

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

KAREN R. BAKER, JUSTICE

[CR-17-502](#). Myron Newjean Anderson, Jr. v. State of Arkansas, from Ashley County Circuit Court. Affirmed; motion moot.

[CV-17-361](#). Kendrick C. Story v. State of Arkansas, from Lee County Circuit Court. Affirmed; motions moot.

COURTNEY HUDSON GOODSON, JUSTICE

[CV-16-758](#). Willie Hutcherson v. Arkansas Attorney General, Leslie Rutledge; Arkansas Public Defender Commission; Pulaski County Chief Public Defender, William Simpson; Pulaski County Public Defender, Steven Abed; Pulaski County Prosecuting Attorney, Larry Jegley; and Pulaski County Prosecuting Attorney, Terry Ball, from Lee County Circuit Court. Affirmed.

[CV-17-558](#). Edmond McClinton v. State of Arkansas, from Jefferson County Circuit Court. Appellant's pro se motion for leave to add to addendum of appeal brief to provide complete medical record. Appeal dismissed; motion moot.

JOSEPHINE LINKER HART, JUSTICE

[CR-17-167](#). Rickie Green v. State of Arkansas, from Lonoke County Circuit Court. Reversed and remanded; motion denied.

[CR-17-314](#). State of Arkansas v. Frederick D. Owens, Jr., from Prairie County Circuit Court, Northern District. Appeal dismissed. Wood and Womack, JJ., dissent.

ROBIN F. WYNNE, JUSTICE

[CR-16-1101](#). Bruce Wayne Brown v. State of Arkansas, from Garland County Circuit Court. Affirmed.

[CR-17-253](#). Thomas C. Ortega v. State of Arkansas, from Garland County Circuit Court. Appellant's pro se motion for extension of time to file brief. Appeal dismissed; motion moot. Wood, J., concurs. Hart, J., dissents.

[CV-17-103](#). Air Evac EMS, Inc. v. USABLE Mutual Insurance Co. d/b/a Arkansas Blue Cross Blue Shield, from the United States District Court, Eastern District of Arkansas, Western Division. Certified questions reformulated and answered. Special Justice Robert M. Veach joins. Baker, J., dissents. Kemp, C.J., not participating.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

PER CURIAM ORDERS

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

CR-05-1183. Walter A. McCullough v. State of Arkansas, from Craighead County Circuit Court, Western District.

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

CV-17-896. Arkansas Game & Fish Commission and Public Employee Claims Division v. Oscar A. Gerard, Jr., from the Arkansas Workers' Compensation Commission. Wood, J., would deny.

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

CR-17-939. James Moe v. State of Arkansas, from Benton County Circuit Court.

CR-17-943. Darryl Vincent Talley, Jr. v. State of Arkansas, from Pulaski County Circuit Court, First Division.

CV-17-869. Kristina Bonds v. Clay Bonds, from Pope County Circuit Court. Wood, Wynne, and Womack, JJ., would grant.

CV-17-872. Randy Grantham v. Hornbeck Agricultural Group, LLC, AG-Comp SIF Claims, and Death & Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission.

CV-17-909. Harold R. Dace v. Debra (Dace) Doss, from White County Circuit Court. Hart, J., would grant.

CV-17-921. Fayetteville Express Pipeline, LLC v. Arkansas Public Service Commission, from Pulaski County Circuit Court, Fifth Division.

CV-17-928. Heather Kirby f/k/a Heather Semeyn v. Jeffrey Semeyn, from Stone County Circuit Court. Hart, J., would grant.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

PER CURIAM ORDERS

CR-07-681. Wesley Jefferson v. State of Arkansas, from St. Francis County Circuit Court. Petitioner's pro se motion for reconsideration is denied.

CR-17-654. Kenneth Reams v. State of Arkansas, from Jefferson County Circuit Court. Motion of Amanda K. Wofford to appear as amicus counsel is granted. Baker and Goodson, JJ., would deny.

CR-17-654. Kenneth Reams v. State of Arkansas, from Jefferson County Circuit Court. Appellant's unopposed petition for writ of certiorari to complete the record is granted.

CR-17-709. Jonathan Ryan Hill v. State of Arkansas, from Faulkner County Circuit Court. Motion of J.G. "Gerry" Schulze to appear as additional counsel for appellant is granted. Wood, Wynne, and Womack, JJ., would note the entry of appearance.

