

THIS BOOK CONTAINS  
**ARKANSAS REPORTS**  
Volume 280

CASES DETERMINED  
IN THE  
**Supreme Court  
of Arkansas**

FROM  
June 27, 1983 — November 14, 1983  
INCLUSIVE<sup>1</sup>

AND  
**ARKANSAS APPELLATE  
REPORTS**  
Volume 9

CASES DETERMINED  
IN THE  
**Court of Appeals  
of Arkansas**

FROM  
June 22, 1983 — November 9, 1983  
INCLUSIVE<sup>2</sup>

PUBLISHED BY THE  
STATE OF ARKANSAS  
1983

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<sup>1</sup>Arkansas Supreme Court cases (ARKANSAS REPORTS) are in the front section, pages 1 through 597. Cite as 280 Ark. — (1983).

<sup>2</sup>Arkansas Court of Appeals cases (ARKANSAS APPELLATE REPORTS) are in the back section, pages 1 through 366. Cite as 9 Ark. App. — (1983).



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# ARKANSAS REPORTS

Volume 280

CASES DETERMINED  
IN THE  
**Supreme Court  
of Arkansas**

FROM  
June 27, 1983 — November 14, 1983  
INCLUSIVE

CLYDE DICKENS CALLIOTTE  
REPORTER OF DECISIONS

PUBLISHED BY THE  
STATE OF ARKANSAS  
1983

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**JUSTICES AND OFFICERS  
OF THE  
SUPREME COURT OF  
ARKANSAS**

**DURING THE PERIOD COVERED  
BY THIS VOLUME**

(June 27, 1983 —  
November 14, 1983, inclusive)

**JUSTICES**

<b>RICHARD B. ADKISSON</b>	Chief Justice
<b>GEORGE ROSE SMITH</b>	Associate Justice
<b>FRANK HOLT</b>	Associate Justice <sup>1</sup>
<b>DARRELL HICKMAN</b>	Associate Justice
<b>JOHN I. PURTLE</b>	Associate Justice
<b>ROBERT H. DUDLEY</b>	Associate Justice
<b>STEELE HAYS</b>	Associate Justice

**OFFICERS**

<b>STEVE CLARK</b>	Attorney General
<b>DONA L. WILLIAMS</b>	Clerk
<b>JACQUELINE S. WRIGHT</b>	Librarian
<b>CLYDE DICKENS CALLIOTTE</b>	Reporter of Decisions

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<sup>1</sup>Justice Holt died October 30, 1983. His successor, Justice P. A. Hollingsworth, who was appointed by the Governor, was sworn in on January 3, 1984, and did not participate in the decisions in this volume.

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Rule 21

Rules of the Arkansas Supreme Court and Court of Appeals

OPINIONS

1. All signed opinions of the Supreme Court shall be designated for publication.
2. 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.
3. 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.
4. Opinions of the Court of Appeals not designated for publication shall not be published in the official 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.

5. Copies of All Opinions Available. — In every case the Clerk will furnish without charge one typewritten copy of all of either 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

- Anderson v. State*, CR 82-69 (Per Curiam), Motion for Transcript denied July 18, 1983.
- Blackmon v. State*, CR 80-228 (Per Curiam), Rule 37 Petition denied June 27, 1983.
- Bradford v. State*, (Per Curiam), Pro Se Motion for Belated Appeal July 5, 1983.
- Burns v. State*, (Per Curiam), Pro Se Motion for Belated Appeal denied October 31, 1983.
- Carlin v. State*, CR 83-134 (Per Curiam), affirmed November 14, 1983.
- Chambers v. State*, CR 81-109 (Per Curiam), Rule 37 Petition denied October 17, 1983.
- Colyer v. State*, (Per Curiam), Petition for Extension of Time to File Petition for Review conditionally denied September 19, 1983.
- Early v. State*, CR 83-89 (Per Curiam), Rule 37 Petition denied July 18, 1983.
- Freeman v. State*, CR 83-74 (Per Curiam), affirmed October 10, 1983.
- Glick v. State*, CR 81-79 (Per Curiam), Rule 37 Petition denied July 5, 1983.
- Green v. State*, CR 83-85 (Per Curiam), Rule 37 Petition denied July 18, 1983.
- Guhl v. Genearl Electric Credit Corp.*, (Per Curiam), appeal dismissed September 19, 1983.
- Harrison v. State*, CR 82-26 (Per Curiam), Rule 37 Petition denied July 18, 1983.
- Hobbs v. State*, CR 82-48 (Per Curiam), Rule 37 Petition denied July 18, 1983.
- Jones v. State*, CR 80-10 (Per Curiam), Rule 37 Petition granted in part and denied in part October 3, 1983.
- McGee v. State*, (Per Curiam), Pro Se Motion for Transcript at Public Expense denied October 31, 1983.
- Matthews v. State*, CR 83-99 (Per Curiam), Rule 37 Petition denied October 3, 1983.
- Messimer v. State*, CR 83-93 (Per Curiam), Rule 37 Petition denied October 24, 1983.
- Nelson v. State*, (Per Curiam), Motion to be Relieved as Counsel on Appeal granted and Motion to Dismiss Appeal denied July 18, 1983.

- Parks v. State*, (Per Curiam), Motion for Rule on the Clerk denied November 7, 1983.
- Perry v. State*, CR 83-37 (Per Curiam), Rule 37 Petition denied November 14, 1983.
- Redmon v. State*, (Per Curiam), Motion for Rule on the Clerk denied November 14, 1983.
- Simms v. Lockhart, Director*, CR 83-131 (Per Curiam), Pro Se Petition for Declaratory Judgment and Mandamus dismissed November 14, 1983.
- Stoutt v. State*, CR 83-6 (Per Curiam), affirmed September 26, 1983.
- Swaite v. State*, CR 81-50 (Per Curiam), Rule 37 Petition granted in part and denied in part September 26, 1983.
- Troutt v. State*, (Per Curiam), Motion for Rule on the Clerk denied November 7, 1983.
- Young v. State*, CR 83-67 (Per Curiam), Rule 37 Petition denied July 11, 1983.

