THIS BOOK CONTAINS THE OFFICIAL

ARKANSAS REPORTS

Volume 341

CASES DETERMINED
IN THE

Supreme Court of Arkansas

FROM
April 13, 2000 — July 13, 2000
INCLUSIVE[1]

AND

ARKANSAS APPELLATE REPORTS

Volume 70

CASES DETERMINED
IN THE

Court of Appeals of Arkansas

FROM
April 5, 2000 — July 5, 2000
INCLUSIVE[2]

PUBLISHED BY THE
STATE OF ARKANSAS
2000

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[1]Arkansas Supreme Court cases (ARKANSAS REPORTS) are in the front section pages 1 through 961. Cite as 341 Ark. ___ (2000).

[2]Arkansas Court of Appeals cases (ARKANSAS APPELLATE REPORTS) are in the back section, pages 1 though 526. Cite as 70 Ark. App. ___ (2000).

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ARKANSAS REPORTS

Volume 341

CASES DETERMINED
IN THE

Supreme Court of Arkansas

FROM
April 13, 2000 — July 13, 2000
INCLUSIVE

WILLIAM B. JONES, JR.
REPORTER OF DECISIONS

CINDY M. ENGLISH
DEPUTY
REPORTER OF DECISIONS

VICTORIA M. FREY
EDITORIAL ASSISTANT

'ISHED BY THE
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2000

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ARKANSAS
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[T]he law is the last result of human wisdom acting upon human experience for the benefit of the public.

— SAMUEL JOHNSON
(1709-1784)

JUSTICES AND OFFICERS
OF THE
SUPREME COURT OF ARKANSAS

DURING THE PERIOD COVERED
BY THIS VOLUME

(April 13, 2000 — July 13, 2000, inclusive)

JUSTICES

W.H. "DUB" ARNOLD	Chief Justice
TOM GLAZE	Justice
DONALD L. CORBIN	Justice
ROBERT L. BROWN	Justice
ANNABELLE CLINTON IMBER	Justice
RAY THORNTON	Justice
LAVENSKI R. SMITH	Justice

OFFICERS

MARK PRYOR	Attorney General
LESLIE W. STEEN	Clerk
TIMOTHY N. HOLTHOFF	Librarian
WILLIAM B. JONES, JR.	Reporter of Decisions

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TOM GLAZE, JUSTICE:

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Rule 5-2

RULES OF THE ARKANSAS SUPREME COURT AND COURT OF APPEALS

OPINIONS

(a) SUPREME COURT — SIGNED OPINIONS. All signed opinions of the Supreme Court shall be designated for publication.

(b) COURT OF APPEALS — OPINION FORM. Opinions of the Court of Appeals may be in conventional form or in memorandum form. They shall be filed with the Clerk. The opinions need not contain a detailed statement of the facts, but may set forth only such matters as may be necessary to an understandable discussion of the errors urged. In appeals from decisions of the Arkansas Board of Review in unemployment compensation cases, when the Court finds the decision appealed from is supported by substantial evidence, that there is an absence of fraud, no error of law appears in the record and an opinion would have no precedential value, the order may be affirmed without opinion.

(c) COURT OF APPEALS — PUBLISHED OPINIONS. Opinions of the Court of Appeals which resolve novel or unusual questions will be released for publication when the opinions are announced and filed with the Clerk. The Court of Appeals may consider the question of whether to publish an opinion at its decision-making conference and at that time, if appropriate, make a tentative decision not to publish. Concurring and dissenting opinions will be published only if the majority opinion is published. All opinions that are not to be published shall be marked "Not Designated For Publication."

(d) COURT OF APPEALS — UNPUBLISHED OPINIONS. Opinions of the Court of Appeals not designated for publication shall be published in the *Arkansas Reports* and shall not be cited, quoted, or referred to by any court or in any argument, brief, or other materials presented to any court (except in continu-

ing or related litigation upon an issue such as res judicata, collateral estoppel, or law of the case). Opinions not designated for publication shall be listed in the *Arkansas Reports* by case number, style, date, and disposition.

(e) COPIES OF ALL OPINIONS — In every case the Clerk will furnish, without charge, one typewritten copy of all of the Court's published or unpublished opinions in the case to counsel for every party on whose behalf a separate brief was filed. The charge for additional copies is fixed by statute.

OPINIONS NOT DESIGNATED FOR PUBLICATION

Abraham *v.* Norris, CR 98-1266 (Per Curiam), affirmed April 20, 2000.

Baker *v.* State, CR 96-502 (Per Curiam), affirmed; Motion to Withdraw granted May 11, 2000.

Barfield *v.* State, CR 00-188 (Per Curiam), affirmed May 18, 2000.

Bell *v.* Green, 99-840 (Per Curiam), Appellant's Pro Se Motion to File a Belated Brief granted; Motion for Transcript of Criminal Trial denied April 20, 2000.

Berger *v.* State, CR 00-210 (Per Curiam), Pro Se Motion to Relieve Counsel denied; Pro Se Motion for Extension of Time to File Brief moot May 25, 2000.

Blount *v.* State, CR 99-1289 (Per Curiam), Pro Se Motion to Reinstate Appeal denied May 25, 2000.

Burrell *v.* State, CR 93-113 (Per Curiam), Pro Se Motion for Reconsideration of Motion for Rule on Clerk dismissed June 22, 2000.

Burrell *v.* State, CR 93-113 (Per Curiam), Pro Se Motion for Rule on Clerk dismissed June 1, 2000.

Butler *v.* State, CR 99-614 (Per Curiam), affirmed; Motion to Withdraw granted May 11, 2000.

Childress *v.* State, CR 98-1320 (Per Curiam), affirmed June 8, 2000.

Cloird *v.* Reed, CR 00-166 (Per Curiam), Pro Se Motions for Appointment of Counsel and to Correct Record denied; Pro Se Motion for Extension of Time to File Brief moot May 4, 2000.

Coleman *v.* Norris, CR 99-1204 (Per Curiam), Petition for Rehearing denied June 8, 2000.

Davis *v.* State, CR 98-1180 (Per Curiam), affirmed April 13, 2000.

Epps *v.* State, CR 97-1490 (Per Curiam), affirmed April 20, 2000.

Gaines *v.* State, CR 99-1354 (Per Curiam), Pro Se Motions for Appointment of Counsel and for Instructions; denied and appeal dismissed May 18, 2000.

Grabow *v.* State, CR 00-384 (Per Curiam), Pro Se Motion for Belated Appeal of Order denied June 8, 2000.

Guss *v.* State, 99-1326 (Per Curiam), Pro Se Motion to Stay Mandate denied May 25, 2000.

Hawthone *v.* Purifoy, CR 00-360 (Per Curiam), Pro Se Motion and Amended Motion for Reconsideration of Motion for Rule on Clerk to File Mandamus Petition Without Record; motion and amended motion dismissed June 8, 2000.

Hawthone *v.* Purifoy, CR 00-360 (Per Curiam), Pro Se Motions for Rule on Clerk to File Mandamus Petition Without Record and to Proceed In Forma Pauperis; motions dismissed April 20, 2000.

Helms *v.* State, CR 00-408 (Per Curiam), Pro Se Motion for Belated Appeal of Order denied June 29, 2000.

Hussey *v.* State, CA CR 99-61 (Per Curiam), Pro Se Motion for Photocopy of Brief at Public Expense; denied May 18, 2000.

Jarrett *v.* State, CR 00-258 (Per Curiam), Pro Se Motion to Set Appeal Bond denied June 8, 2000.

Johnson *v.* Burnett, CR 00-554 (Per Curiam), Pro Se Petition for Writ of Mandamus moot June 29, 2000.

Jones *v.* Jones, CR 99-1280 (Per Curiam), Pro Se Petition for Writ of Mandamus; moot April 13, 2000.

Jones *v.* State, 00-247 (Per Curiam), Pro Se Motion for Extension of Time to File Appellant's Brief granted June 1, 2000.

Landreth *v.* State, CR 99-1498 (Per Curiam), Pro Se Motion for Extension of Time to File Reply Brief; denied and appeal dismissed June 1, 2000.

Lewis *v.* State, CR 99-657 (Per Curiam), affirmed June 8, 2000.