CV-17-341. Tyrell Benson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's motion for permission for counsel to rebrief is granted.

CV-17-438. Terrick Nooner v. Wendy Kelley, Director, Arkansas Department of Correction; and Donald Trump, President, United States of America, from Lincoln County Circuit Court. Appellant's pro se motion for sanctions is denied.

CV-17-700. Vernell Conley v Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellee's motion to dismiss or, in the alternative, motion for extension of time in which to file brief. Appellee's motion to dismiss is granted. Kemp, C.J., and Baker and Hart, JJ., would grant motion for extension of time in which to file brief.

CV-17-794. POM Wonderful, LLC v. Willese Moton, on Behalf of Herself and All Other Arkansas Residents Similarly Situated, from Pulaski County Circuit Court, Ninth Division. Appellant's motion to dismiss appeal without prejudice is granted.

CV-17-818. Eugene Bennett v. Circuit Court of Crawford County, from Crawford County Circuit Court. Petitioner's motion to supplement the record is moot. Baker and Hart, JJ., would grant.

CV-17-858. Tanya McGary, as Administratrix of the Estate of William McGary, Deceased v. Union Pacific Railroad Company; Barry Strickland; and John Does I–III, from Faulkner County Circuit Court. Appellees’ motion to dismiss appeal is granted.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

PER CURIAM ORDERS

CV-17-858. Tanya McGary, as Administratrix of the Estate of William McGary, Deceased v. Union Pacific Railroad Company; Barry Strickland; and John Does I–III, from Faulkner County Circuit Court. Appellant’s verified motion for Edward D. Fisher to enroll as counsel pro hac vice is moot. Kemp, C.J., would grant.

CV-17-893. Margaret Ellis v. Roger Thompson and Frances Thompson, from Cross County Circuit Court. Appellant’s petition for writ of certiorari to complete the record is granted.

CV-17-901. 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 Corrections; in Their Respective Official Capacities, from Pulaski County Circuit Court, Sixth Division. Appellant’s motion to proceed in forma pauperis is granted.

CV-17-904. Bruce Earl Ward v. Honorable Timothy Davis Fox, Circuit Judge, from Pulaski County Circuit Court, Sixth Division. Petitioner’s motion to proceed in forma pauperis is granted.

CV-17-941. Mary Christine Haggard v. Brian Edward Haggard, from Washington County Circuit Court. Appellant’s motion for belated filing of petition for review is denied. Goodson, J., not participating.

CV-17-942. Mirna Yanira Cucul Berganza v. Jose Luis Delgado-Moto, from Pulaski County Circuit Court, Fifteenth Division. Appellant’s motion for rule on clerk is denied.

CV-17-957. In Re Myisha Schinice Colston, an Original Action. Petitioner’s pro se motion for rule on clerk is denied.

CV-17-1006. Nathaniel Smith, M.D., MPH, Director of the Arkansas Department of Health, in His Official Capacity and His Successors in Office v. Honorable Timothy Fox, Circuit Judge, from Pulaski County Circuit Court, Sixth Division. Petitioner’s motion to supplement the partial record is granted.

CV-17-1006. Nathaniel Smith, M.D., MPH, Director of the Arkansas Department of Health, in His Official Capacity and His Successors in Office v. Honorable Timothy Fox, Circuit Judge, from Pulaski County Circuit Court, Sixth Division. Petitioner's emergency petition for writ of mandamus, writ of prohibition, writ of certiorari, supervisory writ, or other appropriate relief. Motion to expedite and emergency petition for writ is dismissed as moot.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

PER CURIAM ORDERS

CR-03-1127. Anarian Chad Jackson v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se fifth petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis and for writ of habeas corpus is dismissed.

CR-03-1181. Abraham Grant v. State of Arkansas, from Phillips County Circuit Court. Petitioner's pro se seventh petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis is dismissed; pro se request pursuant to Arkansas's Freedom of Information Act for a file-marked copy of the petition for writ of error coram nobis is denied; and pro se motion for default judgment is denied.

[CR-14-580](#). Kou Her v. State of Arkansas, from Johnson County Circuit Court. Petitioner's pro se motion for full motion of discovery and all exhibits treated as motion for copies of portions of the transcript at public expense and denied. Hart, J., concurs. See **concurring opinion** this date.

