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ARKANSAS REPORTS

Volume 344

CASES DETERMINED  
IN THE

Supreme Court  
of Arkansas

FROM  
March 1, 2001 — May 10, 2001  
INCLUSIVE<sup>1</sup>

AND

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IN THE

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of Arkansas

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PUBLISHED BY THE  
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<sup>1</sup>Arkansas Supreme Court cases (ARKANSAS REPORTS) are in the front section, pages 1 through 743.  
Cite as 344 Ark. \_\_\_\_ (2001).

<sup>2</sup>Arkansas Court of Appeals cases (ARKANSAS APPELLATE REPORTS) are in the back section, pages 1  
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STANDARDS FOR PUBLICATION OF OPINIONS

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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 All opinions that are not to be published shall be marked "Not Designated For Publication."

(d) COURT OF APPEALS — UNPUBLISHED OPINIONS.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 continuing or related litigation upon an issue such as *res judicata*, collateral

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ARKANSAS  
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WILLIAM B. JONES, JR.  
REPORTER OF DECISIONS

CINDY M. ENGLISH  
DEPUTY  
REPORTER OF DECISIONS

VICTORIA M. FREY  
EDITORIAL ASSISTANT

PUBLISHED BY THE  
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2001

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APPENDIX

Rules Adopted  
or Amended by  
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2

IN RE: ARKANSAS RULES for MINIMUM  
CONTINUING LEGAL EDUCATION (RULE 3(A))  
and REGULATIONS of the CLE BOARD (3.02)

Supreme Court of Arkansas  
Delivered March 22, 2001

**P**ER CURIAM. The Arkansas Continuing Legal Education Board has proposed changes in the Arkansas Rules for Minimum Continuing Legal Education and the Regulations of the Arkansas Continuing Legal Education Board. The changes include the following:

In Rule 3(A), the language “which may include professionalism” is being added to the second sentence of the rule. In Regulation 3.02, new third and fourth paragraphs are being added, which state:

Ethics may include professionalism courses addressing the principles of competency, dedication to the service of clients, civility, improvement of justice, advancement of the rule of law, and service to the community.

Professionalism courses may include a lawyer’s responsibility as an officer of the Court; responsibility to treat fellow lawyers, members of the bench, and clients with respect and dignity; responsibility to protect the image of the profession; responsibility generally to the public service; the duty to be informed about methods of dispute resolution and to counsel clients accordingly; and misuse and abuse of discovery and litigation.

Also, in Regulation 3.02, the term “non-resident” is being substituted for “out of state.”

We find that the proposed amendments are appropriate. We hereby adopt the amendments and republish Rule 3(A) and Regulation 3.02 of the Arkansas Rules and Regulations for Minimum Continuing Legal Education as set forth below.

**Arkansas Rules for Minimum Continuing Legal  
Education**

**Rule 3. Minimum educational requirements.**

(A) Every member of the Bar of Arkansas, except as may be otherwise provided by these rules and, excepting those attorneys granted voluntary inactive status by the Arkansas Supreme Court Committee on Professional Conduct, shall complete 12 hours of approved continuing legal education during each reporting period as defined by Rule 5(A) below. Of those 12 hours, at least one hour shall be ethics, which may include professionalism as defined by Regulation 3.02. In addition, an attorney or judge may carry over accredited hours in accord with the provisions of Rule 5 (A), including one hour of ethics which may be carried forward to the succeeding reporting period.

(B) This minimum requirement must be met through courses conducted by sponsors approved by the Board, or individual courses that have been approved by the Board, or such other programs, courses, or other educational materials that the Board may approve pursuant to Rule 4.

(C) An hour of continuing legal education shall include at least sixty minutes of instruction, exclusive of meals, introductions, or other noneducational activities.

(D) The Board is authorized and encouraged to consider the requirement of particular course content, such as professional or judicial ethics, as part of the minimum educational requirement.

### **Regulations of the Arkansas Continuing Legal Education Board**

#### **Rule 3.02. Ethics.**

Ethics presentations shall be distinct segments no less than one hour in length, shall be specifically designated separately on the program application and shall be accompanied by appropriate documentation. Likewise, claims for ethics credit shall be designated separately on certificates of attendance submitted to the Secretary.

Ethics shall be defined as follows: "Legal ethics includes, but is not necessarily limited to, instruction on the Model Rules of Professional Conduct and the Code of Judicial Conduct."

Ethics may include professionalism courses addressing the principles of competency, dedication to the service of clients, civility, improvement of justice, advancement of the rule of law, and service to the community.

Professionalism courses may include a lawyer's responsibility as an officer of the Court; responsibility to treat fellow lawyers, members of the bench, and clients with respect and dignity; responsibility to protect the image of the profession; responsibility generally to the public service; the duty to be informed about methods of dispute resolution and to counsel clients accordingly; and misuse and abuse of discovery and litigation.

Legal ethics does not include such topics as attorney fees, client development, law office economics, and practice systems except to the extent professional responsibility is directly discussed in connection with these topics.

In accord with Rule 2(C) non-resident attorneys shall not be subject to the one hour ethics requirement set forth in Rule 3 (A) except insofar as their resident state require ethics credits.

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IN RE: ADOPTION of ADMINISTRATIVE ORDER  
NUMBER 14

Supreme Court of Arkansas  
Delivered April 6, 2001

**P**ER CURIAM. Pursuant to Section 6 (B) of Amendment 80 of the Arkansas Constitution, the Supreme Court hereby adopts, effective immediately, Administrative Order Number 14 concerning the subject-matter divisions of circuit court.

We thank the members of the Supreme Court Amendment 80 Implementation Committee for their work in assisting this court to formulate Administrative Order Number 14.

**ADMINISTRATIVE ORDER NUMBER 14**

**DIVISIONS OF CIRCUIT COURTS  
ADMINISTRATIVE PLAN**

1. *Divisions.* a. A circuit judge shall at all times have the authority to hear all matters within the jurisdiction of the circuit court and

has the affirmative duty to do so regardless of the designation of divisions. The circuit judges of a judicial circuit shall establish the following subject-matter divisions in each county of the judicial circuit: criminal, civil, juvenile, probate, and domestic relations. The designation of divisions is for the purpose of judicial administration and caseload management and is not for the purpose of subject-matter jurisdiction. The creation of divisions shall in no way limit the powers and duties of the judges as circuit judges. Judges shall not be assigned exclusively to a particular division so as to preclude them from hearing other cases which may come before them.

b. For purposes of this order, “probate” means cases relating to decedent estates, trust administration, adoption, guardianship, conservatorship, commitment, change of name, and adult protective custody. “Domestic Relations” means cases relating to divorce, annulment, maintenance, custody, visitation, support, paternity, and domestic abuse.

2. *Administrative Plan.* The circuit judges of a judicial circuit shall submit a plan for circuit court administration to the Supreme Court for approval. The plan shall include the following:

a. *Administrative Policy.* Each judicial circuit which is served by more than one circuit judge shall adopt a written policy which describes the process by which case management and administrative procedures to be used within the judicial circuit will be determined. The circuit judges of the judicial circuit must unanimously agree, and evidence their agreement, as to the manner in which decisions will be reached under the plan. For example, the policy might require the establishment of periodic meetings by all judges and might specify the requirement of an affirmative vote by a majority, super-majority, or unanimous consent of all the judges. In the alternative, the policy might provide for the designation or selection of an administrative judge or an administrative committee to make such decisions or to be responsible for on-going implementation. In designing a plan, any special circumstances within the judicial circuit and the individual experience of the judges may be considered.

b. *Case Assignment and Allocation.* (1) The plan shall describe the process for the assignment of cases and shall control the assignment and allocation of cases in the judicial circuit. In the absence of good cause to the contrary, the plan of assignment of cases shall assume (i) random selection of unrelated cases; (ii) a substantially equal apportionment of cases among the circuit judges of a judicial

circuit; and (iii) all matters connected with a pending or supplemental proceeding will be heard by the judge to whom the matter was originally assigned.