Mackintrush *v.* State, CR 99-952 (Per Curiam), Pro Se Motion to File Substituted Brief granted; Pro Se Motion to File Belated Reply Brief moot May 25, 2000.

Maier *v.* State, CR 99-1305 (Per Curiam), Pro Se Motion for Trial Transcript denied; Pro Se Motion for Extension of Brief Time granted May 25, 2000.

Mann *v.* State, CR 00-31 (Per Curiam), Pro Se Motion for Extension of Time to File Appellant's Brief; motion treated as motion for extension of time and for access to appeal record and granted May 4, 2000.

Martin *v.* State, CR 00-60 (Per Curiam), Pro Se Motion for Extension of Time granted; Motions to Supplement Record, for Bill of Particulars, to Compel Department of Correction to Schedule Library Time, and for Appointment of Counsel denied July 7, 2000.

McCullough *v.* Davis, 00-276 (Per Curiam), Pro Se Petition for Writ of Mandamus; moot April 13, 2000.

McGhee *v.* State, CR 99-554 (Per Curiam), Pro Se Motion for Extension of Time to File Substituted Appellant's Brief; granted in part and denied in part (final extension) June 8, 2000.

Moore *v.* Bogard, CR 00-402 (Per Curiam), Pro Se Petition for Writ of Mandamus; moot April 13, 2000.

Murray *v.* State, CR 98-715 (Per Curiam), affirmed; Motion to Withdraw granted May 18, 2000.

Nichols *v.* State, CA CR 99-354 (Per Curiam), Pro Se Motion for Photocopy of Transcript at Public Expense denied June 29, 2000.

Nooner *v.* Langston, 00-249 (Per Curiam), Pro Se Motion for Rule on Clerk; denied May 4, 2000.

Nooner, Terrick *v.* Brownlee, 00-377 (Per Curiam), Pro Se Motion and Amended Motion for Rule on Clerk dismissed May 11, 2000.

Nooner, Terrick *v.* State, 00-248 (Per Curiam), Pro Se Motion to Dismiss Motion granted with prejudice; Motion for Rule on Clerk dismissed May 11, 2000.

Orsini *v.* Beck, 98-1011 (Per Curiam), reversed and remanded April 20, 2000.

Pardue *v.* State, CR 98-970 (Per Curiam), affirmed April 27, 2000.

Parker *v.* State, CR 97-1195 (Per Curiam), Pro Se Petition for Leave to Proceed in Circuit Court with Petition for Writ of Error *Coram Nobis* denied June 8, 2000.

Peters *v.* State, CR 00-203 (Per Curiam), Pro Se Motion for Rule on Clerk to Proceed With Belated Appeal; granted May 4, 2000.

Peters *v.* Yates, CR 00-387 (Per Curiam), Pro Se Petition for Writ of Mandamus; moot April 20, 2000.

Pitts *v.* Post-Prison Transf. Bd., 00-267 (Per Curiam), Pro Se Motion for Rule on Clerk to Lodge Civil Appeal Without Filing Fee dismissed May 11, 2000.

Pitts *v.* State, CR 80-40 (Per Curiam), Pro Se Petition to Proceed in Circuit Court Pursuant to Criminal Procedure Rule 37 denied May 18, 2000.

Pratt *v.* State, CR 98-1532 (Per Curiam), reversed and remanded May 25, 2000.

Rayford *v.* State, CR 98-1322 (Per Curiam), affirmed May 18, 2000.

Richard *v.* State, CA CR 98-1044 (Per Curiam), Pro Se Motion for Photocopy of Transcript at Public Expense denied June 1, 2000.

Richards *v.* State, CR 97-1536 (Per Curiam), affirmed; Motion to Withdraw granted April 20, 2000.

Sanchez *v.* State, CR 00-64 (Per Curiam), Pro Se Motion for Extension of Time to File Appellant's Brief granted May 11, 2000.

Terry *v.* State, CR 98-1335 (Per Curiam), Pro Se Motion to File Belated Addendum; denied and appeal dismissed April 13, 2000.

Thomas *v.* State, CR 98-1084 (Per Curiam), Pro Se Motion for Discovery and Pro Se Petition for Writ of Habeas Corpus; denied June 1, 2000.

Thomas *v.* State, CR 93-520 (Per Curiam), Pro Se Petition for Leave to Proceed in Circuit Court with Petition for Writ of Error *Coram Nobis* denied June 15, 2000.

Watson *v.* State, CR 00-256 (Per Curiam), Pro Se Motion for Belated Appeal of Order dismissed May 18, 2000.

Watts *v.* State, CR 00-201 (Per Curiam), Pro Se Motion for Belated Appeal of Judgment; remanded April 27, 2000.

Williams, Floyd *v.* State, CR 76-93 (Per Curiam), Pro Se Motion to Recall Mandate; denied May 4, 2000.

Williams, Houston Leon *v.* State, CR 98-949 (Per Curiam), affirmed May 4, 2000.

Williams, Jackie Lee *v.* State, CR 97-1499 (Per Curiam), affirmed; Motion to Withdraw granted May 4, 2000.

APPENDIX

Rules Adopted or Amended by Per Curiam Orders

IN RE: ADOPTION of REPORTING FORM for SPEEDY-TRIAL DISMISSALS and OTHER DISPOSITIONS; AMENDMENT TO ADMINISTRATIVE ORDER NUMBER 8

Supreme Court of Arkansas
Opinion delivered April 27, 2000

PER CURIAM. On January 20, 2000, we published for comment a proposed reporting form to collect statistics on acquittals, dismissals, and related dispositions. We remarked that the Court is especially interested in the collection of information concerning the termination of cases because of the speedy-trial rule.

We have reviewed the comments which were submitted and thank those who took the time to make suggestions. After reviewing these comments, we have made several modifications to the form. It now provides for the signature of the judge, the date of the arrest, and the filing date of the information. Lastly, the prosecutor will be responsible for completion of the form. We adopt the Reporting Form for Defense-Related Dispositions in the format as set out below.

Additionally, we amend Section III.a of Administrative Order Number 8 by adding a new paragraph at the end of this section, which reads as follows:

> Where the case is dismissed or nolle prossed because of the speedy-trial rule, the case is transferred, or the defendant is acquitted, the office of the prosecuting attorney shall be responsible for completion of the Reporting Form for Defense-Related Dispositions which shall be submitted to the circuit judge for signature and filed in the Office of the Circuit Clerk. The clerk shall forward a copy to the AOC pursuant to SECTION II.b and to counsel of record for the defendant.

As amended, Section III.a of Administrative Order Number 8 is republished.

The Reporting Form and the amendment to Administrative Order Number 8 shall be effective as of July 1, 2000, and the form must be completed for all applicable dispositions on or after that date.

ADMINISTRATIVE ORDER NUMBER 8 — FORMS FOR REPORTING CASE INFORMATION IN ALL ARKANSAS TRIAL COURTS

. . . .

Section III. Procedure.

a. *Criminal cases.* The office of the prosecuting attorney shall be responsible for completion of the criminal information form and for filing it in the Office of the Circuit Clerk who shall forward a copy to the AOC pursuant to SECTION II.b.

Upon conviction and sentencing to the Arkansas Department of Correction, the office of the prosecuting attorney shall be responsible for completion of the Judgment and Commitment Order. The Order shall be submitted to the circuit judge for signature and filed in the Office of the Circuit Clerk. The clerk shall forward a copy to the AOC pursuant to SECTION II.b and to counsel of record for the defendant.

Where the final disposition does not result in a commitment to the Arkansas Department of Correction but may include any of the following — an order of probation, suspended imposition of sentence, commitment to the Department of Community Punishment or to the county jail, a fine, restitution, and/or court costs — the office of the prosecuting attorney shall be responsible for completion of the Judgment and Disposition Order which shall be submitted to the circuit judge for signature and filed in the Office of the Circuit Clerk. The clerk shall forward a copy to the AOC pursuant to SECTION II.b and to counsel of record for the defendant.

Where the case is dismissed or nolle prossed because of the speedy trial rule, the case is transferred, or the defendant is acquitted, the office of the prosecuting attorney shall be responsible for completion of the Reporting Form for Defense-Related Dispositions which shall be submitted to the circuit judge for signature and filed in the Office of the Circuit Clerk. The clerk shall forward a copy to the AOC pursuant to SECTION II.b and to counsel of record for the defendant. . . . .