**APPENDIX**  
**Rules Adopted**  
**and/or Amended**  
**by Per Curiam Orders**



In the Matter of the Client Security Fund

655 S.W.2d 403

Supreme Court of Arkansas  
Opinion delivered July 5, 1983

**PER CURIAM.** The Honorable Meredith P. Catlett of Little Rock is hereby appointed as a member at large of the Client Security Fund Committee, for a term of five years beginning on June 30, 1983.

The Court expresses its gratitude to Neva B. Talley for her faithful service as a member of this committee.

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In Re: Arkansas Supreme Court Board of  
Certified Court Reporter Examiners

656 S.W.2d 694

Supreme Court of Arkansas  
Opinion delivered July 5, 1983

**PER CURIAM.** On December 13, 1982, the Arkansas Court Reporters Association, a voluntary and non-profit association of court reporters in Arkansas, filed a petition asking the Supreme Court to adopt a rule providing for the certification of court reporters and the establishment of an Examiners' Board. The petition stated that standards were needed to protect the quality, accuracy, and professionalism of court reporting, that is, persons who take depositions and other matters within the purview of court reporting which may be admitted into evidence under the laws of Arkansas.

On January 10, 1983, the Court accepted the petition and requested all interested parties to file briefs by May 1, 1983. After fully considering the various responses we conclude that a board governing the certification of court reporters should be established.

Article 7, section 4 of the Arkansas Constitution confers upon this Court superintending control over all inferior courts of law or equity. This Court has inherent rule making authority under this provision of the Constitution. *In Re Arkansas Criminal Code Revision Commission, ex parte*, 259 Ark. 863, 530 S.W.2d 672 (1975). Therefore, the following Rule is adopted providing for the certification of court reporters in the State of Arkansas:

**Section 1. Members of the Board.**

A. The Board of Certified Court Reporter Examiners hereafter referred to as the "Board", shall be composed of seven members who shall be appointed by this Court. Four of the members shall be judges of the Circuit, Chancery, or Appellate Courts and shall be appointed for terms of three years. Initially, one of the four shall be appointed for a term of one year, one for a term of two years, and two for a term of three years. Three of the Board members shall have been court reporters in and citizens of Arkansas for at least five years prior to their appointment. Initially, one of the three shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Members of the Board shall serve without compensation but shall be reimbursed for their travel and other expenses in the performance of their duties.

B. After each member's term expires, his successor shall be appointed for a term of three years. Each member shall serve until his successor is appointed and qualified. This Court shall fill any vacancy by appointing a member for the duration of an unexpired term and may remove any member for cause.

C. Each member shall take an oath that he will fairly and impartially and to the best of his ability administer this Rule.

**Section 2. Officers of the Board; Meetings.**

At the first meeting of the Board, the Board will organize by electing one of its members as chairman

and one as secretary, each of whom shall serve for one year and until his successor is elected. The Clerk of this Court shall serve as treasurer. The Board shall meet in Little Rock and shall hold such meetings not less than once a year and at such time and places as the Board shall designate.

### Section 3. Duties of the Board.

The Board is charged with the duty and invested with the power and authority:

- A. To determine the eligibility of applicants for certification.
- B. To determine the content of examinations to be given to applicants for certification as certified court reporters.
- C. To determine the applicant's ability to make a verbatim record of court proceedings by any recognized system designated by the Board.
- D. To issue certificates to those found qualified as certified court reporters.
- E. To establish standards and conditions for reciprocity and for temporary waivers of certification requirements of eligible applicants.
- F. To set a fee to be paid by each applicant at the time the application is filed and an annual license fee.
- G. To promulgate, amend and revise regulations relevant to the above duties and to implement this Rule. Such regulations are to be consistent with the provisions of this Rule and shall not be effective until approved by this Court.

**Section 4. Application for Certification.**

Every applicant for examination for certification as a certified court reporter shall file with the clerk of this court a written application in the form prescribed by the Board. Upon request, the clerk of this court shall forward to any interested person application forms together with the text of this rule and a copy of the regulations promulgated by the Board under the provisions of Rule 3G.

**Section 5. Eligibility for Certification.**

Applicants shall be at least 18 years of age and be of good moral character.

**Section 6. Admission Without Examination.**

Upon application and payment of the fee within four months of the effective date of the rule, any court reporter serving in that capacity on or before January 1, 1983, shall be issued a certificate without examination, provided the application and fee are accompanied by letters of recommendation from either a Circuit, Chancery, or Court of Appeals Judge and two attorneys who are licensed to practice law in the State of Arkansas, who certify that the applicant was a practicing court reporter on or before January 1, 1983.

**Section 7. Revocation or Suspension.**

The Board, for good cause shown after a hearing by the Board, may revoke or suspend any certificate issued by the Board. The Board's decision may be appealed de novo to Circuit Court.

**Section 8. Funds — Disbursement of.**

All fees and other monies accruing under the Rule shall be deposited by the Clerk of this Court in an account called, "Certified Court Reporters Fund". All expenses incurred by the Board shall be paid out of this fund as

authorized and directed by the Board. Travel and other necessary expenses of the members of the Board shall be paid from said fund.

**Section 9. Scope.**

As to all transcripts taken from and after the effective date of this Rule, all courts in Arkansas will accept as evidence only those transcripts which are certified by a court reporter who holds a valid certificate under this Rule.

**Section 10. Effective Date.**

The effective date of this Rule is January 1, 1984.