(2) The Administrative Office of the Courts shall as soon as practical develop and make available to each judicial circuit a computerized program to assure (i) random assignment of cases where appropriate and (ii) a substantially equal apportionment of cases among the judges.

(c) Caseload Estimate. The plan shall provide a process which will apportion the business of the circuit court among each of the judges within the judicial circuit on as equal a basis as possible. The plan shall include an estimate of the projected caseload of each of the judges based upon previous case filings. If, at any time, it is determined that a workload imbalance exists which is affecting the judicial circuit or a judge adversely, the plan shall be amended subject to the provisions of Section (3) of this Administrative Order.

3. *Supreme Court*. The administrative plan for the judicial circuit shall be submitted to the Supreme Court by March 1 of each year following the year in which the general election of circuit judges is held. Until a subsequent plan is approved by the Supreme Court, any approved plan currently in effect shall remain in full force. Upon approval, a copy of the order shall be filed with the clerk of the circuit court and the clerk of the Supreme Court. An approved plan may only be amended if approved by the Supreme Court. In the event the circuit judges are unable to agree on a plan or the plan is not approved by the Supreme Court, the Supreme Court may formulate a plan for the equitable distribution of cases and caseloads within the judicial circuit. The Supreme Court shall set out the plan in an order which shall be filed with the clerk of each court in the judicial circuit and the clerk of the Supreme Court. The clerk shall thereafter assign cases in accordance with the plan. The Supreme Court shall appoint a circuit judge from the judicial circuit to serve as an administrative judge for the purpose of implementing the plan formulated by the Supreme Court. In the event an approved plan is not being followed, a judge may bring the matter to the attention of the Chief Justice of the Arkansas Supreme Court by setting out in writing the nature of the problem. Upon receipt of a complaint, the Supreme Court may cause an investigation to be undertaken by appropriate personnel and will take other action as may be necessary to insure the efficient operation of the courts and the expeditious dispatch of litigation in the judicial circuit.

4. *Transition.* a. No divisions of circuit court shall be effective as of January 1, 2002 unless the Supreme Court has approved the circuit court's administrative plan. Each judicial circuit shall submit its initial administrative plan to the Supreme Court on or before June 1, 2001. The Supreme Court shall approve or disapprove such plans on or before July 1, 2001. The initial plans shall be implemented on January 1, 2002.

b. For the period July 1, 2001 through December 31, 2001, all judges are circuit judges and may hear any type of case, but during this period of transition, circuit judges shall continue to be assigned the types of cases each was being assigned prior to the effective date of Amendment 80 of the Arkansas Constitution.

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IN RE: PROPOSED AMENDMENT to RULE 10 of  
ARKANSAS RULES of APPELLATE PROCEDURE—  
CRIMINAL (AUTOMATIC REVIEW in DEATH CASES)

Supreme Court of Arkansas  
Delivered May 3, 2001

**P**ER CURIAM. In *State v. Robbins*, 339 Ark. 379 (1999), we held that in death-penalty cases, even if the defendant waives his personal right of appeal, the court will conduct an automatic review of the record for egregious and prejudicial errors. Subsequently, we directed the Supreme Court Committee on Criminal Practice to consider the adoption of possible rules to implement the procedures announced in *Robbins*. The Committee has deliberated on the matter and reviewed procedures utilized by other states. It has now recommended to the court a proposed rule, as an amended Rule 10 of the Rules of Appellate Procedure—Criminal, which appears at the end of this order.

The Committee's proposal provides that a sentence of death is automatically appealed to the Supreme Court, and the Supreme Court will conduct a mandatory review of certain issues in every death penalty case.



We express our gratitude to the members of the Criminal Practice Committee for their work on this matter. We are publishing the Committee's proposal for comment from the bench and bar. Comments and suggestions may be made in writing and submitted no later than June 30, 2001, and be addressed to:

Leslie Steen, Clerk  
Arkansas Supreme Court  
Attn: Criminal Procedure Rules  
Justice Building  
625 Marshall Street  
Little Rock, AR 72201

New language is underlined and deletions are ~~stricken~~.

**Rule 10. Affirmance of death sentence; procedure. Automatic appeal and mandatory review in death-sentence cases; procedure on affirmance.**

(a) Automatic appeal. Upon imposing a sentence of death, the circuit court shall order the circuit clerk to file a notice of appeal on behalf of the defendant within thirty (30) days after entry of judgment. The notice of appeal shall be in the form annexed to this rule. The court reporter shall transcribe all portions of the criminal proceedings consistent with Article III of the Rules of the Supreme Court and shall file the transcript with the circuit clerk within sixty (60) days after entry of the judgment. Within thirty (30) days after receipt of the transcript, the circuit clerk shall compile the record consistent with Article III and shall file the record with the clerk of the Arkansas Supreme Court for mandatory review consistent with this rule and for review of any additional issues the appellant may enumerate.

(b) Mandatory review. Whenever a sentence of death is imposed, the Supreme Court shall review the following issues in addition to other issues, if any, that a defendant may enumerate on appeal. Counsel shall be responsible for abstracting the record and briefing the issues required to be reviewed by this rule and shall consolidate the abstract and brief for such issues and any other issues enumerated on appeal. The Court shall consider and determine:

- i) pursuant to Rule 4-3(h) of the Rules of the Supreme Court and Ark. Code Ann. § 16-91-113(a), whether prejudicial error occurred;

- ii) whether the trial court failed in its obligation to bring to the jury's attention a matter essential to its consideration of the death penalty;
- iii) whether the trial judge committed prejudicial error about which the defense had no knowledge and therefore no opportunity to object;
- iv) whether the trial court failed in its obligation to intervene without objection to correct a serious error by admonition or declaring a mistrial;
- v) whether the trial court erred in failing to take notice of an evidentiary error that affected a substantial right of the defendant;
- vi) whether the evidence supports the jury's finding of a statutory aggravating circumstance or circumstances; and
- vii) whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor.

(c) *Procedure on affirmance.* When a judgment of death has been affirmed, the denial of post-conviction relief has been affirmed, or a mandate has been returned from the United States Supreme Court, and the day of execution has passed, the Clerk of the Supreme Court shall transmit to the Governor a certificate of the affirmance or return of mandate and judgment, to the end that a warrant for the execution of the judgment may be issued by the Governor. Such certificate shall operate to dissolve any stay of execution previously entered by the Supreme Court or any stay of execution previously entered by a circuit court pending disposition of a petition for post-conviction relief.

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IN RE: RULES GOVERNING ADMISSION  
to the BAR of ARKANSAS

Delivered May 10, 2001

**P**ER CURIAM. In our per curiam order of November 30, 2000, we added the Multistate Performance Test (MPT) to the general Arkansas bar examination. We also adopted a scaled

score of 85 on the Multistate Professional Responsibility Examination (MPRE). In that per curiam order, we explained that additional per curiam orders would issue to implement those changes. We do that now.

First, we amend Rule IX as it appears on the attachment to this order to add language concerning the MPT.