REPORTING FORM FOR
DEFENSE-RELATED DISPOSITIONS
[See Administrative Order Number 8, Section III (a)]

IN THE _____ **COURT OF** _____ **COUNTY, ARKANSAS**
_____ **DIVISION**

State of Arkansas **CASE NUMBER** _____

v.

_____ **ENTRY DATE** _____
(Defendant's Full Name)

Arrest Tracking #: _____ SID # _____

_____ _____
(Date of Arrest) (Date Information Filed)

Count # _____ A.C.A. § _____
_____ _____
_____ _____
_____ _____

[WHEN MULTIPLE COUNTS ARE INVOLVED, PLACE THE ***COUNT #*** *(NOT "X" OR "✔") ON THE LINE BELOW THAT APPLIES TO EACH COUNT]*

Non-Trial ____ Bench Trial ____ Jury Trial ____

Acquitted ____ Acquitted because of Mental Defect ____

Transferred ____ Transferred to Juvenile Court ____

Dismissed with prejudice because of speedy-trial rule ____

Nolle prossed because of speedy-trial rule ____

This Form was submitted by: _____
(Signature of Prosecuting Attorney)

_____
(Circuit Judge)

I certify this is a true and correct record of this Court.

Date: _____ Circuit Clerk/Deputy: _____

IN RE: ESTABLISHMENT of the ARKANSAS LAWYER ASSISTANCE PROGRAM and ADOPTION of RULE 8.3(d) and (e) of the MODEL RULES of PROFESSIONAL CONDUCT

Supreme Court of Arkansas
Delivered July 7, 2000

PER CURIAM. The Arkansas Bar Association and the Pulaski County Bar Association have petitioned this Court requesting that we establish a program to assist members of the legal profession in this State suffering from physical or mental disabilities. Having considered this petition and after studying other similar programs in sister states, we propose the creation of the Arkansas Lawyer Assistance Program ("ALAP") and the rules for its operation as set out below.

Funding of this program is a critical concern. As proposed, Rule 1 (C) (1) provides that fifteen dollars ($15) of the annual fee collected from attorneys pursuant to Rule VII (A) of the Rules Governing Admission to the Bar shall be remitted to ALAP. However, this amount alone will not be sufficient to adequately fund the projected budgetary requirements of the program. Sources for additional funding must be found. We look to the petitioners for possible sources of funding, including in-kind contributions such as office space, secretarial support and furnishings. As discussed below, we are publishing this ALAP proposal for comment, and we specifically solicit comments and suggestions regarding sources to insure that the program is adequately funded before it is established.

Another sensitive issue is the matter of immunity and the duty of disclosure under the Model Rules of Professional Conduct. The petitioners seek broader immunity than we are willing to provide. We have looked to the Tennessee Lawyer Assistance Program, Tenn. Sup. Ct. R. 33, as a model for ALAP. In regards to immunity, legislation rather than court rule addressed this issue.[1] We believe

[1] Tenn. Sup. Ct. R. 33.11. Immunity.

A. Any person reporting information to commission members, employees or agents including volunteers recruited under Rule 33.04 shall be entitled to the immunities and presumptions under Tenn. Code Ann. §§§§ 23-4-101, 23-4-102 and 23-4-103.

that the petitioners should look to our General Assembly for similar action. However, we can address the duty of disclosure under the Model Rules of Professional Conduct. *Compare* Tenn. Sup. Ct. R. 33.11 (C).

An amendment to the Arkansas Model Rules of Professional Conduct is necessary to address the duty to report professional misconduct under Rule 8.3 for those members assisting impaired lawyers. The proposed duties of disclosure are set out in new subsections (d) and (e) which appears at the end of this order.

We publish these proposals for comment. Comments from the bench and bar should be filed with the Clerk of the Supreme Court by October 1, 2000, and should be addressed to: Leslie Steen, Arkansas Supreme Court, Justice Building, Little Rock, AR 72201.

RULES OF THE ARKANSAS

LAWYER ASSISTANCE PROGRAM (ALAP)

RULE 1. SCOPE OF PROGRAM

A. Establishment. There is hereby established a state-wide lawyer assistance program to be known as Arkansas Lawyer Assistance Program (or "ALAP") which shall provide immediate and continuing help to lawyers and judges (hereinafter "members of the legal profession") who suffer from physical or mental disabilities that result from disease, substance abuse, disorder, trauma, or age and that impair their ability to practice or serve.

B. Purpose. ALAP has three purposes:

(1) to protect the interests of clients, litigants, and the general public from harm caused by impaired lawyers or judges;

B. Commission members, employees and agents including volunteers recruited under Rule 33.04 shall be entitled to the immunities and presumptions under Tenn. Code Ann. §§§§ 23-4-101, 23-4-102 and 23-4-103.

C. Commission members, employees and agents including volunteers recruited under Rule 33.04 are relieved of the duty of disclosure of information to authorities as imposed by Rule 8, DR 1-103.

(2) to assist impaired members of the legal profession to begin and continue recovery; and

(3) to educate the bench and bar to the causes of and remedies for impairments affecting members of the legal profession.

C. Funding and Administration.

(1) The Supreme Court of Arkansas shall collect annually and remit to ALAP a fifteen dollar ($15.00) annual fee from every attorney for the purpose of funding this program.

(2) Funding for ALAP may also include gifts or bequests from any source and earnings on investments of the ALAP fund.

Rule 2. ALAP COMMITTEE

A. Members. The Arkansas Supreme Court shall appoint committee members to administer the ALAP. Officers of the committee shall consist of a chair, vice chair, and secretary/treasurer. The chair shall be appointed by the Supreme Court. Each of the other officers shall be elected by the members of the committee annually.

B. Composition. The committee shall consist of nine (9) members, chosen on the basis of geography and diversity and shall include three (3) citizens who are not members of the legal profession. The members shall have diverse experience, knowledge and shall have demonstrated competence in the problems of addiction and other common difficulties that impair members of the legal profession.

C. Terms. Each appointment shall be for a term of six years, unless otherwise designated by the Supreme Court. Members may not be appointed to successive six-year terms. Terms shall be staggered. Vacancies occurring from causes other than expiration of term of office will be filled by the Supreme Court as they occur, and the person so appointed shall serve the remainder of the term of his or her predecessor. Members shall continue to serve beyond their designated term until such time as their successor is qualified and appointed by the Court.

D. Duties of the Committee. The committee shall have the following powers and duties:

(1) To establish ALAP policy and procedures consistent with the purposes of this program. Such policies and procedures shall be established after reasonable notice to the Arkansas bench and bar and opportunity for comment.

(2) To operate the program to achieve its purposes.

(3) To assure the duties listed under Rule 3 are carried out in the absence of a director of the program.

(4) To establish and administer a revolving loan fund as provided under Rule 9.

(5) To make reports to the Arkansas Supreme Court annually or as otherwise required.

E. Meetings. The committee shall meet quarterly, upon call of the chair or upon the request of five (5) or more members.

Rule 3. DIRECTOR OF THE PROGRAM

A. Appointment/Hire. The committee shall recruit, retain, supervise, and terminate the ALAP director.

B. Qualifications. The director shall have sufficient experience and training to enable the director to identify and assist impaired members of the legal profession and to work well with the volunteers.

C. Duties and Responsibility. The director shall:

(1) Provide initial response to help-line calls.

(2) Help lawyers, judges, law firms, courts, and others to identify and intervene with impaired members of the legal profession.

(3) Help members of the legal profession and their families to secure expert counseling and treatment for chemical dependency and other illnesses, maintaining current information on available treatment services, both those that are available without charge as well as paid services.

(4) Establish and maintain regular contact with other bar associations, agencies, and committees that serve either as sources of referral or resources in providing help.

(5) Establish and oversee monitoring services with respect to recovery of members of the legal profession for whom monitoring is appropriate under Rules 5 (E) or 7.

(6) Plan and deliver educational programs for the legal community with respect to all sources of potential impairment as well as treatment and preventative measures.

(7) Provide information about ALAP services to members of the legal profession and their families.

(8) Recruit, select, train, and coordinate the activities of volunteers.

(9) Investigate other potential sources of income pursuant to Rule 1 (C) (2).

