ferguson, Individually; Jeff Robbins, Individually and in His Official Capacity; Jeremy Guyll; Olin Rankin; Janna Hulet; Michelle Wills; Warren Lafferty; Association of Arkansas Counties; and John or Jane Does 8-25, from Benton County Circuit Court. Appellant's motion to certify appeal to the Arkansas Supreme Court is granted.

CV-16-1096. Gerber Products Company, Inc. v. CECO Concrete Construction, LLC; Alberici Constructors, Inc.; and Vee-Jay Cement Contracting Company, Inc., from Sebastian County Circuit Court, Fort Smith District. Respondent CECO Concrete Construction, LLC's motion to dismiss appeal is denied.

CV-16-1137. Chelsea S. Harley v. Wyndham S. Dempster, Sr., from Pulaski County Circuit Court, Fourteenth Division. Appellee's motion to file belated response is moot.

CV-16-1137. Chelsea S. Harley v. Wyndham S. Dempster, Sr., from Pulaski County Circuit Court, Fourteenth Division. Appellant's motion to withdraw petition for review is granted.

CV-16-1147. Judith L. Arnold v. Jerry K. Ashworth, from Newton County Circuit Court. Appellant's pro se motion to amend petition for review is denied.

CV-17-16. Theresa Marshall, Herman Marshall, and Earnest Marshall v. Nathaniel L. Marshall, Personal Representative of the Estate of Willie James Marshall, Deceased, from Pulaski County Circuit Court, Fourteenth Division. Appellant Theresa Marshall's pro se motion and brief in support for complete record is denied.

CV-17-103. Air Evac EMS, Inc. v. USABLE Mutual Insurance Co. d/b/a Arkansas Blue Cross and Blue Shield, from the United States District Court, Eastern District of Arkansas, Western Division. Petitioner's motion to admit out-of-state counsel pro hac vice is granted. Kemp, C.J., not participating.

CV-17-262. Little Rock Studios, LLC d/b/a H&H Agency and Erin Henry v. Melton Properties, LLC, from Pulaski County Circuit Court, Sixth Division. Appellants' petition for writ of certiorari to extend time to lodge the record is denied.

CV-17-263. Susannah Baxter v. John Wing, from Benton County Circuit Court. Petitioner's petition for writ of certiorari is granted. Baker, Goodson, and Wood, JJ., would deny.

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CV-17-288. Bruce Earl Ward v. Honorable Jodi Raines Dennis; William Asa Hutchinson, Governor of the State of Arkansas; Wendy Kelley, Director, Arkansas Department of Correction; Mark Cashion, Warden, Varner Supermax Unit; and Benny Magness, Chairperson, Arkansas Board of Correction, in Their Respective Official Capacities, from Jefferson County Circuit Court. Petitioner's emergency motion to proceed in forma pauperis and petition for writ of certiorari to complete the record is granted. (Proceedings of April 13, 2017)

CV-17-288. Bruce Earl Ward v. Honorable Jodi Raines Dennis; William Asa Hutchinson, Governor of the State of Arkansas; Wendy Kelley, Director, Arkansas Department of Correction; Mark Cashion, Warden, Varner Supermax Unit; and Benny Magness, Chairperson, Arkansas Board of Correction, in Their Respective Official Capacities, from Jefferson County Circuit Court. Petitioner's emergency petition for writ of mandamus is moot. (Proceedings of April 17, 2017)

CV-17-291. Bruce Earl Ward v. William Asa Hutchinson, Governor of the State of Arkansas; Wendy Kelley, Director, Arkansas Department of Correction; Mark Cashion, Warden, Varner Supermax Unit; and Benny Magness, Chairperson, Arkansas Board of Correction, in Their Respective Official Capacities, from Jefferson County Circuit Court. Petitioner's emergency petition for writ of certiorari to complete the record granted. Motion for stay of execution held in abeyance. Wood, J., would grant this petition for writ of certiorari, but would deny other relief requested within the petition. (Proceedings of April 14, 2017)

CV-17-291. Bruce Earl Ward v. William Asa Hutchinson, Governor of the State of Arkansas; Wendy Kelley, Director, Arkansas Department of Correction; Mark Cashion, Warden, Varner Supermax Unit; and Benny Magness, Chairperson, Arkansas Board of Correction, in Their Respective Official Capacities, from Jefferson County Circuit Court. Arkansas Supreme Court order issued April 14, 2017, vacated. Appellant's petition for emergency stay of execution is granted. Baker, Wood, and Womack, JJ., would deny. (Proceedings of April 17, 2017)

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CV-17-291. Bruce Earl Ward v. William Asa Hutchinson, Governor of the State of Arkansas; Wendy Kelley, Director, Arkansas Department of Correction; Mark Cashion, Warden, Varner Supermax Unit; and Benny Magness, Chairperson, Arkansas Board of Correction, in Their Respective Official Capacities, from Jefferson County Circuit Court. Appellees' emergency motion for reconsideration of order granting Ward's motion for stay of execution is denied. Baker, Wood, and Womack, JJ., would grant. Appellees' emergency motion to supplement the record on appeal is moot. (Proceedings of April 17, 2017)

CV-17-293. SEECO, Inc. n/k/a SWN Production (Arkansas), Inc. v. Eldredge Snow et al., from Conway County Circuit Court. Appellant's motion for accelerated proceedings is granted. Baker and Goodson, JJ., not participating. (Proceedings of April 17, 2017)

CV-17-299. State of Arkansas, Arkansas Department of Correction; Asa Hutchinson, in His Official Capacity as Governor of the State of Arkansas; and Wendy Kelley, in Her Official Capacity as Director of the Arkansas Department of Correction v. Honorable Wendell Griffen, Circuit Judge, and McKesson Medical-Surgical, Inc., from Pulaski County Circuit Court, Fifth Division. Petitioner's emergency petition for writ of mandamus, writ of prohibition, writ of certiorari, or supervisory writ. Petition for writ of mandamus and prohibition denied. Petition for writ of certiorari granted; temporary restraining order vacated. Kemp, C.J., and Hart, J., would have held ruling on petition for writ of certiorari in abeyance pending disposition of McKesson's voluntary motion to dismiss. Motion to remove Judge Wendell Griffen from case moot. (Proceedings of April 17, 2017)

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[CR-14-1088](#). Fred L. Williams v. State of Arkansas, from Drew 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 is denied. See **per curiam** this date.

