

**ARKANSAS REPORTS
VOLUME 290**

**ARKANSAS
APPELLATE REPORTS
VOLUME 19**

THIS BOOK CONTAINS
ARKANSAS REPORTS
Volume 290

CASES DETERMINED
IN THE

**Supreme Court
of Arkansas**

FROM
September 22, 1986 — December 22, 1986
INCLUSIVE¹

AND

**ARKANSAS APPELLATE
REPORTS**
Volume 19

CASES DETERMINED
IN THE

**Court of Appeals
of Arkansas**

FROM
September 17, 1986 — December 23, 1986
INCLUSIVE²

**PUBLISHED BY THE
STATE OF ARKANSAS
1986**

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ARKANSAS REPORTS

Volume 290

CASES DETERMINED
IN THE

Supreme Court of Arkansas

FROM
September 22, 1986 — December 22, 1986
INCLUSIVE

CLYDE DICKENS CALLIOTTE
REPORTER OF DECISIONS

MARLO M. BUSH
ASSISTANT
REPORTER OF DECISIONS

PUBLISHED BY THE
STATE OF ARKANSAS
1986

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JUSTICES AND OFFICERS
OF THE
SUPREME COURT OF
ARKANSAS

DURING THE PERIOD COVERED
BY THIS VOLUME
(September 22, 1986 —
December 22, 1986, inclusive)

JUSTICES

JACK HOLT, JR.	Chief Justice
GEORGE ROSE SMITH	Associate Justice*
DARRELL HICKMAN	Associate Justice
JOHN I. PURTLE	Associate Justice
ROBERT H. DUDLEY	Associate Justice
STEELE HAYS	Associate Justice
DAVID NEWBERN	Associate Justice

OFFICERS

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

*Retired, effective January 5, 1987.

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DURING THE PERIOD COVERED BY THIS
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ARK.]

STANDARDS FOR PUBLICATION OF OPINIONS

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

- Ackers v. State (Per Curiam), Pro Se Motion for Belated Appeal denied without prejudice October 20, 1986.
- Alexander v. First National Bank of Fort Smith, 86-51 (Per Curiam), Motion to be Relieved as Counsel denied October 13, 1986.
- Austin v. State, CR 84-167 (Per Curiam), Pro Se Rule 37 Petition denied October 20, 1986.
- Bilal v. State, CR 86-143 (Per Curiam), Rule 37 Petition denied November 10, 1986.
- Clifton v. State, CR 85-216 (Per Curiam), Rule 37 Petition denied November 10, 1986.
- Cox v. State (Per Curiam), Pro Se Motion for Belated Appeal denied December 8, 1986.
- Craft v. State, CR 86-10 (Per Curiam), Pro Se Motion for Transcript denied November 3, 1986.
- Davis v. State, CR 86-157 (Per Curiam), Pro Se Motion for Appointment of Counsel denied and appeal dismissed November 17, 1986.
- English v. State, CR 86-111 (Per Curiam), Pro Se Petition for Writ of Certiorari denied October 27, 1986.
- Ferguson v. State, CR 86-110 (Per Curiam), affirmed October 20, 1986.
- Frakes v. State, CR 86-109 (Per Curiam), Pro Se Rule 37 Petition and Pro Se Motion for Transcript denied November 17, 1986.
- Frazier v. State, CR 86-76 (Per Curiam), affirmed December 15, 1986.
- Freeman v. State, CR 86-120 (Per Curiam), affirmed December 8, 1986.
- Gardner v. State, CR 86-156 (Per Curiam), Rule 37 Petition denied December 15, 1986.
- Gay v. State, CR 86-89 (Per Curiam), affirmed December 8, 1986.
- Henderson v. State, CR 86-140 (Per Curiam), Pro Se Motions for Release on Bond, for Production of Documents, to Supplement Record, for Transcript, and to Supplement the Appellant's Brief, denied September 22, 1986.
- Hicks v. State, CR 86-165 (Per Curiam), Pro Se Motion for Appointment of Counsel denied and appeal dismissed October 27, 1986.
- Johnson (Cornist) v. State, CR 86-137 (Per Curiam), Pro Se Rule 37 Petition and Pro Se Motion for Transcript denied November 3, 1986.
- Johnson (Johnny Bill) v. State, CR 86-45 (Per Curiam), Pro Se