Rule 4. VOLUNTEERS

The program shall enlist volunteers working in conjunction with the Arkansas Bar Association, whose responsibility may include:

(A) assisting in interventions planned by ALAP;

(B) acting as twelve-step program sponsors;

(C) acting as a contact between ALAP and courts, bar organizations, and local committees;

(D) providing compliance monitoring when appropriate; or

(E) performing any other function deemed appropriate and necessary by the committee to fulfill its purposes.

Rule 5. SERVICES

ALAP shall provide the following services:

(A) immediate and continuing assistance to members of the legal profession who suffer from physical or mental disabilities that result from disease, substance abuse disorder, trauma, or age and that impair their ability to practice;

(B) planning and presentation of educational programs to increase the awareness and understanding of members of the legal profession to recognize problems in themselves and in their col-

leagues; to identify the problems correctly; to reduce stigma; and, to convey an understanding of appropriate ways of interacting with affected individuals;

(C) investigation, planning, and participation in interventions with members of the legal profession in need of assistance;

(D) aftercare services upon request, by order, or under contract that may include the following: assistance in structuring aftercare and discharge planning; assistance for entry into appropriate aftercare and professional peer support meetings; and assistance in obtaining a primary care physical or local peer counselor; and

(E) monitoring services under Rule 7 or under contract that may include the following: alcohol and/or drug screening programs; tracking aftercare, peer support and twelve-step meeting attendance; providing documentation of compliance; and providing such reports concerning compliance by those participating in a monitoring program as may be required by the terms of that program.

Rule 6. REFERRALS

A. Self-referral. Any member of the legal profession may seek assistance from ALAP.

B. Other Referrals. ALAP shall receive referrals concerning any member of the legal profession from family members, colleagues, friends, law firms, or any other source.

Rule 7. REFERRALS FROM THE PROFESSIONAL CONDUCT COMMITTEE, JUDICIAL DISCIPLINE AND DISABILITY COMMISSION, OR OTHER DISCIPLINARY AGENCIES

A. Referrals. ALAP may accept referral of lawyers or judges under investigational, provisional, or probational status with the Arkansas Professional Conduct Committee, Arkansas Judicial Discipline and Disability Commission, or any disciplinary agency with disciplinary authority.

B. Progress Reports. When ALAP accepts a referral under Rule 7 (A), ALAP shall provide progress reports or reports of noncompliance. Notwithstanding Rule 10, these reports may be used as evidence in any proceeding or appeal relating to such referral

from the Arkansas Professional Conduct Committee, the Arkansas Judicial Discipline and Disability Commission, or a disciplinary agency with disciplinary authority.

Rule 8. COOPERATION WITH LOCAL BAR PROGRAMS

ALAP shall coordinate its activities with local impaired lawyer programs.

Rule 9. REVOLVING LOAN FUND

From the funds received under Rule 1 (C) (2), ALAP may establish a revolving loan fund. Such fund shall be made available to impaired lawyers and judges under rules and regulations established by the committee, as a low interest loan for the purpose of defraying the cost of treatment.

Rule 10. CONFIDENTIALITY

Information and actions taken by ALAP shall be held in strictest confidence and shall not be disclosed or required to be disclosed to any person or entity outside of ALAP, unless such disclosure is required by a court of competent jurisdiction, authorized by the member of the legal profession to whom it relates or as provided in Rule 7 (B). Except as provided in Rule 7 (B), such information and actions shall be excluded as evidence in any complaint, investigation, or proceeding before the Arkansas Professional Conduct Committee, Arkansas Judicial Discipline and Disability Commission, or disciplinary agency with jurisdiction.

Committee members, employees, and agents including volunteers recruited under Rule 4 are relieved of the duty of disclosure of information to authorities as imposed by Rule 8.3 of the Arkansas Model Rules of Professional Conduct except as provided for in Rule 8.3 (d) and (e).

Rule 11. FACILITY

The ALAP office shall be so located as to be consistent with the privacy and confidentiality requirements of this rule.

Rule 12. PROGRAM REVIEW

ALAP shall be reviewed annually by the Arkansas Supreme Court and shall cease to exist on December 31, 2006 unless the Arkansas Supreme Court provides otherwise.

MODEL RULES OF PROFESSIONAL CONDUCT

Rule 8.3. Reporting professional misconduct

(a) A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

(b) A lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by Rule 1.6.

[PROPOSED ADDITIONS TO RULE SET OUT IN BOLD BELOW]

(d) This rule shall not apply to a member of the Lawyer Assistance Committee ("the Committee") of the Arkansas Lawyer Assistance Program ("ALAP") or a volunteer serving pursuant to Rule 4 of the Rules of ALAP regarding information received in one's capacity as a Committee member or volunteer, acting in good faith, unless it appears to said member or volunteer that the attorney in question, after entry into the ALAP, is failing to desist from said violation, or is failing to cooperate with a program of assistance to which said attorney has agreed, or is engaged in the commission of any crime which is a felony or Class A misdemeanor under Arkansas law, or the equivalent thereof if the offense is not within the State's jurisdiction.

(e) Except as provided by the preceding subsection (d), and Rules 7 (B) and 10 of the Rules of ALAP, no information received, gathered, or maintained by the Committee, its members or volunteers, or by an employee of the

ALAP in connection with the work of the Committee may be disclosed to any person nor be subject to discovery or subpoena in any administrative or judicial proceeding, except upon the express written release of the subject attorney. However, the Committee may refer any attorney to a professional assistance entity, and may, in good faith, communicate information to the entity in connection with the referral. If information obtained by a member of the Committee, a volunteer, or an employee of the ALAP gives rise to reasonable suspicion of a direct threat to the health or safety of the subject attorney or other person, then the obligation of confidentiality set forth in this subsection (e) shall not apply, and the Committee member, volunteer, or ALAP employee may make such communications as are necessary for the purpose of avoiding or preventing said threat.

IT IS SO ORDERED.

_____
Chief Justice

_____
Associate Justice

_____
Associate Justice

_____
Associate Justice

_____
Associate Justice

_____
Associate Justice

_____
Associate Justice

APPENDIX

Appointments to Committees

IN RE: SUPREME COURT ALTERNATE COMMITTEE on PROFESSIONAL CONDUCT

Supreme Court of Arkansas
Delivered May 18, 2000

PER CURIAM. Harry Truman Moore, Esq., of Paragould, representing the First Congressional District, is hereby appointed to the Supreme Court Alternate Committee on Professional Conduct for a seven-year term to expire on March 30, 2007. Mr. Moore replaces David Solomon, Esq., of Helena, whose term has expired.

The Court thanks Mr. Moore for accepting appointment and expresses appreciation to Mr. Solomon for his years of service to this Committee.

IN RE: ARKANSAS JUDICIAL DISCIPLINE and DISABILITY COMMISSION

Supreme Court of Arkansas
Delivered May 25, 2000

PER CURIAM. In accordance with Amendment 66 of the Constitution of Arkansas and Act 637 of 1989, the Court appoints the Honorable William Storey, Circuit Judge, of Fayetteville to the Arkansas Judicial Discipline and Disability Commission for a six-year term to expire on June 30, 2006. Judge Storey replaces the Honorable Rice Van Ausdall of Harrisburg, whose term has expired. The Court expresses its gratitude to Judge Van Ausdall for his dedicated and faithful service as a member of the Commission, and thanks Judge Storey for accepting appointment to this most important Commission.

The Court reappoints the Honorable Olly Neal and the Honorable John Plegge to their alternate positions on the Commission

for six-year terms to expire on June 30, 2006. The Court thanks Judge Neal and Judge Plegge for accepting reappointment.

IN RE: ARKANSAS CONTINUING LEGAL EDUCATION

Supreme Court of Arkansas
Delivered June 8, 2000

PER CURIAM. Mr. Rex M. Terry, Attorney at Law, of Fort Smith, is reappointed to the Arkansas Continuing Legal Education Board for a three-year term to expire on December 5, 2002.

The Honorable Don E. Glover, of Dermott, and Harold J. Evans, Attorney at Law, of Little Rock, are hereby appointed to the Arkansas Continuing Legal Education Board. The term of each appointment is three years, to expire on December 5, 2002.