CR-14-972. Serandon Starling v. State of Arkansas, from Miller County Circuit Court. Petitioner's pro se motion for copy of transcript at public expense is denied.

CR-17-338. James Flowers v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Appellant's pro se motion for extension of time to file a supplemental addendum and for court order for Pulaski County Circuit Court to provide appellant his certified copy of records for appeal purposes treated as pro se motion for an extension of time to submit appellant's corrected brief, for access to the record on appeal, and for permission to supplement the addendum with material not included in the record on appeal and granted in part and denied in part; appellant's brief now due thirty days from the date of this per curiam order; our clerk is to provide a copy of the record in CR-17-338 to appellant and that copy of the record must be returned on tender of appellant's brief for the brief to be filed; permission to supplement addendum with material not included in the record on appeal is denied.

CR-17-674. Serandon Starling v. Honorable Brent Haltom, Circuit Judge, from Miller County Circuit Court. Petitioner's pro se petition for writ of mandamus is dismissed.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

PER CURIAM ORDERS

CR-17-725. Edmond McClinton v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se motion for belated appeal treated as motion for rule on clerk and granted; the Lincoln County Circuit Clerk is directed to provide a certified copy of the Rule 37.1 petition file-marked on September 21, 2015, within ten days of this per curiam order; the record is to be lodged on receipt of the certified copy, and a briefing schedule set.

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 "motion for pro se brief" and appointment of counsel. Pro se motion to file a pro se brief treated as pro se motion to submit motion as pro se brief and for appointment of counsel and denied; a brief that complies with Rule 4-7 of the Rules of the Arkansas Supreme Court and Court of Appeals is due thirty days from the entry of this per curiam order.

CV-17-278. \$4,076.00 in U.S. Currency and Nathaniel Adam Walters v. State of Arkansas, from Washington County Circuit Court. Petitioner's pro se motion to accept belated filing fee is granted.

CV-17-332. Carl Davis, Jr. v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for extension of time to file brief and "to submit the specific portion of an exact copy of appellant's December 7, 2016, petition for declaratory judgment and writ of mandamus which must be file-marked and comply with Arkansas Supreme Court Rule 4-7" and motion for appointment of counsel. Motion for extension of brief time granted; motion for appointment of counsel denied; appellant's brief filed as of the date of this per curiam order.

CV-17-616. Russell Berger v. Bill Bryant, Director of the Arkansas State Police, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motion to waive briefing and to file supplemental record is denied; appellant's brief due within twenty-one

days of the date of this per curiam order; pro se motion for extension of time to file brief or, in the alternative, to file a belated brief is moot.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

PER CURIAM ORDERS

CV-17-693. James Edward Whitney v. António Guterres, Secretary General, United Nations; Donald Trump, President, United States of America; Jeff Sessions, United States Attorney General; Asa Hutchinson, Governor of the State of Arkansas; Leslie Rutledge, Arkansas Attorney General; Rick Snyder, Governor of the State of Michigan; and Bill Schuette, Michigan Attorney General; in Their Official Capacities, from Lincoln County Circuit Court. Petitioner's pro se petition for leave to proceed in forma pauperis in appeal from order denying petition to proceed in forma pauperis and to file an affidavit of sovereignty is moot; record shall be filed as of the date of this per curiam order and a briefing schedule shall be set.

In Re Arkansas Supreme Court Committee on Criminal Practice. See [per curiam](#) this date.

In Re Voluntary Pilot Program for Appellate Mediation in the Arkansas Court of Appeals. See [per curiam](#) this date.

In Re Arkansas Access to Justice Foundation, Inc. See [per curiam](#) this date.

Stacey Pectol, Esq., of Little Rock, is appointed to the Board of Directors of Arkansas Access to Justice Foundation, Inc., for a three-year term to commence on April 30, 2018, and expire on April 30, 2021. The court thanks her for accepting appointment to the board.

The court expresses its gratitude to Frank Sewall, whose term will be expiring, for his valuable service to the board.

In Re Adoption of Revised Rules 11 and 64 and New Rule 87 of the Arkansas Rules of Civil Procedure. See [per curiam](#) this date.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

MOTIONS SUBMITTED

PETITION FOR REHEARING:

CV-17-672. Carl Prince v. Wendy Kelley, Director, Arkansas Department of Correction, from Sebastian County Circuit Court, Fort Smith District.