Second, we further amend Rule IX as it appears on the attachment to this order to set an effective date for the new minimum scaled score on the MPRE.

We adopt and publish Rule IX as amended, as set forth on the attachment to this per curiam order, effective immediately.

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## RULE IX.

### EXAMINATION — SUBJECTS — PASSING GRADE

#### A. GENERAL EXAMINATION

All examinations shall be in writing and shall cover the subjects hereinafter listed and such other subjects as the Board may direct, subject to prior Court approval.

#### BUSINESS ORGANIZATIONS

This subject heading may include corporations, partnerships, agency and master-servant relationships.

#### COMMERCIAL TRANSACTIONS

This subject heading may include the general coverage of the U.C.C. This will not include the general subject of contracts and will not include matters relating to warranties under product liability, both of which may be covered under other headings.

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## CRIMINAL LAW AND PROCEDURE

This subject heading may include constitutional law as it applies to criminal law and procedure.

## CONSTITUTIONAL LAW

This subject heading may include both the Arkansas Constitution and the Constitution of the United States. This subject will not be primarily directed to matters relating to criminal law and procedure.

## TORTS

This subject heading may include the entire field of Tort law and questions concerning product liability.

## PROPERTY

This subject heading may include the law of real property and, or, personal property. Emphasis here should not be placed on the U.C.C. and other such questions arising primarily under the subject heading "Commercial Transactions."

## WILLS, ESTATES, TRUSTS

Because of the broad scope of this subject heading, questions concerning taxation shall not be covered. Guardianship of both the person and the estate may be included.

## EVIDENCE

## PRACTICE AND PROCEDURE

This subject heading may include both state and federal trial and appellate practice and, where applicable, remedies and choice of forum.

## EQUITY AND DOMESTIC RELATIONS

## CONTRACTS

This subject heading should place emphasis upon the traditional basics of contract law. Only where duplication cannot be avoided, should matters such as the application of the Uniform Commercial Code be covered under this heading.

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**MULTISTATE PERFORMANCE TEST**

The Multistate Performance Test (MPT) presents problems which arise in a variety of fields of law which include the subject area as set forth in the preceding paragraphs as well as other fields of law. However, materials provided with the examination provide sufficient substantive information to complete the task set forth in each MPT question.

NOTE: Conflict of Laws is not included as a separate subject on the examination. However, conflict questions may arise in the subjects included on the examination and should be recognized as such.

The answers to each essay question will be assigned a score ranging from 65 to 85. This score shall be designated as the applicant's "essay raw" score on a question. The sum of the applicant's essay raw scores from all the essay questions on the examination shall be designated as the applicant's "total essay raw" score.

The distribution of the total essay raw scores acquired by applicants on a given examination will be converted to a score distribution that has the same mean and standard deviation as those same applicants' Multistate Bar Examination scale scores on that examination. The score on this converted scale that corresponds to the applicant's total essay raw score shall be designated as the applicant's "essay scale" score. An applicant's total examination score shall be determined by the following formula:

$$\text{Total Score} = (\text{essay scale score} \times 2) + (\text{MBE scale score})$$

An applicant shall pass the examination if he or she earns a total score of 405 points or higher.

The Board shall destroy all examination papers, questions and answers, at the time of the next succeeding bar examination. However, the original copy of each question shall be maintained in accordance with Rule III.

A bar examination applicant may retain: the applicant's Arkansas total essay raw score of 825 or more; or, the applicant's Multistate Bar Examination scale score of 135 or more. The retained score may be used in the concurrent or immediately succeeding examination only. An applicant may transfer from another jurisdiction a Multistate Bar Examination scale score of 135 or more for use in the concurrent or immediately succeeding examination only.

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B. MULTISTATE PROFESSIONAL RESPONSIBILITY  
EXAMINATION

The provisions of Section A of this rule, titled GENERAL EXAMINATION, and the provisions of Rules II and IV of the Rules Governing Admission to the Bar shall govern the semiannual general examinations conducted by the Arkansas State Board of Law Examiners.

As a prerequisite for admission to the Bar of Arkansas each applicant shall be required to attain a scaled score of 75 or more on the Multistate Professional Responsibility Examination (MPRE), provided such score was attained before July 1, 2001. In the event an MPRE score is attained after July 1, 2001, then the applicant shall be required to attain a scaled score of 85 or more on the MPRE. This score shall be considered independent of the combined average grade as set out in Rule IV of these rules, and Section A of this rule. Any applicant may take the MPRE prior to a general examination, or within one (1) year from conduct of a general examination at which the applicant receives a passing score. Individuals who successfully complete the MPRE are allowed to retain, or transfer from another jurisdiction, their passing score for a period not exceeding three years from the date upon which the individual took the MPRE. There is no limit on the number of times that an applicant may take the MPRE without passing. (Per Curiam November 1, 1971; amended by Per Curiam June 18, 1984; amended by Per Curiam April 4, 1988; amended by Per Curiam May 18, 1992; amended by Per Curiam June 7, 1998; amended by Per Curiam January 18, 1994; amended by Per Curiam May 15, 1995.)

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

— SAMUEL JOHNSON  
(1709-1784)



ARKANSAS REPORTS  
VOLUME 344

ARKANSAS  
APPELLATE REPORTS  
VOLUME 73



JUSTICES AND OFFICERS  
OF THE  
SUPREME COURT OF  
ARKANSAS

DURING THE PERIOD COVERED  
BY THIS VOLUME

(March 1, 2001 — May 10, 2001, inclusive)

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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
JIM HANNAH	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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- Collins *v.* State, CR 98-563 (Per Curiam), Pro Se Motion for Photocopy of Transcript at Public Expense denied March 22, 2001.
- Craft *v.* State, CR 86-10 (Per Curiam), Pro Se Motion for Photocopy of Post Conviction Appeal Record and Other Material at Public Expense denied March 29, 2001.
- Davis, Lamar Boris *v.* State, CR 00-1295 (Per Curiam), Pro Se Motion for Extension of Time to File Reply Brief; denied and appeal dismissed March 29, 2001.
- Davis, Michael A. *v.* State, CR 01-57 (Per Curiam), Pro Se Motions to Supplement Record moot; Motion for Access to Trial Transcript and Postconviction Appeal Record and for Extension of Time to File brief granted April 5, 2001.
- Eads *v.* State, CA CR 00-984 (Per Curiam), Pro Se Motion to Certify Appeal to Supreme Court denied May 10, 2001.
- Ellison *v.* Dep't of Human Servs., 00-1140 (Per Curiam), Pro Se Motions for Reconsideration of Petition for Writ of Habeas Corpus and to Supplement Record denied March 15, 2001.
- Emery *v.* State, CR 01-49 (Per Curiam), Pro Se Motion for Belated Appeal of Order; treated as motion for rule on clerk and denied April 5, 2001.
- Ensey *v.* Norris, 99-752 (Per Curiam), affirmed May 3, 2001.
- Farver *v.* Davis, CR 01-113 (Per Curiam), Pro Se Motion for Rule on Clerk to File Mandamus Petition Without Record dismissed March 29, 2001.
- Folk *v.* State, CA CR 99-1319 (Per Curiam), Pro Se Motion for Reconsideration of Motion to Relieve Counsel denied April 26, 2001.
- Gaddie *v.* State, CR 00-1232 (Per Curiam), Pro Se Motion for Belated Appeal of Order denied March 8, 2001.
- Gipson *v.* State, CR 00-1246 (Per Curiam), Pro Se Motion for Appointment of Counsel denied April 5, 2001.
- Gordon, Marcus *v.* State, CR 99-1199 (Per Curiam), affirmed May 10, 2001.
- Gordon, Robert *v.* State, CR 99-492 (Per Curiam), affirmed March 29, 2001.
- Hardin, John *v.* State, CR 99-563 (Per Curiam), remanded March 22, 2001.