The court thanks Mr. Terry for accepting reappointment, and Judge Glover and Mr. Evans for accepting appointment to this most important board. We also express our gratitude to Judge Sam Bird, of Little Rock, and Ms. Lisa Mathis-Peters, Attorney at Law, of Little Rock, whose terms have expired, for their years of service to the Board.

IN RE: SUPREME COURT COMMITTEE on the UNAUTHORIZED PRACTICE of LAW

Supreme Court of Arkansas
Delivered June 15, 2000

PER CURIAM. Hal Kemp, Esq., of Little Rock, Second Congressional District, is appointed to the Supreme Court Committee on the Unauthorized Practice of Law for a three-year term to expire on May 31, 2003.

LeAnne Daniel, Attorney at Law, of Arkadelphia, Fourth Congressional District, and Ms. Sharon Prasse of Little Rock, At-Large Position, are reappointed to the Committee for three-year terms to expire on May 31, 2003.

The Court expresses thanks to Mr. Kemp for accepting appointment and to Ms. Daniel and Ms. Prasse for accepting reappointment to this important Committee.

The Court expresses its appreciation to Henry Hodges, Esq., of Little Rock, whose term has expired, for his dedicated service to the Committee.

IN RE: BOARD of CERTIFIED COURT REPORTER EXAMINERS

Supreme Court of Arkansas
Delivered July 7, 2000

PER CURIAM. The Honorable Tom Smitherman of Hot Springs, the Honorable Robert McCorkindale, II, of Harison, and Ms. Joyce Helms of Arkadelphia are reappointed to our Board of Certified Court Reporter Examiners. Each term is for three years and expires on July 31, 2003.

The Court expresses its gratitude to Judges Smitherman and McCorkindale and Ms. Helms for accepting reappointment to this important Board.

IN RE: COMMITTEE on AUTOMATION

Supreme Court of Arkansas
Delivered July 7, 2000

PER CURIAM. James McCormick is appointed to the Committee on Automation for a three (3) year term ending uly 1, 2003. Judge Barry Sims is appointed to the Committee on Automation for a three (3) year term ending July 1, 2003. Carol Ray is appointed to the Committee on Automation for a three (3) year term ending July, 2003.

The Court thanks James McCormick, Judge Barry Sims, and Carol Ray for accepting appointment to this Board.

IN RE: SUPREME COURT COMMITTEE on CIVIL PRACTICE

Supreme Court of Arkansas
Delivered July 7, 2000

PER CURIAM. The Honorable John Ward, Circuit Judge, of Little Rock is reappointed as Chair of the Committee on Civil Practice for a three-year term to expire on July 31, 2003. Also reappointed to the Committee are the Honorable Andree Roaf, Court of Appeals, of Pine Bluff, Ms. Scotty Shively, Attorney

at Law, of Little Rock, Mr. Russell Berry, Esq., of DeWitt, and Mr. D.P. Marshall, Esq., of Jonesboro. All of these terms are for three years to expire on July 31, 2003.

The Court expresses its appreciation to all of these members for their valuable service to this important Committee and for their willingness to continue their service.

APPENDIX

Professional Conduct Matters

IN RE: Michael A. BELTRANI,
Arkansas Bar ID # 94071

20 S.W.3d 280

Supreme Court of Arkansas
Delivered May 25, 2000

PER CURIAM. Upon consideration of the Petition of the Supreme Court Committee on Professional Conduct seeking entry of an order of disbarment of Michael A. Beltrani, Little Rock, Arkansas, and pursuant to the Pulaski County Circuit Court's Order entered in this matter on May 2, 2000, we grant the Petition. The Court hereby revokes Mr. Beltrani's license to practice law in the State of Arkansas. It is further ordered that his name shall be removed from the registry of licensed attorneys, and that he is barred from engaging in the practice of law in this state.

It is so ordered.

IN RE: Robert Fuller MEURER,
Arkansas Bar ID #85108

23 S.W.3d 220

Supreme Court of Arkansas
Delivered June 22, 2000

PER CURIAM. Upon consideration of the Petition of the Supreme Court Committee on Professional Conduct seeking entry of an order of disbarment of Robert Fuller Meurer, Searcy, Arkansas, and pursuant to the White County Circuit Court's Order entered on June 6, 2000, we grant the Petition. The Court hereby revokes Mr. Meurer's license to practice law in the State of Arkansas. It is further ordered that his name shall be removed from the registry of licensed attorneys, and that he is barred from engaging in the practice of law in this state.

It is so ordered.

IN RE: Timothy D. WILLIAMS
Arkansas Bar ID #75140

22 S.W.3d 677

Supreme Court of Arkansas
Delivered on June 30, 2000

PER CURIAM. On recommendation of the Supreme Court Committee on Professional Conduct, we hereby accept the surrender of the license of Timothy D. Williams, now residing in Conway, Arkansas, to practice law in the State of Arkansas. Mr. Williams's name shall be removed from the registry of licensed attorneys and he is barred from engaging in the practice of law in this state.

It is so ordered.

IN RE: Harold W. MADDEN
Arkansas Bar ID #73074

22 S.W.3d 677

Supreme Court of Arkansas
Opinion Delivered July 13, 2000

PER CURIAM. On recommendation of the Supreme Court Committee on Professional Conduct, we hereby accept the surrender of the license of Harold W. Madden, now residing in Conway, Arkansas, to practice law in the State of Arkansas. Mr. Madden's name shall be removed from the registry of licensed attorneys and he is barred from engaging in the practice of law in this state.

It is so ordered.

IN RE: Pervis Michael REDDEN
Arkansas Bar ID #74127

20 S.W.3d 413

Supreme Court of Arkansas
Opinion Delivered July 13, 2000

PER CURIAM. Upon consideration of the Petition of the Supreme Court Committee on Professional Conduct seeking entry of an order of disbarment of Pervis Michael Redden, Ada, Oklahoma, formerly of Little Rock, Pulaski County, Arkansas, and pursuant to the Pulaski County Circuit Court's Order entered on February 23, 2000, we grant the Petition. The Court hereby revokes Mr. Redden's license to practice law in the State of Arkansas. It is further ordered that his name shall be removed from the registry of licensed attorneys, and that he is barred from engaging in the practice of law in this state.

It is so ordered.

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ARKANSAS APPELLATE REPORTS

Volume 70

CASES DETERMINED
IN THE

Court of Appeals of Arkansas

FROM
April 5, 2000 — July 5, 2000
INCLUSIVE

WILLIAM B. JONES, JR.
REPORTER OF DECISIONS

CINDY M. ENGLISH
DEPUTY
REPORTER OF DECISIONS

VICTORIA M. FREY
EDITORIAL ASSISTANT

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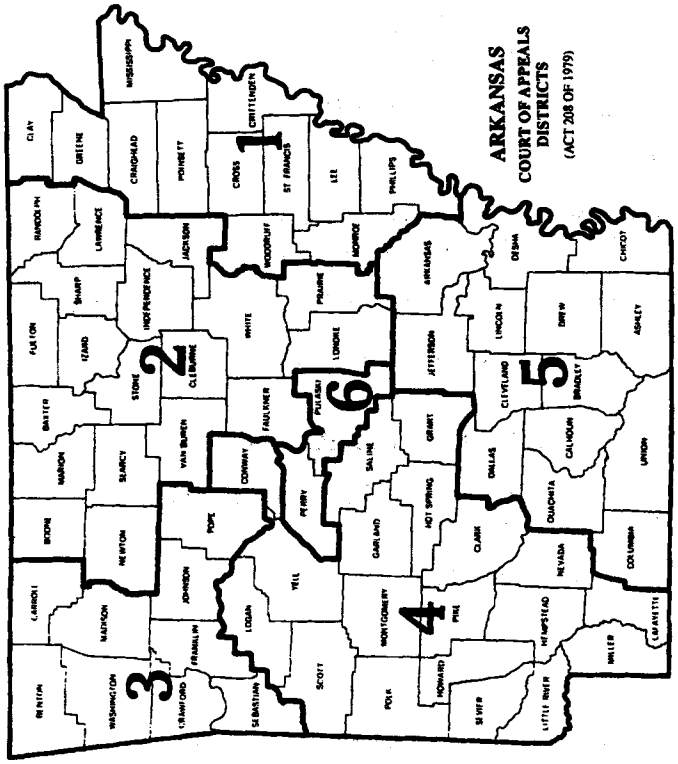
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JUDGES AND OFFICERS
OF THE
COURT OF APPEALS
OF ARKANSAS

DURING THE PERIOD COVERED
BY THIS VOLUME
(April 5, 2000 — July 5, 2000, inclusive)

JUDGES

JOHN B. ROBBINS	Chief Judge[1]
JOHN MAUZY PITTMAN	Judge[2]
JOSEPHINE LINKER HART	Judge[3]
JOHN E. JENNINGS	Judge[4]
SAM BIRD	Judge[5]
K. MAX KOONCE, II	Judge[6]
JOHN F. STROUD, JR.	Judge[7]
OLLY NEAL	Judge[8]
WENDELL L. GRIFFEN	Judge[9]
TERRY CRABTREE	Judge[10]
MARGARET MEADS	Judge[11]
ANDREE LAYTON ROAF	Judge[12]

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Rule 5-2

RULES OF THE ARKANSAS SUPREME COURT AND COURT OF APPEALS

OPINIONS

(a) SUPREME COURT — SIGNED OPINIONS. All signed opinions of the Supreme Court shall be designated for publication.