- Motion for Transcript denied November 24, 1986.
- Jones (Howard) v. State, (Per Curiam), Pro Se Motion for Permission to File Belated Petition for Writ of Certiorari denied September 22, 1986.
- Jones (Lloyd) v. State, CR 86-135 (Per Curiam), Petition to Proceed Pursuant to Criminal Procedure Rule 37 denied September 22, 1986.
- Lewis v. State, CR 85-223 (Per Curiam), Pro Se Rule 37 Petition denied October 13, 1986.
- McDaniel v. State, CR 84-54 (Per Curiam), Rule 37 Petition denied September 22, 1986.
- McFarland v. State, CR 84-76 (Per Curiam), Pro Se Rule 37 Petition and Motion to Amend Petition denied December 8, 1986.
- Madison v. State, CR 85-120 (Per Curiam), Pro Se Motion for Transcript denied November 17, 1986.
- Monk v. Farmers Ins. Co., 86-189 (Per Curiam), Motion for Extension of Time to File Complete Record granted December 8, 1986.
- Neely v. State, CR 86-145 (Per Curiam), Rule 37 Petition and Motions for Transcript and Appointment of Counsel denied November 10, 1986.
- Oliver v. State (Per Curiam), Pro Se Motion for Rule on the Clerk denied November 10, 1986.
- Orr v. State, CR 85-145 (Per Curiam), Pro Se Motion for Transcript denied November 3, 1986.
- Parker v. State, CR 86-98 (Per Curiam), Pro Se Petition for Writ of Error Coram Nobis; Pro Se Motion to Stay Appeal; and Pro Se Motion for Release on Appeal Bond denied October 13, 1986.
- Pettus v. State, CR 80-164 (Per Curiam), Pro Se Motion for Transcript at Public Expense denied September 22, 1986.
- Reed v. State, CR 84-2 (Per Curiam), Rule 37 Petition denied December 15, 1986.
- Scherrer v. State (Per Curiam), Motion for Rule on the Clerk denied November 10, 1986.
- Shaw v. State, CR 86-79 (Per Curiam), affirmed October 20, 1986.
- Stephens (David) v. State, (Per Curiam), Motion for Rule on the Clerk denied December 15, 1986.
- Stephens (John) v. State, CR 86-129 (Per Curiam), Pro Se Rule 37 Petition granted in part and denied in part October 13, 1986.
- Taylor v. State (Per Curiam), Pro Se Motion for Belated Appeal denied November 3, 1986.
- Thomas v. State, CR 85-195 (Per Curiam), Pro Se Motion for Transcript denied October 27, 1986.

- Thomason v. State (Per Curiam), Pro Se Motion for Belated Appeal denied without prejudice October 20, 1986.
- Timmons v. State, CR 86-86 (Per Curiam), Pro Se Motion to Correct Exhibit and to Supplement Appellant's Brief denied October 13, 1986.
- Tran v. State, CR 86-148 (Per Curiam), Pro Se Petition for Writ of Certiorari denied November 3, 1986.
- Treadway v. State, CR 85-119 (Per Curiam), Rule 37 Petition denied September 22, 1986.
- Vasquez v. State, CR 85-107 (Per Curiam), Pro Se Rule 37 Petition denied November 17, 1986.
- Walker (Earl Lee) v. State, CR 86-103 (Per Curiam), affirmed October 27, 1986.
- Walker (Floyd) v. State (Per Curiam), Pro Se Motion for Belated Appeal denied October 20, 1986.
- Ward v. State (Per Curiam), Motion for Rule on the Clerk denied September 22, 1986.
- White v. State, CR 86-154 (Per Curiam), Pro Se Rule 37 Petition denied November 17, 1986.

IN RE: THE MATTER OF JUDICIAL DISCIPLINE

719 S.W.2d XXXIX

Supreme Court of Arkansas
Delivered December 8, 1986

PER CURIAM. Associate Justice Darrell Hickman is hereby made a member of the Ad Hoc Committee on Judicial Discipline and its chairman vice Associate Justice David Newbern who will continue to serve as a member of the committee.