CR-16-1088. Mark T. Crutcher v. Honorable Gordon Webb, Circuit Judge, from Baxter County Circuit Court. Petitioner's pro se petition for writ of mandamus is moot. Womack, J., not participating.

CR-17-145. Eric C. Burgie v. State of Arkansas, from Garland County Circuit Court. Petitioner's pro se motions for rule on clerk. Motions treated as motions for belated appeal and denied.

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[CV-16-907](#). Kenneth Ray Pitts v. Patrick S. Drummond, APN; William Benton, Health Services Administrator; Roy Griffins, Deputy Director, Health and Correctional Program; and Arkansas Department of Correction, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motions for appointment of counsel and to proceed without costs. Motion to proceed without costs moot; motion for appointment of counsel denied in part and granted in part; pro se brief due 30 days from the date of this order (May 20, 2017). See **per curiam** this date.

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**MOTIONS SUBMITTED**

**PETITIONS FOR REVIEW:**

CV-17-114. Kim Hudspeth (now Lemons) v. Robert Hudspeth, Administrator of the Estate of Brad Hudspeth, from St. Francis County Circuit Court.

CV-17-116. Reuben Barnes and Margaret Barnes v. Ozarks Community Hospital of Gravette Clinic and William F. Webb, M.D., from Benton County Circuit Court.

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CR-13-21. Vernell R. Conley v. State of Arkansas, from Washington County Circuit Court. Motion of J. Thomas Sullivan for leave to appear as counsel on motion to recall the mandate and for leave to file out-of-time petition for rehearing on remand from the United States District Court, Eastern District of Arkansas.

CR-13-21. Vernell R. Conley v. State of Arkansas, from Washington County Circuit Court. Appellant's motion to recall the mandate and for leave to file out-of-time petition for rehearing on remand from the United States District Court, Eastern District of Arkansas.

CR-16-1061. Kevin Lee Reed v. State of Arkansas, from Benton County Circuit Court. Appellee's motion to remand to the trial court to settle the record.

CR-17-57. Shaun C. Allen v. State of Arkansas, from Faulkner County Circuit Court. Petitioner's pro se motion for reconsideration of transfer of motion for rule on clerk to Arkansas Court of Appeals.

CR-17-276. Richard Jordon Tarver v. State of Arkansas, from Craighead County Circuit Court, Western District. Appellant's motion to substitute counsel for purposes of appeal.

CV-16-560. Wayne Holden & Company, Inc. v. Tyler Waggoner, Deceased, from the Arkansas Workers' Compensation Commission. Joint status report and renewed motion to withdraw petition for review.

CV-17-184. Wynne-Ark, Inc. d/b/a Kelley's Restaurant v. Richard Baughn Construction, from Cross County Circuit Court. Respondent's motion for leave to view and copy materials filed under seal.



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CV-17-273. Playpower, Inc.; Playpower LT Farmington, Inc.; and Kyle Recreation, Inc. v. Josh and Megan Steinbeck, Individually and on Behalf of Kylee Steinbeck, Minor Child, from Phillips County Circuit Court. Petitioners' petition for writ of certiorari to supplement and complete the record.

D-11-1259. Stark Ligon, Executive Director of the Supreme Court Committee on Professional Conduct v. Bruce J. Bennett, Arkansas Bar No. 92140, an Original Action. Respondent's petition for acceptance of non-conforming brief.

D-14-415. Stark Ligon, Executive Director of the Supreme Court Committee on Professional Conduct v. Kenneth Alan Harper, Arkansas Bar No. 89022, an Original Action. Petitioner's motion for order of default judgment of disbarment.

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CR-14-923. Terry Antonio Lee v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Appellant's pro se motion for bail pending appeal according to Arkansas Supreme Court Rules of Appellate Procedure Rule 6.

CR-16-849. Frederick Pennington, Jr. v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellant's pro se motion to file amended and supplemental pleadings.

CR-16-968. Ivor Gordon v. State of Arkansas, from Pulaski County Circuit Court, First Division. Appellant's pro se motion for extension of time to file brief.

CR-17-120. Morris Dean Davis v. State of Arkansas, from Boone County Circuit Court. Petitioner's pro se motion for belated appeal.

CR-17-146. Christopher Allan Eason, Sr. v. State of Arkansas, from Clark County Circuit Court. Petitioner's pro se motions for belated appeal of sentencing order and for appointment of counsel.

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**CASES SUBMITTED**

CR-16-606. Robert Lee Sandrelli v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District.

CR-16-809. Marvin Stanton v. State of Arkansas, from Miller County Circuit Court.

CV-16-934. Keep Our Dollars in Independence County and Carol Crosby v. Tracey Mitchell, in Her Official Capacity as County Clerk; Candy Allison Konkler; and State of Arkansas, from Independence County Circuit Court.

CV-17-112. Jacob Earls v. Arkansas Department of Human Services and Minor Children, from Greene County Circuit Court.