(b) COURT OF APPEALS — OPINION FORM. Opinions of the Court of Appeals may be in conventional form or in memorandum form. They shall be filed with the Clerk. The opinions need not contain a detailed statement of the facts, but may set forth only such matters as may be necessary to an understandable discussion of the errors urged. In appeals from decisions of the Arkansas Board of Review in unemployment compensation cases, when the Court finds the decision appealed from is supported by substantial evidence, that there is an absence of fraud, no error of law appears in the record and an opinion would have no precedential value, the order may be affirmed without opinion.

(c) COURT OF APPEALS — PUBLISHED OPINIONS. Opinions of the Court of Appeals which resolve novel or unusual questions will be released for publication when the opinions are announced and filed with the Clerk. The Court of Appeals may consider the question of whether to publish an opinion at its decision-making conference and at that time, if appropriate, make a tentative decision not to publish. Concurring and dissenting opinions will be published only if the majority opinion is published. All opinions that are not to be published shall be marked "Not Designated For Publication."

(d) COURT OF APPEALS — UNPUBLISHED OPINIONS. Opinions of the Court of Appeals not designated for publication shall be published in the *Arkansas Reports* and shall not be cited, quoted, or referred to by any court or in any argument, brief, or other materials presented to any court (except in continu-

ing or related litigation upon an issue such as res judicata, collateral estoppel, or law of the case). Opinions not designated for publication shall be listed in the *Arkansas Reports* by case number, style, date, and disposition.

(e) COPIES OF ALL OPINIONS — In every case the Clerk will furnish, without charge, one typewritten copy of all of the Court's published or unpublished opinions in the case to counsel for every party on whose behalf a separate brief was filed. The charge for additional copies is fixed by statute.

OPINIONS NOT DESIGNATED FOR PUBLICATION

Alumax *v.* Goodson, CA 99-1185 (Stroud, J.), affirmed April 26, 2000.

Anderson *v.* Save-A-Lot, CA 99-1362 (Koonce, J.), affirmed May 31, 2000.

Anderson *v.* State, CA CR 99-668 (Pittman, J.), affirmed May 17, 2000.

Andrews *v.* State, CA CR 99-1183 (Griffen, J.), affirmed May 10, 2000.

Arkansas Trucking Servs., Inc. *v.* Suggs, CA 99-1287 (Jennings, J.), affirmed May 10, 2000.

Arktic Ice Ltd. Partnership *v.* Ratliff Enters., Inc., CA 99-1202 (Pittman, J.), affirmed on appeal; reversed on cross-appeal June 28, 2000.

Arnold *v.* State, CA CR 99-1158 (Griffen, J.), affirmed as modified and remanded June 21, 2000.

Barker *v.* Rogers Group, Inc., CA 99-1330 (Per Curiam), dismissed May 10, 2000.

Barnett *v.* State, CA 99-1256 (Koonce, J.), rebriefing ordered July 5, 2000.

Basinger *v.* State, CA CR 99-1171 (Roaf, J.), affirmed May 17, 2000.

Bell *v.* Pine Bluff Toyota, CA 99-1066 (Meads, J.), affirmed May 24, 2000.

Beatty *v.* State, CA 99-1231 (Stroud, J.), affirmed April 5, 2000.

Birt *v.* State, CA CR 99-769 (Robbins, C.J.), affirmed April 19, 2000.

Blueford *v.* State, CA CR 99-400 (Meads, J.), reversed May 3, 2000.

Bly *v.* State, CA CR 98-595 (Hart, J.), reversed and remanded May 31, 2000.

Boatmen's Trust Co. of Ark. *v.* Housing Auth. of North Little Rock, CA 99-834 (Per Curiam), dismissed May 3, 2000.

Bone *v.* Rheem Mfg. Co., CA 99-1282 (Griffen, J.), appeal dismissed June 7, 2000.

Bonwich *v.* King, CA 99-904 (Bird, J.), affirmed as modified and remanded May 31, 2000.

Booth *v.* Sears Roebuck, CA 99-1238 (Jennings, J.), affirmed May 24, 2000.

Boudreaux *v.* GLI Holding Co., CA 99-1163 (Meads, J.), reversed in part; affirmed in part May 3, 2000. Rehearing denied May 24, 2000.

Brady *v.* State, CA CR 99-992 (Crabtree, J.), rebriefing ordered July 5, 2000.

Brake *v.* The Kroger Co., CA 99-1350 (Bird, J.), affirmed June 7, 2000.

Brandon *v.* State, CA CR 99-1077 (Jennings, J.), affirmed April 5, 2000.

Brown, Gaylon Jean *v.* State, CA CR 99-1475 (Pittman, J.), reversed and remanded May 31, 2000.

Brown, Howard S. *v.* Pitcher, CA 99-1301 (Crabtree, J.), affirmed May 31, 2000. Rehearing denied July 5, 2000.

Brown, Troy *v.* State, CA CR 99-1226 (Jennings, J.), affirmed May 31, 2000.

Burrow *v.* State, CA CR 99-1195 (Bird, J.), rebriefing ordered June 21, 2000.

Cahoon *v.* Deacon, CA 99-713 (Robbins, C.J.), affirmed May 3, 2000.

Caldwell *v.* Allenfarm, Inc., CA 99-724 (Meads, J.), affirmed April 12, 2000.

Carver *v.* Rylee, CA 99-843 (Neal, J.), affirmed April 5, 2000.

Chambers *v.* Chambers, CA 99-688 (Griffen, J.), affirmed June 21, 2000.

Chaney *v.* Brown's Sod Farm, CA 99-1437 (Bird, J.), affirmed June 7, 2000.

Christopher *v.* Tyson Foods, Inc., CA 99-1448 (Griffen, J.), affirmed June 21, 2000.

Cockerham *v.* State, CA CR 99-1065 (Robbins, C.J.), affirmed April 12, 2000.

Cole *v.* Moten, CA 99-1254 (Jennings, J.), dismissed May 10, 2000.

Coleman *v.* Coleman, CA 99-1154 (Neal, J.), reversed and remanded May 3, 2000.

Collier *v.* State, CA CR 98-1301 (Crabtree, J.), affirmed July 5, 2000.

Comm-Link, Inc. *v.* Joella, CA 99-980 (Griffen, J.), reversed and dismissed May 3, 2000.

Cuddy *v.* State, CA CR 99-1384 (Pittman, J.), affirmed May 17, 2000.

Daniels *v.* State, CA CR 99-654 (Griffen, J.), affirmed April 26, 2000.

DeGood *v.* DeGood, CA 99-1184 (Griffen, J.), affirmed June 21, 2000.

Deininger *v.* Baldwin, CA 99-1333 (Bird, J.), affirmed in part; reversed in part and remanded July 5, 2000.

Demers *v.* First Nationwide Mtg. Corp., CA 99-945 (Crabtree, J.), affirmed May 17, 2000.

Denise C. *v.* Arkansas Dep't of Human Servs., CA 99-743 (Pittman, J.), affirmed May 24, 2000.