**IN RE: SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT**

720 S.W.2d LIX

Supreme Court of Arkansas
Delivered December 22, 1986

PER CURIAM. Gary B. Isbell, of Yellville, Arkansas, is hereby appointed by the Court to the Supreme Court Committee on Professional Conduct for a seven year term ending December 31, 1993. The court expresses its gratitude to the Honorable Walter Niblock for his faithful services on the Committee. It is appreciated.

IN THE MATTER OF THE BOARD OF LAW
EXAMINERS

717 S.W.2d XLVIII

Supreme Court of Arkansas
Delivered October 20, 1986

PER CURIAM. The Honorable Roy E. Stanley of Springdale, Third Congressional District, the Honorable Martin G. Gilbert of Pine Bluff, Fourth Congressional District and the Honorable James H. Pilkinton, Jr. of Hope, Arkansas, and Judge Joyce Warren of Little Rock, Arkansas, at-large, are hereby appointed to the Arkansas State Board of Law Examiners for terms expiring on September 30, 1989.

The Court expresses its gratitude to the Honorable Woodson W. Bassett, Jr., the Honorable William I. Prewett, the Honorable Richard L. Mays, and the Honorable Josephine Hart for their faithful service on the board.

IN RE: ARKANSAS SUPREME COURT BOARD OF
CERTIFIED COURT REPORTER EXAMINERS

719 S.W.2d XXXVIII

Supreme Court of Arkansas
Delivered December 8, 1986

PER CURIAM. The Honorable Jerry Mazzanti, Circuit Judge, Lake Village, Arkansas is hereby appointed to a three year term as a member of the Board of Certified Court Reporter Examiners. Judge Mazzanti will replace the Honorable Walter Wright, Circuit Judge, Hot Springs, Arkansas and serve the remainder of his term.

The Court expresses its gratitude to Judge Wright for his faithful service on the Board of Certified Court Reporter Examiners.

APPENDIX
Rules Adopted
and/or Amended
by Per Curiam Orders

IN RE: APPOINTMENT OF COUNSEL IN CRIMINAL
CASES

715 S.W.2d LXVI

Supreme Court of Arkansas
Delivered September 22, 1986

PER CURIAM. Because appellants in criminal cases are entitled to counsel on direct appeal from a judgment of conviction and on the appeal of an order denying relief under Ark. R. Crim. P. Rule 37, 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, Little Rock, AR 72201. Counsel will be paid a fee after determination of the case, upon a proper motion.

IN RE: Terry Lynn FOREMAN

715 S.W.2d 448

Supreme Court of Arkansas
Delivered September 22, 1986

PER CURIAM. On recommendation of the Committee on Professional Conduct, the Court accepts the surrender by Terry Lynn Foreman of his license to practice law.

IN RE: David HERDLINGER

715 S.W.2d 448

Supreme Court of Arkansas
Delivered September 22, 1986

PER CURIAM. On recommendation of the Committee on Professional Conduct, the Court accepts the surrender by David Herdinger of his license to practice law.

IN RE: John MATTHEWS

715 S.W.2d 448

Supreme Court of Arkansas
Delivered September 22, 1986

PER CURIAM. On recommendation of the Committee on Professional Conduct, the Court accepts the surrender by John Matthews of his license to practice law.

IN RE: Sam ANDERSON, Jr.

719 S.W.2d 702

Supreme Court of Arkansas
Delivered December 8, 1986

PER CURIAM. On recommendation of the Committee on Professional Conduct, the Court accepts the surrender by Sam Anderson, Jr. of his license to practice law.

IN RE ADOPTION OF THE UNIFORM RULES OF
EVIDENCE

717 S.W.2d 491

October 13, 1986

PER CURIAM. As explained in today's opinion in *Ricarte v. State*, 290 Ark. 100, 717 S.W.2d 488 (1986), the court under its statutory and rule-making authority adopts the Uniform Rules of Evidence as they are set forth in Act 1143 of 1975 (Extended Session, 1976). The Rules will be applicable as stated in Rule 1101. Rule 1102 is changed to read: "These rules shall be known as the Arkansas Rules of Evidence and may be cited as A.R.E. Rule ____."