---

## In Re: Board of Certified Court Reporter Examiners

658 S.W.2d 366

Supreme Court of Arkansas  
September 26, 1983

PER CURIAM. The following regulations are hereby adopted pursuant to our *per curiam* of July 5, 1983, in which this Court established the Board of Certified Court Reporter Examiners with directions to promulgate regulations relevant to their duties and submit them to this Court for approval:

1. The following definitions are set forth: The word "Section" refers to sections of the *per curiam* of July 5, 1983. "Board" hereinafter referred to, is the Certified Court Reporter Examiners Board. "Certified Court Reporter," or its abbreviation, "CCR," means any person holding a valid regular or temporary certificate as a certified verbatim reporter. "Verbatim Reporting" means the making of a verbatim record of court proceedings, depositions, proceedings before any grand jury, referee, administrative law judge, board or commission by means of manual or machine shorthand or mask dictation. No system of direct electrical recording shall be considered a means of verbatim reporting.

2. Any court reporter serving in that capacity on or before January 1, 1983, may be issued a certificate as a Certified Court Reporter without examination provided the application is made prior to May 1, 1984, and is accompanied by a recommendation of a Circuit, Chancery or Court of Appeals judge and two attorneys licensed to practice law in this state who certify that the applicant was a practicing court reporter on or before January 1, 1983.

3. The Board shall set the following fees for the administration of these regulations:

- a. \$50.00 application fee.
- b. \$20.00 certificate renewal fee together with license bond renewal premium.

4. Applicants, other than those certified without examination pursuant to Section 6, shall file not later than 30 days prior to the next examination date, a written application in the form prescribed by the Court, together with an application fee of \$50.00, with the Clerk of the Supreme Court. Said application fee shall not be refunded in the event applicant decides not to take the examination or fails the examination.

5. Applicants shall be screened by the Board, and those deemed eligible to take the examination will be advised of the time and place tests will be conducted. Any applicant whose application is denied shall be promptly notified of the action of the board and the application fee shall be refunded.

6. Applicants for certification, deemed eligible by the Board, shall receive certification upon submitting application, payment of application fee, and successfully passing the certification examination.

7. Examinations for certification shall be held at least semi-annually at times and places set by the Board.

8. Certification granted by the Board shall remain in effect upon payment of the annual certificate renewal fees to the Clerk of the Supreme Court, on or before January 1 of each year, unless suspended or revoked pursuant to Section 7.

9. An expired certificate may be reinstated without examination upon application and payment of renewal fee prior to July 1 of the year in which it expires. After that time an expired certificate shall not be subject to renewal without examination.

10. Each certified reporter shall procure a seal upon which shall be engraved the name, certificate number of the reporter, and the words "Arkansas Supreme Court — Certified Court Reporter"; said seal to be included, with signature, on all transcript certificates, to ensure compliance with Section 9.

11. At the discretion of the trial judge Section 9 may be waived with regard to depositions taken outside this state for use in this state, provided the court reporter is authorized to take verbatim testimony in the state where the deposition was taken.

12. Any eligible applicant not certified pursuant to the *per curiam* Order of the Supreme Court of Arkansas, dated July 5, 1983, or any eligible applicant who is certified in another state, may be granted a non-renewable temporary certificate, at the discretion of the Board, to enable said applicant to work. Applicants issued a temporary certificate shall be given a period of one year from the date of said certificate to complete certification requirements.

13. In the event of an emergency where no Certified Court Reporter is immediately available, a judge of a circuit or chancery court may, in his discretion, grant a thirty day, non-renewable emergency certificate in order to continue the conduct of the court's business; provided a copy of the thirty day emergency certificate is forthwith filed with the Clerk of the Arkansas Supreme Court and Secretary of the Board.

14. The tests shall be as follows:

A. A written knowledge test consisting of spelling, vocabulary, punctuation, general knowledge, and rules governing preparation of transcripts (Rules of the Supreme Court and Court of Appeals 12, 13, 14 and 15) with a minimum of 75% accuracy.

B. (1) Five minutes of one-voice dictation of literacy at 180 words per minute.

(2) Five minutes of one-voice dictation of jury charge at 200 words per minute.

(3) Five minutes of two-voice dictation of Q & A at 225 words per minute.



C. Applicants shall be required to transcribe all dictation tests with a minimum of 95% accuracy.

D. All portions must be passed at the same time.

E. A new application and application fee, of \$50.00, will be required for all subsequent testing.

15. Applicants for testing must furnish their own equipment and supplies for reporting and transcribing dictation tests, with the exception of typewriters. No applicant is permitted to use an open microphone or other backup recording device during testing.

16. The content and depth of this examination shall be a continuing subject of review by the Board, and may be altered by amendments to these regulations.

17. The Board shall maintain a file containing names and pertinent information on all individuals who have been certified, including all verbatim notes or records, transcripts, and other papers used in connection with testing.

18. Any person desiring to file a complaint against a Certified Court Reporter may file a notarized Affidavit, attaching any pertinent documentary evidence thereto, and forward to the Secretary of the Board.

19. Pursuant to Section 7, the Board may revoke or suspend any certificate issued, after proper notice and hearing. The notice shall state the cause for the contemplated revocation or suspension and the time and place of the hearing before the Board, and shall be mailed to the registered address of the holder of the certificate at least thirty days prior to hearing. The Board shall make a written findings of fact based on the evidence presented.

20. No persons shall use the title "Certified Court Reporter," or its abbreviation, "CCR," in conjunction with their name to indicate they are a qualified verbatim reporter

in this state, without having a valid temporary or regular certificate issued by the Board.

DUDLEY, J., dissents insofar as it violates Ark. Stat. Ann. § 22-252 (Repl. 1962).