- Hardin, John *v.* State, CR 99-563 (Per Curiam), affirmed May 10, 2001.
- Harris, Bob *v.* State, CR 94-1273 (Per Curiam), Petition for Leave to Proceed in Circuit Court with Petition for Writ of Error *Coram Nobis* denied March 29, 2001.
- Harris, Corey *v.* State, CR 00-715 (Per Curiam), Pro Se Motion for Appointment of Counsel denied April 26, 2001.
- Hawthorne *v.* Langley, CR 01-144 (Per Curiam), Pro Se Motion and Amended Motion for Rule on Clerk to File Mandamus Petition dismissed April 5, 2001.
- Howard *v.* Woodyard, 00-1164 (Per Curiam), Pro Se Motion to File a Belated Brief granted March 29, 2001.
- Hubbard *v.* State, CR 99-433 (Per Curiam), affirmed March 15, 2001.
- Huddleston, John Lee *v.* State, CR 00-697 (Per Curiam), Pro Se Motions to Supplement Record and Abstract moot April 19, 2001.
- Huddleston, John Lee *v.* State, CR 00-697 (Per Curiam), Pro Se Motion to Complete Record moot May 3, 2001.
- Hunes *v.* State, CR 81-74 (Per Curiam), Pro Se Petition to Reinvest Jurisdiction in the Trial Court to Consider a Petition for Writ of Error *Coram Nobis* denied March 1, 2001.
- Hyatt *v.* State, CR 00-1329 (Per Curiam), Pro Se Motion for Rule on Clerk to Proceed with Belated Appeal of Order denied March 8, 2001.
- Irvin *v.* State, CR 01-295 (Per Curiam), Pro Se Motion for Belated Appeal denied April 19, 2001.
- King *v.* State, CR 95-884 (Per Curiam), Pro Se Motion for Photocopies at Public Expense denied March 8, 2001.
- Leeper *v.* State, CR 00-852 (Per Curiam), Pro Se Petition for Writ of *Certiorari* granted; writ of *certiorari* issued March 8, 2001.
- Leggins *v.* State, CR 00-1052 (Per Curiam), Pro Se Motion for Rule on Clerk to File a Belated Brief; denied and appeal dismissed March 8, 2001.
- Lever *v.* State, 00-555 (Per Curiam), Pro Se Motion for Reconsideration denied March 22, 2001.

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

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- Armstrong *v.* State, CR 99-901 (Per Curiam), affirmed May 10, 2001.
- Arnold *v.* State, CR 01-277 (Per Curiam), Pro Se Motion for Belated Appeal of Order remanded to the trial court for evidentiary hearing May 3, 2001.
- Ashlock *v.* State, CR 99-972 (Per Curiam), affirmed May 10, 2001.
- Barfield *v.* State, CA CR 99-233 (Per Curiam), Pro Se Motion for Copy of Transcript denied May 3, 2001.
- Blockman *v.* State, CR 00-674 (Per Curiam), Pro Se Motion for Extension of Time to File Brief granted March 22, 2001.
- Boone *v.* State, CR 98-284 (Per Curiam), Pro Se Petition for Leave to Proceed in Circuit Court with Petition for Writ of Error *Coram Nobis* denied April 26, 2001.
- Brown, Patrick *v.* State, CR 00-1190 (Per Curiam), Pro Se Motion for Belated Appeal of Order dismissed March 1, 2001.
- Brown, Patrick *v.* State, CR 00-1190 (Per Curiam), Pro Se Motion for Reconsideration of Motion for Belated Appeal of Order dismissed April 26, 2001.
- Brown *v.* Maxwell, 00-753 (Per Curiam), Pro Se Motion for Extension of Time to File Appellant's Reply Brief and for Other Relief, granted in part and denied in part March 22, 2001.
- Brown *v.* Post Prison Transf. Bd., 00-21 (Per Curiam), Pro Se Motion for Reconsideration denied March 22, 2001.
- Burnette *v.* State, CR 01-287 (Per Curiam), Pro Se Motion for Belated Appeal of Judgment treated as motion for rule on clerk and granted; Pro Se Motion for Release on Bond and Amended Motion denied May 10, 2001.
- Cannon *v.* State, CA CR 96-1018 (Per Curiam), Pro Se Motion for Photocopy of Trial Transcript at Public Expense denied May 10, 2001.
- Cloird *v.* Reed, CR 00-166 (Per Curiam), Pro Se Motion to Process Appeal as a Petition for Writ of Certiorari denied March 1, 2001.
- Coleman *v.* State, CR 00-414 (Per Curiam), Pro Se Motion for Extension of Time to File Appellant's Brief granted; final extension March 8, 2001.

Lewis *v.* State, CR 01-112 (Per Curiam), Pro Se Motion for Rule on Clerk to Lodge Appeal Without Record dismissed March 29, 2001.

Litsch *v.* State, CR 00-1292 (Per Curiam), Pro Se Motion for Extension of Time to File Appellant's Brief; denied and appeal dismissed March 29, 2001.

Lunsford *v.* State, CA CR 98-1273 (Per Curiam), Pro Se Motion for Copy of Transcript denied April 19, 2001.

Mackintrush *v.* State, CR 99-952 (Per Curiam), Pro Se Motion to Strike Appellee's Brief and for Other Relief denied April 26, 2001.

Marshall *v.* State, CR 01-157 (Per Curiam), Pro Se Motion for Belated Appeal of Judgment remanded April 19, 2001.

McDonald *v.* State, CR 00-710 (Per Curiam), Pro Se Motion for Extension of Time to File Reply Brief moot March 22, 2001.

McGhee *v.* State, CR 99-554 (Per Curiam), affirmed April 19, 2001.

Munson *v.* State, CR 99-824 (Per Curiam), affirmed May 3, 2001.

Neal *v.* Norris, CR 00-30 (Per Curiam), Pro Se Motions to Amend Addendum and to File Supplemental Argument moot; appeal dismissed March 1, 2001.

Newton *v.* State, CA CR 99-1293 (Per Curiam), Pro Se Petition for Leave to Proceed in Circuit Court with Petition for Writ of Error *Coram Nobis* denied March 8, 2001.

Nicklas *v.* State, CA CR 99-1321 (Per Curiam), Pro Se Motion for Rule on Clerk to File Petition for Review denied March 22, 2001.

Nichols *v.* State, CR 01-331 (Per Curiam), Pro Se Motion and Amended Motion for Rule on Clerk denied; Pro Se Motions for Appointment of Counsel and Petition for Writ of *Certiorari* moot May 10, 2001.

Nooner *v.* Gean, 01-156 (Per Curiam), Pro Se Motion for Rule on Clerk and Petition for *Certiorari* dismissed April 5, 2001.

Nooner *v.* Adams, 01-320 (Per Curiam), Pro Se Motion for Rule on Clerk dismissed May 3, 2001.

Orsini *v.* Beck, 01-208 (Per Curiam), Pro Se Motion for Extension of Time to File Appellant's Brief granted April 26, 2001.