IN THE MATTER OF STATUTES DEEMED
SUPERSEDED BY THE ARKANSAS RULES OF
APPELLATE PROCEDURE

719 S.W.2d 436

Supreme Court of Arkansas
Delivered November 24, 1986

PER CURIAM. Added to the list of statutes deemed superseded by the Arkansas Rules of Appellate Procedure and the Rules for Inferior Courts are the following sections as codified in Arkansas Statutes Annotated: §§ 26-507; 27-2101; 27-2102; 27-2103; 27-2106.1; 27-2106.2; 27-2106.3 through 27-2106.6; 27-2127.1; 27-2127.8; and 31-165.

IN THE MATTER OF STATUTES DEEMED
SUPERSEDED BY THE ARKANSAS RULES OF CIVIL
PROCEDURE

719 S.W.2d 436

Supreme Court of Arkansas
Delivered November 24, 1986

PER CURIAM. Added to the list of statutes deemed superseded by the Arkansas Rules of Civil Procedure are the following sections as codified in Arkansas Statutes Annotated: §§ 22-406.3; 22-406.4; 27-301; 27-306; 27-1003; 27-1004; 27-1005; 27-1006; 27-1007; 27-1144; 27-1160; 27-1407; 27-1741.3; 27-1801; 27-2102; 27-2505; 28-318; 28-332; 28-346; 28-348; 28-349; 28-350; 28-353; 28-354; 28-357; 28-504; 28-512; 28-513; 28-514; 28-515; 28-517; 28-519; 28-525, to the extent it conflicts with Ark. R. Civ. P. 45(d); 28-526; 28-527; 28-537; 28-538; 28-539; 28-540; 29-120; 29-410; 30-906; 32-103; 32-201; 32-202; 32-203; 32-206; 32-401; 36-101; 36-102; 36-103; 36-104; 36-106; 36-108; 39-226 (as to civil cases only); 39-232; 39-234; and 64-223F.

IN THE MATTER OF LOCAL COURT RULES

721 S.W.2d 669

Supreme Court of Arkansas
Delivered December 22, 1986

PER CURIAM. Rule 83 of the Arkansas Rules of Civil Procedure provides that trial courts may prescribe local rules which are not in conflict with the rules of civil procedure. It further provides that local rules do not become effective until they have been filed with the Clerk of the Arkansas Supreme Court. Until now, we have permitted local rules to be filed without scrutiny by us.

By per curiam order of February 29, 1984, we invited comments on the proposal of our Committee on Rules of Pleading, Practice, and Procedure (Civil) that all local court rules be abolished. After comments were received, we published another per curiam order, December 3, 1984, directing our committee to study specific questions. In response we received from the committee a report documenting conflicts between local rules and the Arkansas Rules of Civil Procedure.

On June 24, 1985, we adopted the recommendations of our committee and ordered each circuit, chancery, and probate judge to study his or her local rules and submit revised versions to this court by February 1, 1986. By per curiam order of February 24, 1986, we submitted the rules we had received from the judges to

our committee for review. We also submitted the rules to our Committee on Rules of Pleading, Practice, and Procedure (Criminal) for a similar review.

In response to our order to review their rules, some judges decided they needed no local rules whatever and informed us accordingly. Others made very substantial changes, usually in the form of reducing the numbers and length of rules, and still other judges did not respond.

Our civil rules committee has given thorough consideration to the local rules submitted to us. We have studied the recommendations of the committee, and we are following those recommendations in the very few cases of local rules we deem to be in conflict with the Arkansas Rules of Civil Procedure by excising them from the rules filed in accordance with Rule 83.

The committee found that many rules were unnecessarily duplicative of statutes or other rules and that some were unnecessarily included as court rules when they should only be administrative documents, such as instructions to reporters and bailiffs. While we are hopeful all trial judges will periodically review their local rules with an eye toward removal of provisions not needed as guidance for counsel and parties in the conduct of litigation, for now we are only disapproving those which we find to be in conflict with other rules.