---

In Re: Arkansas Supreme Court Board of  
Certified Court Reporter Examiners

82-283

658 S.W.2d 368

Supreme Court of Arkansas  
November 14, 1983

PER CURIAM. On July 5, 1983, we handed down a Per Curiam establishing by rule our Board of Certified Court Reporter Examiners. Section 6 of the rule, styled *Admission Without Examination*, provided for admission without examination for persons serving as court reporters on January 1, 1983. That date is hereby changed to July 5, 1983. The section is amended to provide:

Upon application and payment of the fee within four months of the effective date of the rule, any court reporter serving in that capacity on or before July 5, 1983, shall be issued a certificate without examination, provided the application and fee are accompanied by letters of recommendation from either a Circuit, Chancery, or Court of Appeals Judge and two attorneys who are licensed to practice law in the State of Arkansas, who certify that the applicant was a practicing court reporter on or before July 5, 1983.

ADKISSON, C.J., dissents.

**In Re: Rules Governing Admission to the Bar**

656 S.W.2d 696

Supreme Court of Arkansas  
Opinion delivered July 11, 1983

**PER CURIAM.** Rule XI of the Rules Governing Admission to the Bar is amended by adding the following sentence to the end of the first paragraph:

For purposes of this Rule only, the teaching of law as a full-time instructor in a law school which is accredited by the American Bar Association shall be included in the "active practice of law."

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**In Re: Amendments to the Rules of Civil Procedure**

657 S.W.2d 931

**Supplemental Opinion**

Supreme Court of Arkansas  
October 3, 1983

**PER CURIAM.** Because we have had several inquiries as to the effective date of the Amendments to the Rules of Civil Procedure published in a per curiam May 16, 1983, we issue this per curiam to resolve any questions in that regard. The effective date of the amendments is the date of the opinion, May 16, 1983.

In Re: Rules of the Court Regulating Professional  
Conduct of Attorneys at Law

Supreme Court of Arkansas  
September 12, 1983

**PER CURIAM.** The next to the last paragraph of Rule III of the Rules of the Court Regulating Professional Conduct of Attorneys at Law is amended to read as follows, the new matter being underlined in this per curiam order merely to point out the additions being made:

Except for the public hearings and filings specified in these rules, the Executive Secretary and members of the Committee shall keep confidential the activities and files of the Committee, unless it is necessary to divulge information for disbarment suit purposes, or for release of statistical data, or if the attorney about whom an inquiry is made waives the confidentiality of the information in writing. Nevertheless, any proceeding at which the testimony of witnesses is being taken under oath shall be open to the public. *At the end of such proceedings the Committee may hold an executive session to deliberate upon any disciplinary action to be taken. Its decision shall be announced immediately, with a statement of the votes of the individual members if the decision is not unanimous. Any letter of caution or reprimand shall be made public immediately after its release to the attorney being cautioned or reprimanded. Monthly filings will also be made as a matter of public record, as directed earlier in this Rule.*

In Re: W. B. GUTHRIE, Jr.

82-252

657 S.W.2d 208

Supreme Court of Arkansas  
Opinion delivered September 19, 1983.

**PER CURIAM.** On recommendation of the Committee on Professional Conduct, the Court accepts the surrender by W. B. Guthrie, Jr. of his license to practice law.

This 19th day of September, 1983. Petition in file.

---

In the Matter of the Arkansas Bar Association:  
Petition for the Adoption of New Supreme Court  
Rules on Professional Conduct

656 S.W.2d 245

Supreme Court of Arkansas  
September 26, 1983

**PER CURIAM.** The Arkansas Bar Association has petitioned for the adoption of new Supreme Court Rules on Professional Conduct by Attorneys. In similar matters we have allowed time for interested parties to study the proposed changes and, if they deem it appropriate, to file objections thereto. Sixty days will be allowed before further action is taken on the petition.

**Appointments to  
Committees**

In Re: Arkansas Supreme Court Board of Certified  
Court Reporter Examiners

Supreme Court of Arkansas  
Opinion delivered July 11, 1983

Appointment of Members.

**PER CURIAM.** Pursuant to the per curiam of July 5, 1983, the following are hereby appointed as members to the Board of Certified Court Reporter Examiners for the terms indicated:

George Cracraft, Court of Appeals Judge, three years.

Gayle Ford, Circuit/Chancery Judge, two years.

Walter Wright, Circuit Judge, two years.

Charles Eddy, Circuit Judge, one year.

Marjorie Gachot, Little Rock, three years.

Allen Hill, Searcy, two years.

Joan Porter, Fayetteville, one year.

**In Re: Alternate Committee on Professional Conduct**

658 S.W.2d 368

**Supreme Court of Arkansas  
September 26, 1983**

**PER CURIAM.** There is hereby created an Alternate Committee on Professional Conduct, to serve in the rare instances in which the regular Committee members consider themselves to be disqualified from participating in a matter before the Committee. Such matters may be referred by the regular Committee to the alternate Committee. At the first meeting of the alternate Committee its members may draw for terms of three, four, five, six, and seven years for the lawyer members and terms of three and four years for the non-lawyer members. Thereafter the terms will be seven years for the lawyer members and four years for the non-lawyer members.

The following persons are appointed as members of the alternate Committee:

**First District: David Solomon, Helena.**

**Second District: William M. Moorhead, Stuttgart.**

**Third District: Ben Core, Fort Smith.**

**Fourth District: Don Smith, Pine Bluff.**

**At Large: James W. Steinsiek, Blytheville; Judy Snowden, Little Rock (non-lawyer); Grainger Williams, Little Rock (non-lawyer).**



In the Matter of Appointments to the  
Arkansas Statute Revision Commission

Supreme Court of Arkansas  
November 7, 1983

PER CURIAM. The following persons are appointed to the Arkansas Statute Revision Commission: Mr. William Arnold of Crossett, Arkansas, Mr. William H. Sutton of Little Rock, Arkansas and Mr. Douglas O. Smith, Jr. of Fort Smith, Arkansas.