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- Peters *v.* State, CR 00-1337 (Per Curiam), Pro Se Motions for Record and for Extension of Time to File Brief; denied and appeal dismissed March 29, 2001.
- Pitts *v.* Post-Prison Transf. Bd., 00-267 (Per Curiam), Pro Se Motion for Reconsideration of Motion to Withdraw Motion for Rule on Clerk denied April 5, 2001.
- Rainer *v.* State, CA CR 99-635 (Per Curiam), Pro Se Motion for Photocopy of Trial Transcript and Other Material at Public Expense denied March 29, 2001.
- Risher *v.* State, CR 92-923 (Per Curiam), Pro Se Motion for Rule on Clerk denied April 26, 2001.
- Robertson *v.* State, CR 95-17 (Per Curiam), Pro Se Petition to Reinvest Jurisdiction in the Trial Court to Consider a Petition for Writ of Error *Coram Nobis* denied March 15, 2001.
- Robinson *v.* State, CR 01-217 (Per Curiam), Pro Se Motions for Record and to Supplement Records; denied and appeal dismissed April 5, 2001.
- Russey, Millard J. *v.* State, CR 98-383 (Per Curiam), Pro Se Motion for Copy of Transcript at Public Expense denied May 10, 2001.
- Russey, Millard J. *v.* State, CR 00-1376 (Per Curiam), Pro Se Motion for Belated Appeal of Order; treated as motion for rule on clerk and denied March 15, 2001.
- Seslar *v.* State, CR 00-1359 (Per Curiam), Pro Se Petition for Writ of Habeas Corpus dismissed March 15, 2001.
- Smith *v.* State, 00-358 (Per Curiam), Pro Se Motion for Reconsideration denied March 1, 2001.
- Stocker *v.* Post-Prison Transf. Bd., 01-26 (Per Curiam), Pro Se Motion for Belated Appeal dismissed April 5, 2001.
- Taylor *v.* State, CR 00-877 (Per Curiam), affirmed April 26, 2001.
- Thomas *v.* State, CR 01-296 (Per Curiam), Pro Se Motion for Rule on Clerk to File Motion for Belated Appeal Without Record dismissed April 19, 2001.
- Tucker *v.* State, CR 00-1169 (Per Curiam), Pro Se Motion for Extension of Time to File Brief moot; appeal dismissed March 1, 2001.
- Waldon *v.* State, CR 99-1223 (Per Curiam), affirmed May 10, 2001.

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- Walling *v.* State, CR 99-690 (Per Curiam), affirmed April 26, 2001.
- Watts *v.* Humphrey, CR 01-237 (Per Curiam), Pro Se Motion for Rule on Clerk to File Mandamus Petition Without Record dismissed April 5, 2001.
- Zinger *v.* State, CR 92-923 (Per Curiam), Pro Se Motion to Join Petition for Leave to Proceed in Circuit Court with Petition for Writ of Error *Coram Nobis* moot April 19, 2001.





APPENDIX

Appointments  
to Committees



IN RE: SUPREME COURT COMMITTEE  
on CHILD SUPPORT

Supreme Court of Arkansas  
Delivered March 1, 2001

**P**ER CURIAM. The Honorable Kathleen Bell of West Helena, James Barnhill, Esq., of Little Rock, and Jean Carter, Attorney at Law, of Little Rock, are hereby reappointed to the Supreme Court Committee on Child Support. These are four-year terms that will expire on November 30, 2004.

The Court thanks Judge Bell, Mr. Barnhill, and Ms. Carter for accepting reappointment to this most important Committee.

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IN RE: APPOINTMENTS TO ARKANSAS CONTINUING  
LEGAL EDUCATION BOARD

Supreme Court of Arkansas  
Delivered March 15, 2001

**P**ER CURIAM. Mark Hayes, Esq., of North Little Rock, Sixth Court of Appeals District, Madison "Pat" Aydelott, III, Esq., of Searcy, Second Court of Appeals District, and Jim Rose, III, Esq., of Fayetteville, at-large, are hereby appointed to the Board of Continuing Legal Education for three-year terms to expire on December 5, 2003.

The court thanks Mr. Hayes, Mr. Aydelott, and Mr. Rose for accepting appointments to this Board.

The court expresses its appreciation to Carolyn Witherspoon, Esq., of Little Rock, Phil Hout, Esq., of Newport, and Pamela Osment, Esq., of Conway, whose terms have expired, for their service as members of this Board.

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IN RE: SUPREME COURT COMMITTEE ON MODEL  
JURY INSTRUCTIONS—CRIMINAL

Supreme Court of Arkansas  
Delivered March 15, 2001

**P**ER CURIAM. The Honorable John Cole of Malvern and Bob McMahan, Esq., of Little Rock, are reappointed to the Supreme Court Committee on Model Jury Instructions—Criminal for three-year terms to expire on February 28, 2004.

The Court thanks Judge Cole and Mr. McMahan for accepting reappointment to this most important Committee.

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IN RE: APPOINTMENTS to SUPREME COURT  
COMMITTEE on MODEL JURY INSTRUCTIONS—CIVIL

Supreme Court of Arkansas  
Delivered March 22, 2001

**P**ER CURIAM. R. Gary Nutter, Esq., of Texarkana, Peter Kumpe, Esq., of Little Rock, William Waddell, Esq., of Little Rock, and Hani Hashem, Esq., of Monticello are reappointed to the Committee on Model Jury Instructions—Civil for three-year terms to expire on April 30, 2004.

The court extends its thanks to Messrs. Nutter, Kumpe, Waddell, and Hashem for accepting reappointment to this most important Committee.

## IN RE: ARKANSAS LAWYERS ASSISTANCE PROGRAM

Supreme Court of Arkansas  
Delivered March 22, 2001

**P**ER CURIAM. On December 7, 2000, this court handed down a *per curiam* order establishing the Arkansas Lawyers Assistance Program. Under the *per curiam*, this court has the authority to appoint the Arkansas Lawyers Assistance Program Committee consisting of nine members, who will be chosen on the basis of geography and diversity. Three members of the Committee cannot be members of the legal profession. We hereby appoint the following persons:

Dr. Phil Barling of Fort Smith	Lay Member
Gail Harber of Little Rock	Lay Member
Judge David Laser of Jonesboro	
Hon. Kathleen Bell of West Helena	
James E. Smith, Jr., Esquire, of Little Rock	
Janet James Robb, Esquire, of Little Rock	
Christopher Thomas, Executive Director of Professional Programs for the Arkansas Supreme Court.	
Dr. Joseph Martindale of Benton	Lay Member
Gary R. Burbank, Esquire, of El Dorado	

The court expresses its appreciation to these persons for their willingness to serve. They shall draw for staggered terms in the following manner, said staggered terms to expire on February 28 of the applicable year: Three members shall draw for terms of four years; three members shall draw for terms of five years; and three members shall draw for terms of six years. As provided in the December 7th *per curiam*, the members drawing terms of less than six years are not precluded from reappointment.

The court appoints Janet James Robb as the Chair of this Committee.

IN RE: APPOINTMENT of COUNSEL  
in CRIMINAL CASES

Supreme Court of Arkansas  
Delivered April 5, 2001

**P**ER CURIAM. Because appellants in criminal cases are entitled to counsel on direct appeal from a judgment of conviction, this Court on occasion must appoint attorneys to represent indigent appellants. Attorneys who are desirous of such appointments should register with Sue Newbery, Criminal Justice Coordinator, Arkansas Supreme Court, Justice Building, 625 Marshall St., Little Rock, AR 72201. Counsel will be paid a fee after determination of the case, upon a proper motion.