With the exceptions stated below, noting in brackets the rules with which they conflict, we approve all of the local rules submitted to us in response to our order of June 24, 1985. The exceptions are:

1. Fifth Judicial District, Circuit Court, Supplemental Rule 3 [Ark. R. Civ. P. 15(a)].
2. Seventeenth Judicial District, East, Circuit Court, Rule 2 [Ark. R. Civ. P. 41(b)].
3. Eighteenth Judicial District, East, Circuit Court, Rule 14 [Ark. R. Civ. P. 52(a)].
4. Eighteenth Judicial District, East, Chancery and Probate Court, Rule 8, fourth paragraph; [Ark. R. Civ. P. 37(a)]; Rule 10 [Ark. R. Civ. P. 15(a)]; and Rule 14 [Ark. R. Civ. P. 52(a)].
5. Nineteenth Judicial District, Chancery and Probate

Court, First and Second Divisions, Rule 3 [Ark. R. Civ. P. 41(b)].

6. Twentieth Judicial District, Chancery and Probate Court, Rule 3 [Ark. R. Civ. P. 6(c)].

Henceforth, we will publish by per curiam order designations by judicial district and rule number the rules we have approved for filing. Counsel and parties may ascertain from the clerk of this court the content of the local rules we have accepted for filing.

As of July 1, 1987, the only local rules in effect in the circuit, chancery and probate courts will be those filed subsequent to June 24, 1985, and approved by this court after review by the appropriate committee or committees. Local rules forwarded to the clerk for filing will be marked "tendered" until they have been approved for filing.

HICKMAN, and PURTLE, JJ., dissent.

DARRELL HICKMAN, Justice, dissenting. I would abolish all local procedural rules. That does not mean I would abolish the inherent authority of a trial court to administer and run his court, but local written rules, which are procedural in nature, have no place in our system. Our existing rules of procedure are entirely adequate. Local rules which violate the rules of procedure are invalid.

Local rules are sometimes a trap for out-of-town lawyers. A trial judge does not need a passel of rules to cover every conceivable situation. Several judges have had the good sense to abolish local rules. Their good judgment should be an inspiration to all judges to kick the rule habit.

By maintaining local rules, we have created a committee that must screen all local rules from time to time doing essentially unnecessary work. By adopting a procedure for approving local rules, we are perpetuating a practice that has been unmanageable from the beginning. We should have either uniform local rules or none at all.

PURTLE, J., joins in the dissent.

Retirement of Justice George Rose Smith

Supreme Court of Arkansas
December 22, 1986

Opening Remarks by Chief Justice Jack Holt, Jr.

Today, Monday, December 22, 1986, marks one of the few occasions in the history of this court that we will deviate from our normal course of business to note the retirement of Senior Associate Justice George Rose Smith. As the judges hand down their respective opinions, I would ask Justice George Rose Smith to refrain. This is the first time that I've ever directed Judge Smith to do anything and I'm certain it will be my last; so, Judge, consider yourself not only so directed, but so ordered.

I would like to begin the program now by introducing you to former justices of the Arkansas Supreme Court: Chief Justice Webb Hubbell, Chief Justice Richard B. Adkisson, Chief Justice John A. Fogleman, Justice Sam Robinson, Justice Conley Byrd, Justice P.A. Hollingsworth, Justice Osro Cobb, Justice Robert A. Leflar, Justice Richard L. Mays, Justice John F. Stroud, Jr., Justice Jim Johnson, Justice J. Fred Jones and Justice William J. Smith.

For the record, I would like to state there are two former justices absent today—Justice Elsijane T. Roy, who sent her regrets to Judge Smith, and Justice Edwin E. Dunaway, to whom I offer my apologies, since I inadvertently failed to contact him in time.

In addition to the current Associate Justices of the Supreme Court, we are pleased to have with us today from the Court of Appeals, Judge Lawson Cloninger, Judge Donald L. Corbin, and Judge and Justice To-Be Tom Glaze.

From the federal judiciary we have a former Arkansas Court of Appeals Judge, Judge George Howard, Jr., now United States

District Judge for the Eastern District of Arkansas; Judge Morris S. Arnold, United States District Judge for the Western District; and Judge Richard L. Arnold, Circuit Judge for the United States Eighth Circuit Court of Appeals.