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In the Matter of the Board of Law Examiners

Supreme Court of Arkansas  
November 7, 1983

PER CURIAM. The Court expresses its gratitude to the Honorable John W. Walker and the Honorable J. Michael Shaw for their faithful service on the State Board of Law Examiners. It is appreciated.

The Honorable Richard L. Mays and the Honorable Woodson W. Bassett, Jr., are appointed as an at-large member and as a Third Congressional District member of the State Board of Law Examiners for terms to expire September 30, 1986.

**ARKANSAS  
APPELLATE  
REPORTS  
Volume 9**

**CASES DETERMINED  
IN THE  
Court of Appeals  
of Arkansas**

**FROM  
June 22, 1983 — November 9, 1983  
INCLUSIVE**

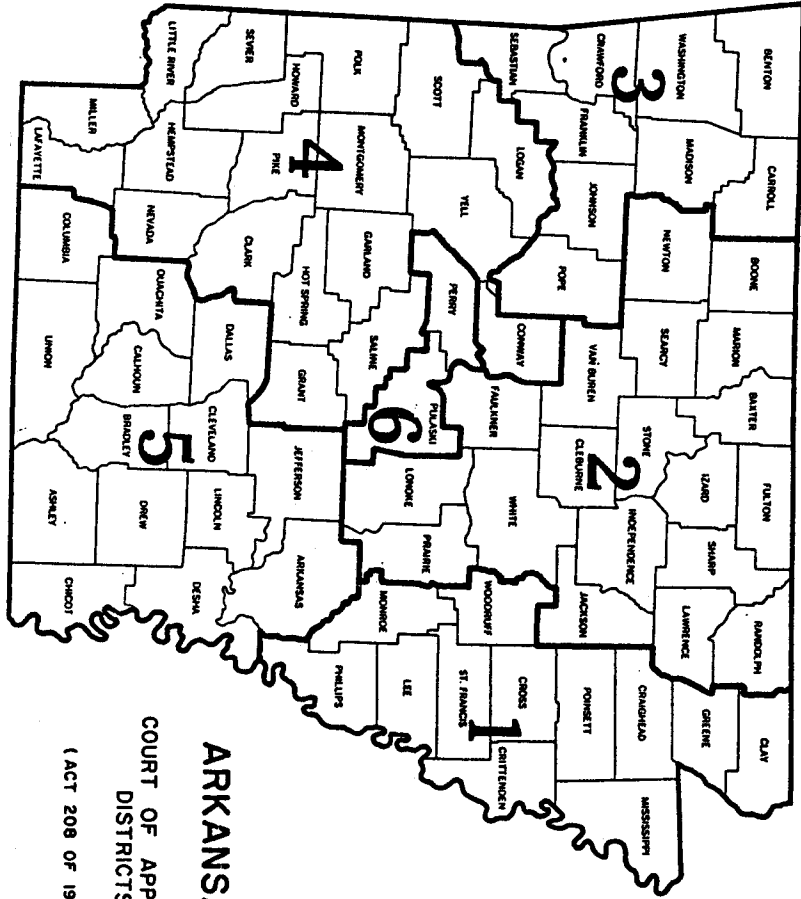
**CLYDE DICKENS CALLIOTTE  
REPORTER OF DECISIONS**

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1983**

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**ARKANSAS**  
**COURT OF APPEALS**  
**DISTRICTS**

(ACT 208 OF 1979)

# JUDGES AND OFFICERS OF THE COURT OF APPEALS OF ARKANSAS

DURING THE PERIOD COVERED  
BY THIS VOLUME

(June 22, 1983 —  
November 9, 1983, inclusive)

## JUDGES

MELVIN MAYFIELD	Chief Judge <sup>1</sup>
GEORGE K. CRACRAFT	Judge <sup>2</sup>
JAMES R. COOPER	Judge <sup>3</sup>
LAWSON CLONINGER	Judge <sup>4</sup>
DONALD L. CORBIN	Judge <sup>5</sup>
TOM GLAZE	Judge <sup>6</sup>

## OFFICERS

STEVE CLARK	Attorney General
DONA L. WILLIAMS	Clerk
JACQUELINE S. WRIGHT	Librarian
CLYDE DICKENS CALLIOTTE	Reporter of Decisions

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<sup>1</sup>District 5.

<sup>2</sup>District 1.

<sup>3</sup>District 2.

<sup>4</sup>District 3.

<sup>5</sup>District 4.

<sup>6</sup>District 6.

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## Rule 21

## Rules of the Arkansas Supreme Court and Court of Appeals

## OPINIONS

1. All signed opinions of the Supreme Court shall be designated for publication.

2. 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.

3. 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.

4. Opinions of the Court of Appeals not designated for publication shall not be published in the official 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.

5. Copies of All Opinions Available. — In every case the Clerk will furnish without charge one typewritten copy of all of either 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