Dickerson *v.* Arkansas Child Support Enfcm't Unit, CA 99-792 (Stroud, J.), reversed and remanded April 19, 2000.

Dison *v.* State, CA CR 99-1324 (Neal, J.), affirmed May 10, 2000.

Dodd *v.* State, CA CR 99-1161 (Stroud, J.), affirmed May 10, 2000.

Dowell *v.* Conrad, CA 99-1444 (Crabtree, J.), affirmed May 31, 2000.

Downing *v.* University of Ark., CA 99-1230 (Hart, J.), affirmed May 31, 2000. Rehearing denied June 28, 2000.

Drumwright *v.* State, CA CR 99-1338 (Meads, J.), affirmed June 7, 2000.

Dunn *v.* State, CA CR 99-1005 (Pittman, J.), affirmed April 5, 2000.

Dutton *v.* State, CA CR 99-887 (Neal, J.), affirmed June 7, 2000.

East Ark. Area Agency On Aging *v.* Marshall, CA 99-1072 (Crabtree, J.), affirmed April 12, 2000.

E.C. Barton & Co. *v.* Upton, CA 99-1322 (Hart, J.), affirmed June 21, 2000.

Edwards *v.* Masters, CA 99-1186 (Pittman, J.), affirmed June 28, 2000.

Emerson *v.* State, CA CR 99-1002 (Crabtree, J.), reversed and dismissed April 5, 2000.

Epperson *v.* Progressive Cas. Ins. Co., CA 99-537 (Jennings, J.), affirmed April 19, 2000.

Estridge *v.* Waste Mngmt., CA 99-1208 (Robbins, C.J.), affirmed May 17, 2000. Rehearing denied June 21, 2000.

Fielding *v.* Firestone Bldg. Prods., CA 99-1385 (Neal, J.), affirmed May 17, 2000.

Flowers *v.* State, CA CR 99-946 (Hart, J.), affirmed April 12, 2000.

Franklin *v.* State, CA CR 99-962 (Bird, J.), affirmed May 17, 2000.

Friddle *v.* Director, E 99-88 (Hays, Sp.J.), affirmed April 19, 2000.

Frisby *v.* State, CA 99-1339 (Roaf, J.), affirmed May 24, 2000.

Gardner *v.* State, CA CR 99-1075 (Pittman, J.), affirmed June 28, 2000.

Garrett *v.* Primestar, Inc., CA 99-1080 (Griffen, J.), reversed and remanded April 12, 2000.

Gault *v.* State, CA CR 99-1169 (Robbins, C.J.), affirmed May 24, 2000.

George *v.* George, CA 99-633 (Meads, J.), affirmed April 5, 2000.

Gin *v.* Sanders, CA 99-1111 (Meads, J.), affirmed on direct appeal and cross-appeal April 19, 2000.

Goforth *v.* State, CA CR 99-1019 (Stroud, J.), affirmed April 19, 2000.

Goolsby *v.* Washington Reg'l Med. Ctr., CA 99-1278 (Jennings, J.), affirmed May 24, 2000. Rehearing denied June 28, 2000.

Green *v.* State, CA CR 99-1109 (Hays, Sp.J.), affirmed April 19, 2000.

Grillot *v.* Maddox, CA 99-947 (Robbins, C.J.), affirmed April 12, 2000.

Hallman *v.* Bailey's Super Store, Inc., CA 99-983 (Neal, J.), affirmed June 21, 2000.

Harvill-Byrd Elec. Co. *v.* Cortese, CA 99-799 (Griffen, J.), affirmed April 12, 2000.

Hawkins *v.* State, CA CR 99-483 (Bird, J.), affirmed May 10, 2000.

Hess *v.* Chicago Mill & Lumber Co., CA 99-973 (Roaf, J.), affirmed May 10, 2000.

Hill *v.* State, CA CR 99-1040 (Stroud, J.), affirmed May 17, 2000.

Howard, Larry *v.* State, CA CR 99-1014 (Roaf, J.), affirmed June 21, 2000.

Howard, Marty L. *v.* State, CA CR 99-784 (Meads, J.), affirmed April 19, 2000.

Howell *v.* Scroll Techs., CA 99-1132 (Bird, J.), reversed and remanded May 31, 2000.

Hoyer *v.* State, CA CR 99-781 (Jennings, J.), affirmed May 24, 2000.

Hudlow *v.* The First United Methodist Church, CA 99-853 (Crabtree, J.), affirmed May 3, 2000.

Hudson *v.* IPC Int'l Corp., CA 99-907 (Pittman, J.), affirmed June 21, 2000.

J.C. Hadley's Auto *v.* Townsend, CA 99-866 (Robbins, C.J.), reversed and remanded April 26, 2000.

Jackson *v.* State, CA CR 99-1340 (Crabtree, J.), affirmed May 3, 2000.

Jacobs *v.* State, CA CR 99-1166 (Roaf, J.), affirmed May 31, 2000.

Jameson *v.* Landers, CA 99-1273 (Robbins, C.J.), reversed and remanded May 24, 2000.

Johns *v.* ConAgra Frozen Foods, CA 99-1268 (Griffen, J.), affirmed April 26, 2000.

Johnson *v.* Georgia-Pacific Corp., CA 99-1358 (Crabtree, J.), direct appeal affirmed; cross-appeal affirmed May 10, 2000.

Johnson *v.* Ridgeway, CA 99-1213 (Stroud, J.), affirmed June 21, 2000.

Johnson, Olins L. *v.* State, CA 99-1308 (Crabtree, J.), affirmed May 24, 2000.

Johnson, Courtney Zaron *v.* State, CA CR 99-1165 (Jennings, J.), affirmed June 28, 2000.

Johnson, Daniel W. *v.* State, CA CR 99-551 (Griffen, J.), affirmed April 5, 2000.

Johnson, Anthony *v.* State, CA CR 99-1000 (Robbins, C.J.), affirmed May 3, 2000.

Johnston, Steven Alan *v.* State, CA CR 99-990 (Jennings, J.), affirmed April 12, 2000.

Jones, Michael Lee *v.* State, CA CR 99-1372 (Neal, J.), affirmed June 28, 2000.

Jones, Mike *v.* Jones, CA 99-1348 (Jennings, J.), affirmed as modified June 28, 2000.

Jones, Theodore *v.* State, CA CR 99-879 (Bird, J.), dismissed April 19, 2000.

Junior *v.* State, CA CR 99-1041 (Neal, J.), affirmed May 17, 2000.

Kassees *v.* Wilson, CA 99-1144 (Stroud, J.), appeal dismissed May 3, 2000.

Keith *v.* State, CA CR 99-1294 (Roaf, J.), affirmed June 21, 2000.

Kelly *v.* State, CA CR 99-949 (Koonce, J.), affirmed May 10, 2000.

King *v.* State, CA CR 99-1222 (Griffen, J.), affirmed May 10, 2000.

Kirby *v.* State, CA CR 1442 (Robbins, C.J.), affirmed May 10, 2000.

Knott *v.* Tooraen, CA 99-1170 (Roaf, J.), affirmed May 17, 2000.

Lamb *v.* State, CA CR 99-1281 (Crabtree, J.), affirmed April 26, 2000.

LeClere *v.* State, CA CR 99-294 (Per Curiam), Substituted Opinion Issued on Grant of Rehearing May 10, 2000.

Lindquist *v.* Arkansas Oil & Gas Comm'n, CA 99-1306 (Jennings, J.), affirmed May 31, 2000.

Little Rock Sheet Metal *v.* Smith, CA 99-1474 (Koonce, J.), affirmed June 7, 2000.

Lyons *v.* State, CA CR 99-1091 (Crabtree, J.), affirmed May 17, 2000.

Mallard *v.* Mallard, CA 99-1107 (Koonce, J.), dismissed April 19, 2000.

Marks *v.* State, CA CR 99-1253 (Griffen, J.), affirmed April 26, 2000.

Marlin *v.* Parham, CA 99-721 (Roaf, J.), appeal dismissed April 19, 2000.

Marroquin *v.* State, CA CR 99-1036 (Stroud, J.), affirmed May 3, 2000.

McCadney *v.* State, CA CR 99-1266 (Pittman, J.), affirmed May 10, 2000.

McCann *v.* State, CA CR 99-1344 (Meads, J.), affirmed April 26, 2000.