We would like to welcome the members of the judicial family and, likewise, welcome all of the special guests who are here today in honor of Judge Smith and, in particular, two special guests that I am not going to introduce at this time, but I would like for Judge Smith to introduce them at the time he considers appropriate. It is my pleasure at this time to call on Senior Associate Justice To-Be Darrell Hickman for a few comments.

Remarks by Justice Darrell Hickman

[Honorable Darrell Hickman, of Searcy, spoke for all the Justices who are now members of the Arkansas Supreme Court.]

For almost forty years George Rose Smith has been one of Arkansas' most remarkable public servants. He has become our most respected jurist. I will not dwell on the length of his service, the number of opinions he has written, and similar road marks of his service. Nor will I dwell on his genius, which we all recognize. Instead, I will dwell on what he has done with his talent and with those years of service, because that is what matters.

First, I will mention what he has meant to us individually. Although most of us have served with him for only a few years, his counsel and wisdom have been invaluable. He has been an example of what an appellate judge ought to be. He is always prepared and rests not until his opinions are drafted and circulated. His judgment is invariably sound, based upon experience, preparation, dedication, and a thorough knowledge of the law. He has common sense and an open mind. He understands the need to respect legal precedent, yet he does not worship it. He may be up in years, but his mind is brand new. Change does not threaten him. He is no fence rider nor legal wallflower. He has proved his judicial courage time and again. He is one of the most intellectually honest people I have known. Yet there is no judicial arrogance in his soul. When he makes a mistake, and he has made them, he is the first to admit it and try to rectify it.

He has been quick to help new members of this court, offering counsel and advice to those who have not yet acquired the confidence necessary to responsibly speak for this court. His example has been there to follow; his counsel has been there when needed; and his wisdom has been a comfort to all of us. He has helped us in little ways such as correcting our grammar or finding a sentence in a case that says exactly what we want to say.

Next, I should mention what he has meant to this court—this institution. More than anyone, George Rose Smith has shaped the character of this court. He is the author of our internal procedures, which make us the equal if not the superior of any appellate court in this land. Our cases are assigned in the most impartial manner; our conferences are orderly; and our decisions are delivered promptly. We are current in our caseload and have been for years—thanks to him. These procedures of ours have become habit over the years, respected and admired by each new member that joins this court. The simplicity and orderliness of our daily work are largely a result of his contribution. Justice Smith is no procrastinator, and this court does not procrastinate.

He has written most of our published rules of procedure, and he can, better than anyone I know, conceive and draft a rule, jury instruction or a new precedent, which is no easy task. Witness the law books which are full of rules, statutes, and decisions that are too often incomprehensible. He chides us if we stray from the business at hand and teases us to keep our opinions short and simple. He perceives lengthy opinions as a legal disease.

He is the best writer of legal opinions in this country, bar none. That is probably not an accepted fact, but I know of none his equal. His article on how to write a clear and understandable opinion is required reading in all courses on opinion writing. In this respect alone his contribution is extraordinary, deserving the lasting thanks of a profession that tends to complicate and confuse the simple and ordinary.

This institution has weathered many internal storms and crises, but its work goes on as it must if it is to fulfill its purpose. This court's integrity and role must be preserved at all costs to the inconvenience of its members. That has been one of his main concerns, especially in recent years. It is a sentiment I have heard expressed by other respected, former members of this court.

So as he leaves this court, it is a strong, orderly institution,

with many good traditions that are his handiwork. He leaves a large body of opinions that consistently answer a legal question without pontificating.

Yet, for all he has done for his fellow justices and this court, he has perhaps done the most for the people of this state and their government. His hard work, selfless service, and search for honesty and decency in the law have made justice more than a word for thousands of Arkansans who do not even know his name. He has used his years and God-given talents to create a climate of tolerance in Arkansas law and a degree of excellence in the Arkansas Courts; an atmosphere which allows the law to change as the times and people change; and the fact that he is no politician has been a blessing for Arkansas.

His guileless belief in the simple democratic principles of our government and his efforts to preserve them are part of his legacy. He believes the constitution means what it says and ought to be enforced; he believes in the right of the legislature to legislate; he believes in the right of juries to decide cases; and he believes that it is the people who are actually the government, not the officials and powerful special interests.