- Arkansas Blue Cross & Blue Shield, Inc. *v.* Fulmer, CA 82-434 (Cracraft), affirmed July 6, 1983.
- Armstrong *v.* Armstrong, CA 82-469 (Mayfield), affirmed September 28, 1983.
- Askew *v.* State, CA CR 83-28 (Corbin), affirmed June 22, 1983.
- Baltz *v.* Baltz, CA 82-384 (Mayfield), reversed June 22, 1983.
- Barnett *v.* Everett, Director, E 82-389 (Cooper), affirmed October 5, 1983.
- Battles *v.* State, CA CR 83-33 (Glaze), affirmed September 7, 1983.
- Blakely *v.* State, CA CR 83-64 (Cooper), affirmed October 26, 1983.
- Blount *v.* State, CA CR 83-25 (Cloninger), affirmed June 22, 1983.
- Booker *v.* Everett, Director, E 82-361 (Cooper), affirmed September 7, 1983.
- Bowers *v.* Bowers, CA 82-431 (Cloninger), reversed & remanded June 29, 1983.
- Bowers *v.* State, CA CR 83-32 (Corbin), affirmed September 14, 1983.
- Bradley *v.* State, CA CR 83-44 (Corbin), affirmed September 14, 1983.
- Branham *v.* State, CA CR 83-129 (Cooper), affirmed October 5, 1983.
- Brazle *v.* State, CA CR 83-43 (Glaze), affirmed November 9, 1983.
- Bridges *v.* State, CA CR 83-12 (Per Curiam), affirmed June 29, 1983.
- Brown *v.* Foster, CA 83-9 (Corbin), affirmed November 9, 1983.
- Bryan *v.* State, CA CR 83-36 (Cracraft), affirmed September 14, 1983.
- Burnett *v.* Director of Labor, E 82-370 (Mayfield), reversed & remanded July 6, 1983.
- Butler *v.* State, CA CR 82-189 (Per Curiam), affirmed June 29, 1983.
- Calaway *v.* State, CA CR 83-58 (Mayfield), affirmed September 21, 1983.
- Carter *v.* Carter Building Supply, Inc., CA 83-84 (Cooper), affirmed July 6, 1983.
- Castera *v.* Levi Strauss Building Supply, Inc., CA 83-84 (Cracraft), affirmed October 12, 1983.
- Casualty Reciprocal Exchange Ins. Co. *v.* Bank of Bentonville, CA 82-422 (Cracraft), affirmed June 29, 1983.
- Caudill *v.* Gentry, CA 82-400 (Corbin), affirmed August 31, 1983.

- Cavanaugh *v.* Almond Asphalt Paving Co., CA 83-195 (Glaze), affirmed September 28, 1983.
- Childress *v.* Millard-Henry Professional Ass'n, CA 82-497 (Cloninger), affirmed October 12, 1983.
- Citizens Bank of Jonesboro *v.* Moon, CA 83-5 (Cooper), affirmed November 2, 1983.
- Clark *v.* Brown & Root, Inc., CA 83-135 (Cooper), affirmed in part & remanded September 14, 1983.
- Continental Grain Co. *v.* Miller, CA 83-16 (Per Curiam), remanded June 22, 1983.
- Coulter *v.* Weyerhaeuser Co., CA 82-463 (Corbin), affirmed July 6, 1983.
- Daley *v.* Daley, CA 82-467 (Cloninger), affirmed September 28, 1983.
- Dart *v.* Everett, Director, E 82-342 (Cooper), affirmed July 6, 1983.
- Defoure *v.* State, CA CR 83-29 (Corbin), affirmed August 31, 1983.
- Duco *v.* Director of Labor, E 82-340 (Mayfield), reversed & remanded July 6, 1983.
- Dudley *v.* State, CA CR 83-21 (Per Curiam), affirmed September 21, 1983.
- E. L. Contini & Associates, Inc. *v.* Contini, CA 82-468 (Corbin), affirmed September 28, 1983.
- Elliott *v.* Stiles, Director, E 81-117 (Glaze), reversed & remanded September 14, 1983.
- Eskew *v.* Eskew, CA 82-423 (Corbin), affirmed June 29, 1983.
- Ezekiel *v.* State, CA CR 83-59 (Per Curiam), affirmed September 28, 1983.
- Farr *v.* State, CA CR 83-37 (Mayfield), affirmed September 14, 1983.
- Fields *v.* Cargill, Inc., CA 83-176 (Cooper), affirmed October 12, 1983.
- Fields *v.* State, CA CR 83-41 (Cloninger), affirmed September 7, 1983.
- Freeman *v.* New Newspapers, Inc., CA 82-413 (Corbin), affirmed July 6, 1983.
- French *v.* Huggs, CA 82-499 (Corbin), affirmed November 2, 1983.
- Frye *v.* State, CA CR 83-40 (Cooper), affirmed September 14, 1983.
- Garrett *v.* Dawn Hill, Inc., CA 83-173 (Corbin), affirmed September 28, 1983.
- Garroutte *v.* Garroutte, CA 82-444 (Cooper), affirmed August 31, 1983.

- Gentis v. State*, CA CR 83-30 (Mayfield), affirmed September 7, 1983.
- George v. Skuban*, CA 82-486 (Cracraft), affirmed October 12, 1983.
- Gooch v. Gooch*, CA 83-181 (Per Curiam), Motion to Remand the Record granted August 24, 1983.
- Grigsby v. Everett, Director*, E 83-59 (Cracraft), reversed & remanded July 6, 1983.
- Grissom v. State*, CA CR 83-27 (Cloninger), affirmed September 14, 1983.
- Hamilton v. Hamilton*, CA 82-443 (Cracraft), reversed & remanded August 31, 1983.
- Hanry v. Hanry*, CA 82-421 (Glaze), affirmed June 29, 1983.
- Hendrix v. Everett, Director*, E 83-5 (Corbin), affirmed September 7, 1983.
- Highsmith v. State*, CA CR 82-149 (Per Curiam), affirmed September 21, 1983.
- Hilton v. Everett, Director*, E 82-373 (Cloninger), remanded July 6, 1983.
- Hollins v. Brown and Root, Inc., et al*, CA 83-86 (Glaze), affirmed September 21, 1983.
- Hoyle v. Director of Labor*, E 82-84 (Mayfield), reversed & remanded July 6, 1983.
- Ivy v. Director of Labor*, E 82-294 (Mayfield), reversed & remanded June 29, 1983.
- Jackson, Floria v. State*, CA CR 83-6 (Per Curiam), affirmed September 21, 1983.
- Jackson, Mark Allen v. State*, CA CR 83-110 (Per Curiam), Motion to Supplement the Record granted October 26, 1983.
- Johnson v. State*, CA CR 83-3 (Per Curiam), Motion to Stay Mandate granted June 29, 1983.
- Jones, William III v. State*, CA CR 83-38 (Cooper), affirmed September 7, 1983.
- Jones, Victoria v. State*, CA CR 83-86 (Corbin), affirmed October 26, 1983.
- King v. King*, CA 82-140 (Glaze), affirmed August 31, 1983.
- Lane v. Real Estate Tomorrow, Inc.*, CA 82-244 (mayfield), affirmed June 29, 1983.
- Lewis v. State*, CA CR 83-89 (Mayfield), affirmed November 2, 1983.
- Logan v. Everett, Director*, E 82-356 (Corbin), remanded September 21, 1983.