CR-16-970. Ardwin Sylvester v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's pro se motion for reconsideration.

CR-17-76. Sammy W. Dortch, Jr. v. State of Arkansas, from Independence County Circuit Court. Appellant's request for oral argument.

CR-17-654. Kenneth Reams v. State of Arkansas, from Jefferson County Circuit Court. Motion of Danielle Gray to appear pro hac vice.

CR-17-654. Kenneth Reams v. State of Arkansas, from Jefferson County Circuit Court. Motion of Samantha Goldstein to appear pro hac vice.

CR-17-654. Kenneth Reams v. State of Arkansas, from Jefferson County Circuit Court. Motion of John Hill to appear pro hac vice.

CR-17-654. Kenneth Reams v. State of Arkansas, from Jefferson County Circuit Court. Motion of National Association for public defense and distinguished members of the bar for leave to file brief of amicus curiae.

CR-17-792. James Elijah West v. State of Arkansas, from Garland County Circuit Court. Motion of Sharon Kiel for award of attorney's fees.

CR-17-988. Rodolfo A. Martinez v. State of Arkansas, from Washington County Circuit Court. Motion of Michael C. Roberson to be relieved as attorney for appellant and stay of briefing schedule.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

MOTIONS SUBMITTED

CV-15-988. Nathaniel Smith, M.D., 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; 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. Appellees' protective motion for appellate attorney's fees and expenses.

CV-15-988. Nathaniel Smith, M.D., 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; 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. Appellees' motion to transfer motion for attorney's fees and expenses.

CV-15-988. Nathaniel Smith, M.D., 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; 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. Appellant's motion for leave to file a belated response to appellees' fee motions.

CV-17-473. Parrish Dare v. Scott Frost, from Saline County Circuit Court. Appellant's motion for belated brief.

CV-17-496. Arkansas Community Correction v. Annette Barnes, from Pulaski County Circuit Court, Sixth Division. Appellant's motion to stay proceedings.

ARKANSAS SUPREME COURT

PROCEEDINGS OF DECEMBER 14, 2017

MOTIONS SUBMITTED

CV-17-970. Gen-Kal Pipe & Steel Corp.; Eugene Kalsky; and John Does 1–10; Intending to Refer to Those Persons, Corporations, or Other Legal Entities that Acted as Agents, Consultants, Independent Contractors or Representatives v. M.S. Wholesale Plumbing, Inc.; on Behalf of Itself and all Other Entities and Persons Similarly Situated, from Pope County Circuit Court. Appellees’ motion to docket case and dismiss appeal for non-compliance with Rule 3(e) and 6(b) of the Arkansas Rules of Appellate Procedure - Civil.

CV-17-976. The Logan Centers, Inc. d/b/a The Logan Centers at Forrest City, Arkansas; and The Logan Centers as West Memphis, Arkansas v. Carla Walker, Administratrix of the Estate of Antonio Cozart, Deceased, from Crittenden County Circuit Court. Petitioner’s petition for permission to appeal order compelling production of privileged documents.

CV-17-983. Jefferson Hospital Association, Inc. d/b/a Jefferson Regional Medical Center; Continental Casualty Company, an Insurer of Jefferson Hospital Association, Inc. d/b/a Jefferson Regional Medical Center Preferred Provider Organization; Pine Bluff Radiologists, LTD.; Edward Elmer Chua Angtuaco, M.D.; Edward E. Angtuaco, M.D.; Nancy Williams, M.D.; Charles Mabry, M.D.; Jeff Ballard, CT Technologist; John/Jane Does 1–5; John/Jane Doe M.D.’s 1–5; John Doe Direct Action Insurers; and Carriers and Insurance Companies v. Whitney Nicole Smith, Individually and as Special Administratrix of the Estate of Doris Laree Moss Smith, Deceased; and on Behalf of All Wrongful Death Beneficiaries and Heirs at Law, from Jefferson County Circuit Court. Petitioner’s petition for appeal of an order compelling the production of privileged documents and information.

D-17-980. In Re La Jeana Faye Jones, Arkansas Bar No. 89034, an Original Action. Petition of La Jeana Faye Jones, Arkansas Bar No. 89034, for voluntary surrender of license (resignation).

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<http://courts.arkansas.gov>