He has served only two special interests, the law and the people, and neither should ever forget him. The people of Arkansas deserve his kind of public servant and for once got one in him.

If I have canonized him, it has not been my intention. He has his faults and quirks like everyone, but we are here to take the measure of the man, and when you do, he stands alone—in a class by himself. On behalf of my associates and this court, Justice George Rose Smith, we thank you and Godspeed.

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Remarks by Former Associate Justice Sam Robinson

[Honorable Sam Robinson, formerly of Little Rock and Lake Village, Arkansas, but now residing in Montrose, Colorado, spoke for all of the retired justices about their former colleague and friend.]

May it please the court, and you ladies and gentlemen. I consider it a great honor to have this opportunity to speak here

today, not only on my own behalf, but on behalf of my fellow retired judges. I know I will be speaking their sentiments, and I know that they will approve of what I have to say. A moment ago — I don't know whether you noticed or not — I almost said "and you ladies and gentlemen of the jury." If I had made that mistake, I would not have been far wrong because in a way you are a jury, not here to decide an untried case, but we are here today because we want to honor and show our respect to Judge George Rose Smith who has served the greater part of his mature life on this court, 38 years to be exact. As I said, he has served for 38 years on this court, and now he is about to retire after being here so many years. And he has been the leading cause of this court's being recognized everywhere as one of the finest courts in the United States.

Judge George Rose Smith was elected in 1948. I believe that was the year, Mr. Chief Justice, when you, a teen-age boy, drove me around the state while I was making speeches for your illustrious father who was a candidate for Governor at that time. I was elected in 1950, two years later, and I served here on the court with Judge Smith for 15 years. I learned to know him, admire him, and greatly respect his ability. He has all the qualities of a great judge: He is the soul of honor; he has a brilliant mind; he's dedicated to the law; he has a burning desire to keep the law straight; and he is prejudiced against no man and no woman, regardless of their race, creed or color. Another thing that should be mentioned that is very important — he is not lazy. His capacity for remembering cases — remembering the law — is astounding. Since he has been on the court, thousands of decisions have been handed down. I would roughly estimate that in the neighborhood of 10,000 decisions have been handed down since Judge Smith has been here. I venture to say that he remembers the points decided in every one of those cases. And, in many of the more important ones, he can give you the style of the case.

He is a leader. When I came on the court he had been here only a short time — two years — but at that time, he had become the leader. I recognized his ability at once, and it wasn't long until I recognized that he was the leader on the court although having been here just that short time. He was the one that the other judges looked to and wanted to hear from when difficult, hard problems were before the court. And, the people of this state are the beneficiaries of the fine qualities of this able and good man.

George, you have served the people well for a much longer period of time than could be expected. You are now entitled to a long rest. All these fine people here today and thousands of others throughout the state honor and respect you and wish you much happiness in your retirement. So now, you may sharpen up your pocket knife, get you some good whittling wood, join the other retired judges, and whittle the time away.

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Address by Honorable Richard S. Arnold, United States
Circuit Judge

[Honorable Richard S. Arnold, of Little Rock and Texarkana, United States Circuit Judge, spoke for the United States Eighth Circuit Court of Appeals.]

Mr. Chief Justice, may it please the court. Most of us know the name Dorothy Sayers as a writer of intricate detective stories starring Lord Peter Wimsey, but Miss Sayers was also a gifted theologian and literary critic. One of her books is an extended metaphor comparing the process of writing to the doctrine of the Trinity. In this metaphor, the finished product, the book or article, is seen as the incarnation of the author's thought. The thought can be a fine thing in itself, but if it is not put into tangible form, into flesh so to speak, it does not do any good for anyone except the author. What does this have to do with the present occasion? Simply this, that in Justice George Rose Smith, this court, and the State of Arkansas, have given the nation a truly outstanding incarnator of thought. He has never forgotten that the thoughts in a judge's mind, fine as they may be, fully serve the public only after they are put in words; that opinions of courts are designed to explain, not obscure; that they should be written in English not "legalese." Whatever authority courts have ultimately depends on the continuing consent of the governed, and we shall not long deserve or receive this consent unless we take the trouble to explain clearly and understandably, the reasons for our decisions. Mr. Justice Smith has a national reputation as a judge who has carefully adhered to these principles. His opinions are written in English; his sentences are clear and declarative. He leaves out nothing important and includes nothing superfluous. Words are his stock in trade; he loves them and makes them serve