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IN RE: REAPPOINTMENT of the  
REPORTER of DECISIONS of the  
SUPREME COURT of ARKANSAS

Supreme Court of Arkansas  
Delivered May 10, 2001

**P**ER CURIAM. William B. Jones, Jr., of Little Rock, was appointed Reporter of Decisions of the Supreme Court of Arkansas for a six-year term beginning June 1, 1995. *See In Re: Appointment of the Reporter of Decisions of the Arkansas Supreme Court*, 320 Ark. 717, 898 S.W.2d 468 (1995). Mr. Jones's term expires on May 31, 2001, and the Court, thanking him for his service, reappoints him to the office of Reporter for a term of six years, effective June 1, 2001.

APPENDIX

Professional  
Conduct Matters

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IN RE: Timothy Wayne TILLMAN,  
Arkansas Bar ID # 99052

42 S.W.3d 420

Supreme Court of Arkansas  
Delivered April 19, 2001

**P**ER CURIAM. Upon consideration of the Petition of the Supreme Court Committee on Professional Conduct seeking entry of an order of disbarment of Timothy Wayne Tillman, formerly of Sherwood, Arkansas, and pursuant to the Pulaski County Circuit Court's Order, we grant the Petition. The Court hereby revokes Mr. Tillman'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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IN RE: Kelli S. CASHION,  
Arkansas Bar ID # 96006

41 S.W.3d 819

Supreme Court of Arkansas  
Delivered May 3, 2001

**P**ER CURIAM. On recommendation of the Supreme Court Committee on Professional Conduct, we hereby accept the surrender of the license of Kelli S. Cashion, of North Little Rock, Pulaski County, Arkansas, to practice law in the State of Arkansas. Ms. Cashion's name shall be removed from the registry of licensed attorneys and she is barred from engaging in the practice of law in this State.

It is so ordered.

IN RE: Thomas Francis DONOVAN,  
ARKANSAS BAR ID #73027

Supreme Court of Arkansas  
Delivered May 10, 2001

**P**ER CURIAM. On recommendation of the Supreme Court Committee on Professional Conduct, we hereby accept the surrender of the license of Thomas Francis Donovan, of Fayetteville, Washington County, formerly of Little Rock, Pulaski County, Arkansas, to practice law in the State of Arkansas. Mr. Donovan'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.

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Volume 73

CASES DETERMINED  
IN THE

Court of Appeals  
of Arkansas

FROM  
February 28, 2001 — May 9, 2001  
INCLUSIVE

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CINDY M. ENGLISH  
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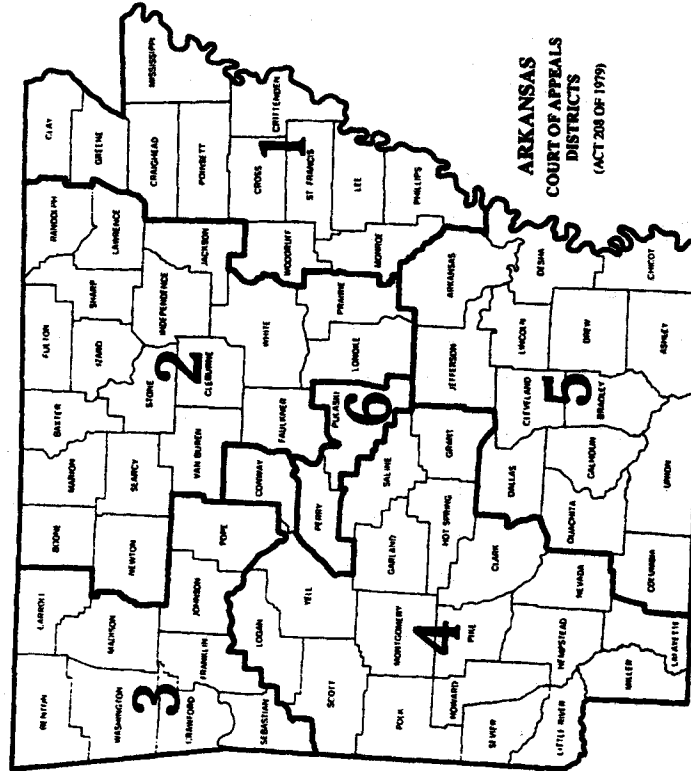


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DURING THE PERIOD COVERED  
BY THIS VOLUME

(February 28, 2001 — May 9, 2001, inclusive)

## JUDGES

JOHN F. STROUD	Chief Judge <sup>1</sup>
JOHN MAUZY PITTMAN	Judge <sup>2</sup>
JOSEPHINE LINKER HART	Judge <sup>3</sup>
JOHN E. JENNINGS	Judge <sup>4</sup>
JOHN B. ROBBINS	Judge <sup>5</sup>
SAM BIRD	Judge <sup>6</sup>
WENDELL L. GRIFFEN	Judge <sup>7</sup>
OLLY NEAL	Judge <sup>8</sup>
LARRY D. VAUGHT	Judge <sup>9</sup>
TERRY CRABTREE	Judge <sup>10</sup>
KAREN R. BAKER	Judge <sup>11</sup>
ANDREE LAYTON ROAF	Judge <sup>12</sup>

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WILLIAM B. JONES, JR.	Reporter of Decisions

<sup>1</sup> Position 7.  
<sup>2</sup> District 1.  
<sup>3</sup> District 2.  
<sup>4</sup> District 3.  
<sup>5</sup> Position 4.  
<sup>6</sup> District 5.  
<sup>7</sup> District 6.  
<sup>8</sup> Position 8.  
<sup>9</sup> Position 9.  
<sup>10</sup> Position 10.  
<sup>11</sup> Position 11.  
<sup>12</sup> Position 12.

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OPINIONS DELIVERED BY THE RESPECTIVE  
JUDGES OF THE ARKANSAS COURT OF APPEALS  
DURING THE PERIOD COVERED BY THIS  
VOLUME AND DESIGNATED FOR PUBLICATION

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STANDARDS FOR PUBLICATION OF OPINIONS

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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 continuing 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

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- A.I. Credit Corp. *v.* Shorter College, CA 00-962 (Robbins, J.), reversed and remanded April 18, 2001.
- Akins *v.* Lead Hill Sch. Dist., CA 00-1038 (Baker, J.), affirmed April 18, 2001.
- Allen *v.* Goings, CA 00-823 (Hart, J.), affirmed March 14, 2001.
- Allen *v.* State, CA CR 00-323 (Pittman, J.), affirmed May 2, 2001.
- Arkansas Aluminum Alloys *v.* Taylor, CA 00-1145 (Griffen, J.), affirmed April 25, 2001.
- Arkansas Steel Erectors, Inc. *v.* M. C. White Constr. Co., CA 00-507 (Pittman, J.), reversed and remanded April 4, 2001.
- Azzurro *v.* State, CA CR 00-907 (Griffen, J.), affirmed April 4, 2001.
- Bagby *v.* State, CA CR 00-737 (Neal, J.), affirmed March 14, 2001.
- Barbee *v.* State, CA CR 00-486 (Stroud, C.J.), affirmed April 11, 2001. Rehearing denied May 23, 2001.
- Beasley *v.* State, CA CR 00-888 (Jennings, J.), affirmed April 25, 2001. Rehearing denied May 30, 2001.
- Beckham *v.* State, CA CR 00-901 (Bird, J.), affirmed May 2, 2001.
- Ben E. Keith Co. *v.* Johnson, CA 00-1022 (Crabtree, J.), affirmed April 18, 2001.
- Bennett *v.* Director, E 00-255 (Vaught, J.), remanded to supplement record March 7, 2001.
- Beyer *v.* Woodridge Land Co., CA 00-769 (Bird, J.), affirmed March 7, 2001.
- Bishop *v.* Bishop, CA 00-843 (Bird, J.), affirmed May 2, 2001. Rehearing denied June 13, 2001.
- Bohanon *v.* State, CA CR 00-804 (Hart, J.), affirmed April 25, 2001. Rehearing denied March 21, 2001.
- Brady *v.* State, CA CR 99-992 (Crabtree, J.), affirmed March 7, 2001.
- Brewer *v.* State, CA CR 00-420 (Baker, J.), affirmed February 28, 2001.
- Brown *v.* Kawneer Co., CA 00-1073 (Vaught, J.), reversed April 25, 2001.