McCormick *v.* Saline Memorial Hosp., CA 99-1336 (Robbins, C.J.), affirmed June 21, 2000.

McDonald *v.* Tyson Foods, Inc., CA 99-1048 (Jennings, J.), affirmed April 5, 2000.

McGlaughlin *v.* State, CA CR 99-1127 (Hart, J.), affirmed June 28, 2000.

McGraw *v.* Arkansas Delivery Servs., Inc., CA 99-909 (Hart, J.), affirmed April 26, 2000. Rehearing denied June 7, 2000.

McKinney *v.* Gude, CA 99-102 (Jennings, J.), affirmed July 5, 2000.

McWilliams *v.* Sullivan, CA 99-615 (Griffen, J.), affirmed June 21, 2000. Rehearing denied July 26, 2000.

Mitchell *v.* Headley, CA 99-1320 (Crabtree, J.), appeal dismissed May 17, 2000.

Newton *v.* State, CA CR 99-1293 (Crabtree, J.), affirmed June 28, 2000. Rehearing denied August 23, 2000.

Oliver *v.* State, CA CR 99-1129 (Neal, J.), affirmed April 19, 2000.

Parker *v.* State, CA CR 99-445 (Hart, J.), affirmed April 19, 2000.

Patterson *v.* Engineered Specialty Plastics, CA 99-1433 (Hart, J.), reversed and remanded June 7, 2000.

Pettus *v.* Holcomb, CA 99-1265 (Per Curiam), dismissed May 10, 2000.

Phillips *v.* McLoud, CA 99-1175 (Griffen, J.), affirmed June 21, 2000.

Pittman *v.* NW Village Partners, Ltd., CA 99-1190 (Koonce, J.), affirmed May 10, 2000.

Pizzimenti *v.* AAA Storage Ctr., Inc., CA 99-1237 (Neal, J.), affirmed in part; reversed in part and remanded May 31, 2000.

Points *v.* Points, CA 99-1369 (Hart, J.), reversed and remanded May 24, 2000.

Poston *v.* State, CA CR 99-1093 (Meads, J.), affirmed May 17, 2000.

Potter *v.* Magee, CA 99-935 (Hart, J.), affirmed May 10, 2000.

Purtle *v.* Myers, CA 99-1100 (Meads, J.), appeal dismissed May 31, 2000.

Ratchford *v.* Belden Wire & Cable Co., CA 99-1510 (Jennings, J.), dismissed June 21, 2000.

R.D. Plant Contracting, Inc. *v.* T.E.C., Inc., CA 99-937 (Meads, J.), affirmed April 19, 2000.

Rasco *v.* State, CA CR 99-1235 (Roaf, J.), affirmed May 10, 2000. Rehearing denied June 21, 2000.

Ray *v.* Little John Trucks, Inc., CA 99-1069 (Neal, J.), affirmed April 12, 2000.

Reeves *v.* State, CA CR 99-1486 (Griffen, J.), affirmed July 5, 2000.

Replogle *v.* USA Truck, Inc., CA 99-1039 (Koonce, J.), reversed and remanded May 3, 2000.

Richards *v.* Rheem Mfg. Co., CA 99-1073 (Robbins, C.J.), affirmed April 5, 2000.

Robinson *v.* Robinson, CA 99-1380 (Koonce, J.), affirmed May 31, 2000.

Robinson *v.* State, CA CR 99-1025 (Bird, J.), affirmed May 3, 2000.

Robinson *v.* University of Ark. for Med. Sciences, CA 99-1064 (Roaf, J.), affirmed April 26, 2000.

Rothbaum *v.* Motor Appliance Corp., CA 99-1255 (Hart, J.), affirmed May 10, 2000.

Sain *v.* State, CA 99-1122 (Neal, J.), affirmed May 24, 2000.

Sanders *v.* State, CA CR 99-1178 (Robbins, C.J.), affirmed June 21, 2000.

Sargent *v.* City of West Fork, CA 99-601 (Jennings, J.), affirmed April 5, 2000.

Second Injury Fund *v.* Spence, CA 99-1392 (Pittman, J.), affirmed June 21, 2000.

Scott *v.* State, CA CR 99-1054 (Griffen, J.), affirmed May 17, 2000.

Skinner *v.* Southwest Ark. Dev. Council, CA 99-1168 (Pittman, J.), affirmed June 28, 2000.

Snuggs *v.* Griffin Elec. Heating & Air, CA 99-1200 (Hart, J.), affirmed in part; reversed in part; and remanded May 24, 2000. Rehearing denied July 5, 2000.

Smith *v.* Arkansas Bd. of Private Investigators, CA 99-1010 (Bird, J.), affirmed April 12, 2000.

Smith *v.* Hot Springs Village Prop. Owners Ass'n, CA 99-1236 (Stroud, J.), affirmed May 31, 2000.

S & S Constr., Inc. *v.* Coplin, CA 99-1399 (Robbins, C.J.), affirmed May 24, 2000.

Strawbridge *v.* State, CA CR 96-1237 (Pittman, J.), affirmed as modified and remanded May 3, 2000.

Strong *v.* State, CA CR 99-1007 (Griffen, J.), affirmed June 28, 2000.

Swafford *v.* Swafford, CA 99-942 (Hart, J.), affirmed April 5, 2000.

Tackett *v.* Merchant's Sec. Patrol, CA 99-955 (Per Curiam), dismissed April 26, 2000.

T.B. *v.* State, CA 99-700 (Pittman, J.), affirmed May 3, 2000.

Temple *v.* State, CA CR 99-1193 (Pittman, J.), affirmed June 28, 2000.

Thompson *v.* State, CA CR 99-1345 (Roaf, J.), affirmed May 3, 2000. Rehearing denied. Pittman, J., would grant for certification.

Tilton *v.* State, CA CR 99-1272 (Roaf, J.), affirmed April 12, 2000.

Trimble Navigation, Ltd. *v.* Papachristou, CA 99-900 (Griffen, J.), affirmed June 28, 2000. Rehearing denied August 23, 2000.

Trout *v.* Meeks Lumber Co., CA 99-934 (Crabtree, J.), affirmed April 26, 2000.

Turner *v.* State, CA CR 99-880 (Robbins, C.J.), affirmed April 26, 2000.

Waits *v.* State, CA CR 99-1110 (Crabtree, J.), affirmed June 7, 2000.

Walls *v.* Wal-Mart Stores, CA 99-883 (Hays, Sp.J.), affirmed April 5, 2000.

Walter *v.* Books-A-Million, CA 99-842 (Neal, J.), affirmed April 19, 2000.

Wal-Mart Stores, Inc. *v.* Williams, CA 99-1209 (Hart, J.), affirmed May 3, 2000. Rehearing denied May 31, 2000.

Walker *v.* Independent Case Mngmt., CA 99-1189 (Pittman, J.), reversed and remanded May 3, 2000.

Ward *v.* State, CA CR 99-1013 (Meads, J.), affirmed June 21, 2000.

Washington *v.* State, CA CR 99-1082 (Koonce, J.), affirmed April 26, 2000.

Wellman *v.* Wellman, CA 99-768 (Crabtree, J.), affirmed April 5, 2000.

Whisenhunt *v.* Bee Branch Water Ass'n, Inc., CA 99-165 (Jennings, J.), affirmed April 12, 2000.

Whisenhunt *v.* State, CA CR 99-981 (Bird, J.), affirmed April 26, 2000. Rehearing denied June 7, 2000.

White *v.* Russellville Steel Co., CA 99-1299 (Meads, J.), affirmed May 10, 2000.

White *v.* State, CA CR 99-788 (Stroud, J.), affirmed May 31, 2000.

White *v.* White, CA 99-1094 (Pittman, J.), affirmed June 7, 2000.

Willis *v.* State, CA CR 99-1130 (Stroud, J.), affirmed April 12, 2000.

Wright *v.* Industrial Maintenance & Piping, CA 99-1427 (Hart, J.), affirmed May 17, 2000.

CASES AFFIRMED BY THE ARKANSAS COURT OF APPEALS WITHOUT WRITTEN OPINION PURSUANT TO RULE 5-2(B), RULES OF THE ARKANSAS SUPREME COURT AND COURT OF APPEALS

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