- Loggains v. State*, CA CR 83-102 (Cracraft), affirmed November 9, 1983.
- Lucia v. Everett, Director*, E 83-94 (Cooper), affirmed October 19, 1983.
- McCarty v. Director of Labor*, E 83-41 (Mayfield), remanded October 12, 1983.
- McDaniel v. State*, CA CR 83-10 (Cracraft), affirmed in part, reversed & remanded in part June 29, 1983.
- McNichols v. State*, CA CR 83-71 (Corbin), affirmed October 19, 1983.
- Marbley v. State*, CA CR 83-62 (Glaze), affirmed September 7, 1983.
- Martin v. State*, CA CR 83-56 (Cracraft), affirmed September 14, 1983.
- Max Taylor Oil Company, Inc. v. Hamilton*, CA 82-439 (Mayfield), affirmed August 31, 1983.
- Mays v. Hill*, CA 82-492 (Cloninger), affirmed September 21, 1983.
- Mikles v. State*, CA CR 83-78 (Glaze), affirmed October 5, 1983.
- Miller v. Marshall Construction Co., Inc.*, CA 82-481 (Mayfield), affirmed November 9, 1983.
- Motel 6 v. Lambert*, CA 83-148 (Mayfield), affirmed October 12, 1983.
- Multi-Family Housing Specialists, Inc. v. Bates*, CA 82-438 (Cracraft), affirmed July 6, 1983.
- Nelson v. Campbell*, CA 82-489 (Corbin), affirmed September 14, 1983.
- O'Brien v. Port-A-Stall, Inc.*, CA 82-417 (Cooper), affirmed June 29, 1983.
- Parker v. Arkansas State Highway Dept.*, CA 83-64 (Mayfield), affirmed July 6, 1983.
- Page v. State*, CA CR 83-50 (Mayfield), affirmed October 19, 1983.
- Pearson v. Kelly*, CA 82-360 (Mayfield), reversed & dismissed July 6, 1983.
- Potter v. City of Little Rock*, CA 83-2 (Cracraft), reversed & remanded October 26, 1983.
- Pulaski County, Arkansas v. Simmons*, CA 82-491 (Mayfield), affirmed November 9, 1983.
- Pulaski County Road & Bridge v. Scott*, CA 83-60 (Corbin), reversed & remanded June 22, 1983.
- Pulling v. International Paper Co.*, CA 83-175 (Corbin), affirmed October 26, 1983.
- Purdom v. Tyson Foods, Inc.*, CA 83-77 (Cloninger), affirmed September 7, 1983.

- Raab v. Corley*, CA 82-419 (Corbin), affirmed June 29, 1983.
- Raines v. Director of Labor*, E 83-31 (Mayfield), reversed & remanded June 22, 1983.
- Ramsey v. Everett, Director*, E 83-3 (Glaze), affirmed September 28, 1983.
- Ripper v. Everett, Director*, E 82-378 (Cloninger), affirmed in part, reversed in part September 14, 1983.
- Robinson, Ernest Caldwell, & Williams v. State*, CA CR 83-48 (Mayfield), affirmed September 14, 1983.
- Robinson, Michael Wayne v. State*, CA CR 83-8 (Per Curiam), affirmed June 29, 1983.
- Robinson, Ronnie Gene v. State*, CA CR 82-139 (Mayfield), affirmed June 22, 1983.
- Rogers v. First State Bank*, CA 82-446 (Cloninger), affirmed August 31, 1983.
- Ross v. State*, CA CR 83-63 (Cracraft), affirmed September 21, 1983.
- Sanders v. State*, CA CR 83-68 (Cooper), affirmed September 21, 1983.
- Satterfield v. State*, CA CR 83-55 (Glaze), affirmed September 14, 1983.
- Snead v. City of Jacksonville*, CA CR 83-53 (Corbin), affirmed September 21, 1983.
- Solomon v. State*, CA CR 83-130 (Per Curiam), Motion to be Relieved as Attorney of Record denied without prejudice October 26, 1983.
- Stefanovich v. State*, CA CR 83-61 (Cracraft), reversed & dismissed September 21, 1983.
- Stubblefield v. State*, CA CR 83-39 (Cloninger), affirmed as modified October 19, 1983.
- Summerville v. State*, CA CR 83-22 (Cooper), affirmed June 29, 1983.
- Teague Home Builders, Inc. v. Rhoades*, CA 82-432 (Corbin), reversed & remanded July 6, 1983.
- Tenwick v. Byrd*, CA 82-418 (Per Curiam), Withdrawal from Submission for Supplemental Abstracting June 22, 1983.
- Texas Eastern Transmission Corp. v. Danco Construction Co.*, CA 82-153 (Mayfield), affirmed as reduced, if remittitur is entered, July 6, 1983.
- Thacker v. State Farm Fire & Casualty Co.*, CA 82-121 (Mayfield), reversed & remanded July 6, 1983.
- Thompson v. Everett, Director*, E 82-345 (Glaze), affirmed July 6, 1983.