- Bruning *v.* Bruning, CA 00-712 (Griffen, J.), affirmed May 9, 2001.
- Bryant *v.* Pettingill, CA 00-738 (Jennings, J.), affirmed May 2, 2001.
- Buddy York Bail Bonds, Inc. *v.* Walker, CA 00-1085 (Stroud, C.J.), affirmed May 2, 2001.
- Caffey *v.* State, CA CR 00-628 (Bird, J.), affirmed May 2, 2001.
- Campbell *v.* State, CA CR 00-999 (Griffen, J.), affirmed May 2, 2001.
- Campbell *v.* United Parcel Service, Inc., CA 00-1017 (Neal, J.), affirmed in part; reversed and remanded in part April 25, 2001.
- Cannon Computer Co. *v.* Douglas, CA 00-890 (Hart, J.), affirmed March 28, 2001.
- Cantrell Realty Co. *v.* Simmons First Nat'l Bank, CA 00-996 (Griffen, J.), affirmed April 25, 2001.
- Carpenter *v.* Ziomek, CA 00-961 (Stroud, C.J.), affirmed April 25, 2001.
- Carr *v.* Frank Fletcher Cos., CA 97-1379 (Baker, J.), affirmed March 28, 2001.
- Carvin *v.* Bell, CA 00-581 (Jennings, J.), dismissed February 28, 2001.
- Chase *v.* State, CA CR 00-651 (Bird, J.), reversed and remanded March 21, 2001.
- Collier *v.* State, CA CR 00-348 (Vaught, J.), affirmed February 28, 2001.
- Corrugated Mach., Inc. *v.* Campbell, CA 00-873 (Neal, J.), affirmed April 4, 2001.
- Cragar *v.* State, CA CR 00-1138 (Baker, J.), affirmed May 2, 2001.
- Davis *v.* Arkansas Heart Hosp., CA 00-668 (Jennings, J.), affirmed April 4, 2001.
- Davis *v.* State, CA CR 00-706 (Jennings, J.), affirmed May 2, 2001.
- Dormany *v.* Wal-Mart Stores, Inc., CA 00-508 (Robbins, J.), reversed and remanded March 7, 2001.
- Dotson *v.* State, CA CR 00-797 (Jennings, J.), affirmed March 21, 2001.

- Duncan *v.* State, CA CR 00-215 (Neal, J.), affirmed in part; dismissed in part March 7, 2001.
- Earnest *v.* State, CA CR 00-739 (Pittman, J.), remanded April 11, 2001.
- Earnest *v.* State, CA CR 00-739 (Pittman, J.), affirmed May 2, 2001.
- Ecton *v.* State, CA CR 00-880 (Jennings, J.), affirmed April 4, 2001.
- Edens *v.* Superior Marble & Glass, CA 00-689 (Bird, J.), reversed and remanded February 28, 2001.
- Fleming Co. *v.* Tucker Abstract Co., CA 00-959 (Stroud, C.J.), appeal dismissed April 4, 2001.
- Flud *v.* State, CA CR 00-695 (Stroud, C.J.), affirmed March 14, 2001.
- Ford *v.* Ford, CA 00-1196 (Crabtree, J.), reversed and remanded May 2, 2001.
- Fornes *v.* State, CA CR 00-920 (Robbins, J.), affirmed April 25, 2001. Rehearing denied June 6, 2001.
- Freeman *v.* Roberts, CA 00-1161 (Neal, J.), reversed May 9, 2001.
- Gant *v.* State, CA CR 99-546 (Jennings, J.), affirmed April 25, 2001.
- Garretson *v.* McMurry, CA 00-979 (Robbins, J.), affirmed May 9, 2001.
- Gillihan *v.* Gillihan, CA 00-648 (Jennings, J.), affirmed April 11, 2001.
- Goman *v.* State, CA CR 00-121 (Baker, J.), affirmed March 21, 2001.
- Goodson *v.* Goodson, CA 00-647 (Bird, J.), affirmed in part; reversed in part March 7, 2001. Rehearing denied April 4, 2001.
- Greer *v.* State, CA CR 00-871 (Stroud, C.J.), affirmed May 9, 2001.
- Hainline *v.* State, CA CR 00-798 (Robbins, J.), affirmed March 28, 2001.
- Haynes *v.* Haynes, CA 00-1105 (Crabtree, J.), affirmed April 25, 2001.
- Hervey *v.* Garrett, CA 00-728 (Pittman, J.), affirmed May 9, 2001.



- Hill *v.* Director, E 00-249 (Jennings, J.), reversed and remanded March 7, 2001.
- Hockersmith *v.* Hockersmith, CA 00-889 (Crabtree, J.), affirmed March 21, 2001.
- Hodge *v.* State, CA CR 00-793 (Robbins, J.), affirmed February 28, 2001.
- Hyatt *v.* State, CA CR 00-869 (Stroud, C.J.), affirmed March 21, 2001.
- In Re: Estate of Hilliard *v.* McNeal, CA 00-787 (Griffen, J.), affirmed March 28, 2001.
- In Re: Estate of Seay *v.* Quinn, CA 00-1143 (Baker, J.), dismissed May 2, 2001.
- J-Mar Express, Inc. *v.* Hutson, CA 00-1172 (Hart, J.), affirmed May 2, 2001.
- Johnson *v.* SMI Joist Co., CA 00-891 (Robbins, J.), affirmed April 4, 2001.
- Jones *v.* Byrd, CA 00-783 (Robbins, J.), affirmed March 21, 2001.
- Jones *v.* Celotex Corp., CA 00-1096 (Baker, J.), affirmed May 9, 2001.
- Jordan *v.* State, CA 00-469 (Roaf, J.), reversed and dismissed March 7, 2001.
- Justice *v.* Little Rock Sch. Dist., CA 00-559 (Jennings, J.), affirmed April 25, 2001.
- Kidd *v.* Eoff, CA 00-156 (Crabtree, J.), affirmed March 14, 2001.
- Koontz *v.* State, CA CR 00-613 (Robbins, J.), affirmed February 28, 2001.
- Kovach *v.* Flying Saucer Draught Emporium, CA 00-1005 (Jennings, J.), affirmed April 25, 2001.
- Largent *v.* Department of Human Servs., CA 00-1209 (Neal, J.), affirmed April 18, 2001.
- Lovett *v.* State, CA CR 00-679 (Griffen, J.), affirmed March 14, 2001.
- Maulding *v.* Heasley, CA 00-989 (Neal, J.), affirmed March 21, 2001.
- McCloud *v.* State, CA CR 00-690 (Baker, J.), affirmed March 7, 2001.