- Thorne *v.* Everett, Director, E 83-64 (Glaze), affirmed October 12, 1983.
- Traylor *v.* Fulcher, CA 82-355 (Mayfield), affirmed July 6, 1983.
- Trent *v.* State, CA CR 83-66 (Cooper), affirmed September 28, 1983.
- Tri-State Nursing Home *v.* Surgeon, CA 83-132 (Cloninger), affirmed September 21, 1983.
- Waller *v.* State of Arkansas Alcoholic Beverage Control Board, CA 82-488 (Cooper), affirmed October 12, 1983.
- Washington *v.* Southern Cotton Oil Co., CA 83-209 (Cloninger), affirmed October 19, 1983.
- Waymon *v.* McDaniel Brothers Construction Co., CA 83-180 (Mayfield), affirmed October 26, 1983.
- Williams, Carlos *v.* State, CA CR 83-76 (Glaze), affirmed October 19, 1983.
- Williams, Rodney Dewayne *v.* State, CA CR 83-98 (Cloninger), affirmed October 26, 1983.
- Wise *v.* Barron, CA 83-157 (Per Curiam), Motion to Remand the Record granted August 24, 1983.

CASES AFFIRMED BY THE ARKANSAS COURT OF  
APPEALS WITHOUT WRITTEN OPINION PURSUANT TO  
RULE 21 (2), RULES OF THE ARKANSAS SUPREME  
COURT AND COURT OF APPEALS

Adair *v.* Director of Labor, E 83-70, September 7, 1983.  
Bennefeld *v.* Director of Labor, E 83-85, September 21, 1983.  
Bowman *v.* Director of Labor, E 83-65, September 7, 1983.  
Bradley *v.* Director of Labor, E 83-111, October 12, 1983.  
Branch *v.* Director of Labor, E 83-86, October 19, 1983.  
Bruce *v.* Director of Labor, E 83-112, October 19, 1983.  
Burke *v.* Director of Labor, E 83-48, September 14, 1983.  
Butler *v.* Director of Labor, E 83-75, September 14, 1983.  
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Carmickle *v.* Director of Labor, E 83-104, October 12, 1983.  
Carter *v.* Director of Labor, E 83-23, September 14, 1983.  
Chronister *v.* Director of Labor, E 83-67, September 7, 1983.  
Clemmons *v.* Director of Labor, E 83-73, September 14, 1983.  
Davis *v.* Director of Labor, E 83-110, October 19, 1983.  
Flowers *v.* Director of Labor, E 83-99, October 12, 1983.  
Gann *v.* Director of Labor, E 83-43, September 14, 1983.  
Green, Carl *v.* Director of Labor, E 83-102, October 12, 1983.  
Gustavson *v.* Director of Labor, E 83-69, September 21, 1983.  
Halligan *v.* Director of Labor, E 83-21, June 22, 1983.  
Hamilton *v.* Director of Labor, E 83-81, September 21, 1983.  
Harris *v.* Director of Labor, E 83-89, September 21, 1983.  
Hays *v.* Director of Labor, E 83-115, November 2, 1983.  
Hearn *v.* Director of Labor, E 83-109, October 19, 1983.  
Jones *v.* Director of Labor, E 83-78, September 21, 1983.  
Kircher *v.* Director of Labor, E 83-117, November 2, 1983.  
Larson *v.* Director of Labor, E 83-91, October 19, 1983.  
Lawson *v.* Director of Labor, E 83-100, October 12, 1983.  
Lute *v.* Director of Labor, E 83-76, September 14, 1983.  
McKenzie *v.* Director of Labor, E 83-98, October 12, 1983.  
Morrow *v.* Director of Labor, E 83-55, September 21, 1983.  
Newson *v.* Director of Labor, E 82-332, September 7, 1983.  
Parker *v.* Director of Labor, E 83-82, September 21, 1983.  
Parks *v.* Director of Labor, E 82-347, September 7, 1983.  
Paskewitz *v.* Director of Labor, E 83-66, September 7, 1983.  
Payne *v.* Director of Labor, E 83-84, September 21, 1983.  
Penny's Wrecker Service *v.* Director of Labor, E 83-104, October  
12, 1983.

- Phoenix Manufacturing Co. *v.* Director of Labor, E 83-71, September 14, 1983.
- Pierce *v.* Director of Labor, E 83-74, September 14, 1983.
- Piggee *v.* Director of Labor, E 83-63, November 2, 1983.
- Pinkston *v.* Director of Labor, E 83-83, October 12, 1983.
- Raglin *v.* Director of Labor, E 83-51, September 14, 1983.
- Rainey *v.* Director of Labor, E 83-72, September 14, 1983.
- Ransom *v.* Director of Labor, E 83-103, October 12, 1983.
- Rheaume *v.* Director of Labor, E 83-95, September 21, 1983.
- Roberts *v.* Director of Labor, E 83-93, October 5, 1983.
- Rye *v.* Director of Labor, E 83-116, November 2, 1983.
- Sands *v.* Director of Labor, E 83-38, June 22, 1983.
- Sharp *v.* Director of Labor, E 83-118, November 2, 1983.
- Statler *v.* Director of Labor, E 83-114, October 19, 1983.
- Stovall *v.* Director of Labor, E 83-118, November 2, 1983.
- Tripp *v.* Director of Labor, E 83-107, October 12, 1983.
- Whitaker *v.* Director of Labor, E 83-57, September 7, 1983.
- White *v.* Director of Labor, E 83-88, September 21, 1983.
- Williams, Gerald *v.* Director of Labor, E 83-96, October 12, 1983.
- Young *v.* Director of Labor, E 83-40, October 5, 1983.



# APPENDIX

## Divisions of Court

655 S.W.2d 466

Court of Appeals of Arkansas  
August 24, 1983

**PER CURIAM.** Beginning with the cases submitted today the Court of Appeals will sit in divisions pursuant to the provisions of Act 410 of 1983.

Judges constituting the respective divisions will be rotated so that each judge will sit in a division with each other judge an equal amount of time during every 40-week period in which cases are submitted.