- McConnell *v* State, CA CR 00-1066 (Vaught, J.), affirmed May 2, 2001.
- McKibbin *v* State, CA CR 00-404 (Crabtree, J.), affirmed February 28, 2001.
- McWilliams *v* Schmidt, CA 00-955 (Vaught, J.), affirmed March 14, 2001. Rehearing denied April 4, 2001.
- Medlock *v* State, CA CR 00-209 (Crabtree, J.), affirmed March 14, 2001.
- Meeks *v* State, CA CR 00-629 (Pittman, J.), affirmed March 21, 2001.
- Miller County *v* Stewart, CA 00-612 (Roaf, J.), affirmed March 7, 2001. Rehearing denied April 11, 2001.
- Miner *v* State, CA CR 00-896 (Jennings, J.), affirmed March 28, 2001.
- Moore *v* Hof, CA 00-274 (Neal, J.), affirmed February 28, 2001.
- Morris *v* State, CA CR 00-848 (Griffen, J.), affirmed March 21, 2001.
- Moten *v* State, CA CR 00-788 (Stroud, C.J.), affirmed February 28, 2001.
- Murry *v* State, CA CR 00-980 (Robbins, J.), affirmed April 11, 2001.
- Nelson *v* State, CA CR 00-659 (Griffen, J.), affirmed March 14, 2001.
- Ness *v* McNinch, CA 00-546 (Hart, J.), affirmed February 28, 2001.
- Omni Holding & Dev. Corp. *v* Farm Bureau Mut. Ins. Co., CA 00-811 (Pittman, J.), affirmed April 11, 2001.
- Osborn *v* City of Fort Smith, CA 00-1028 (Crabtree, J.), affirmed April 25, 2001.
- Palmer *v* Palmer, CA 00-1212 (Jennings, J.), affirmed in part; reversed in part, and remanded May 9, 2001.
- Parks *v* Death & Permanent Total Disability Trust Fund, CA 00-879 (Jennings, J.), affirmed March 14, 2001.
- Patrick *v* State, CA CR 00-1065 (Neal, J.), affirmed May 2, 2001.
- Patterson *v* Mitchell Mach. Co., CA 00-605 (Hart, J.), affirmed April 25, 2001.

- Pemberton *v.* State, CA CR 00-639 (Pittman, J.), rebriefing ordered February 28, 2001.
- Philpot *v.* State, CA CR 00-1098 (Crabtree, J.), affirmed April 4, 2001.
- Pollard *v.* Union Pac. R.R. Co., CA 00-1158 (Vaught, J.), appeal dismissed May 9, 2001.
- Pool *v.* State, CA CR 00-953 (Neal, J.), affirmed April 4, 2001.
- Putman *v.* State, CA 99-1429 (Roaf, J.), affirmed March 7, 2001.
- Robinson, Johnny *v.* State, CA CR 00-967 (Vaught, J.), affirmed March 14, 2001.
- Robinson, Terrance *v.* State, CA CR 99-1112 (Baker, J.), affirmed March 7, 2001. Rehearing denied April 11, 2001.
- Rupe *v.* State, CA CR 00-963 (Bird, J.), affirmed April 25, 2001.
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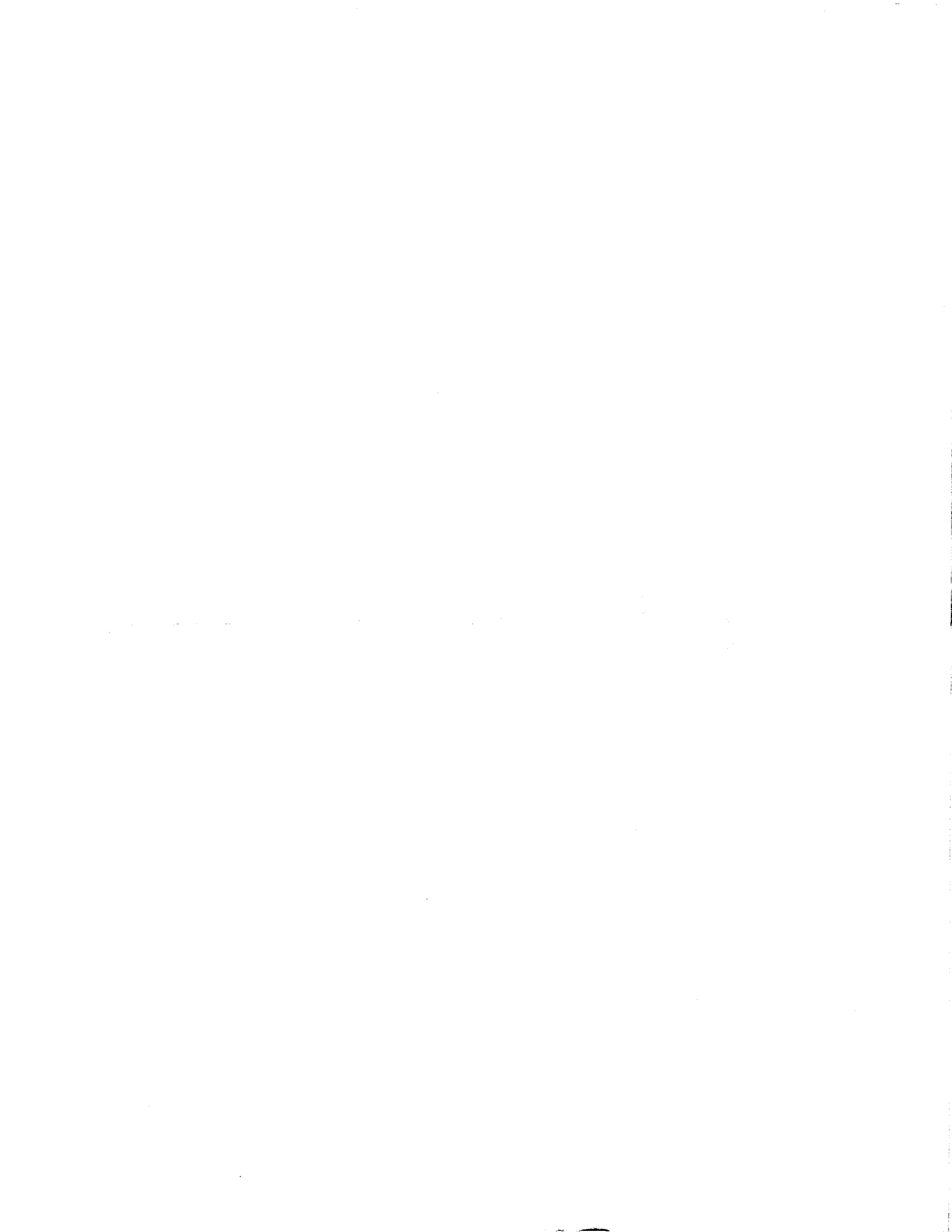
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STANDARDS FOR PUBLICATION OF OPINIONS

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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 continuing or related litigation upon an issue such as *res judicata*, collateral



## ERRATA

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342 Ark. at 584, second paragraph, line twenty-four:

The word "that" should be inserted between the words "and" and "a."

342 Ark. at 584, second paragraph, line twenty-five:

The word "suggesting" should be "suggested."

342 Ark. at 587, lines one and two:

The phrase "which would be the case if he were on a suicide watch" should read "which does not indicate that he was on a suicide watch."

342 Ark. at 587, first paragraph, line two:

The comma after the word "and" should be deleted.

342 Ark. at 587, first paragraph, line three:

The word "thus" and the comma immediately following should be deleted and the word "that" substituted.

340 Ark. at 325, first paragraph, line fourteen:

The citation to "272 Ark. 27" should be "272 Ark. 267."

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