the public interest. For the last few years, I've had the pleasure of being a member of the faculty at the Appellate Judges Seminar at New York University under the leadership of a former member of this court, Dean Robert A. Leflar. Members of every appellate court in this country, federal and state, have attended this seminar. One of the subjects we teach is opinion writing, and one of the leading exemplars of that skill is Justice Smith. His methods of opinion writing, as well as his writings on appellate practice, are taught and discussed in our classes. So Justice Smith's influence has extended and will continue to extend far beyond Arkansas. Mr. Justice Smith, as a representative of the federal judiciary, it gives me great pleasure to say "thank you"; you have lived greatly in the law. We on the federal bench are grateful to you. We will try to follow your example. Mr. Chief Justice, you have admonished me to speak for no more than three to five minutes. I have tried to follow Justice Smith's example of brevity. I yield back the balance of my time.

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Remarks by Richard Hatfield, Esquire, President of the
Arkansas Bar Association

Mr. Chief Justice, Judge Smith, on behalf of the Bar and, more importantly, our clients, the people of Arkansas, it's a pleasure to participate in this very deserved tribute. At this time I think it's proper to examine the qualities of a great jurist: a high sense of justice, honesty, integrity, diligence, clarity in opinions — no small matter for us as lawyers — and, more importantly, the courage to combine these characteristics to improve justice for the people. Judge, you've done this, you've combined these qualities, especially courage, in your 38 years on the bench. It's true that the quality of a person's service is measured by whether he or she has made a difference. Judge, I can say unequivocally on behalf of the bar and the people, you've made a difference, a real difference, an improvement in our lives, in our system of justice. On behalf of the bar, our clients, and the generations, I thank you.

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Remarks by Woodson Walker, Esquire, President of the
Pulaski County Bar Association

If it pleases the court, I will comment on the matter now under consideration. Mr. Chief Justice Holt, other distinguished members of the court, and Senior Associate Justice George Rose Smith: I've had many positive professional and personal experiences since my election as President of the Pulaski County Bar Association, and I am sure I will have others before my tenure expires in May of 1987. I do not expect, however, to have any experience in this capacity that will match this opportunity to participate in a ceremony of an Associate Justice of the Arkansas Supreme Court who is so well respected by the bench and the bar. This is for me a cherished opportunity. I have chosen and am commissioned to say that the Pulaski County Bar is proud of your 53 years of service to the bar and bench of this state and, while your longevity on the court has provided you with many opportunities to develop influence on the court, it was not your longevity, but your scholarship, precise writing style, sound legal analysis, and commitment to fundamental fairness that explain the influence that you had on this court and the legal profession. Others have served longer, but none have served with more distinction. Lawyers throughout this state and, indeed, the court itself will continue to be influenced by these opinions and the leadership you've shown on this court. Your opinions will be remembered for the simple effectiveness with which you've examined and explained complicated legal issues. Your interesting and entertaining style will be remembered and copied for years to come. You will be remembered as one who sought to take the bitter sting out of truth when you wrote, but one who was never willing to compromise the truth even if it stung. Though I, and many others for whom I speak, have not been privileged to be among your intimate circle of personal friends, please know that we, the Pulaski County Bar, feel toward you as one would a personal friend. Congratulations for a job well done. Best wishes for a long life after your service on the court. Godspeed to you and your darling wife, Peg. We wish for you a long, enjoyable life. Thank you.

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Remarks by the Honorable Bill Clinton, Governor of the
State of Arkansas

Mr. Chief Justice, Judge Smith, distinguished jurists, Mrs. Smith, ladies and gentlemen: This has been a very grave occasion. I have to say I would have come here today solely to hear the Chief Justice give Judge Smith an order. I think it's about time Judge Smith got a feeling of what it's like to be ordered around by a Judge. You can tell I'm the only politician on the program, can't you? I would also like to say, and I think Judge Smith wouldn't mind my saying this, that probably not everyone in Arkansas is grieving about this day. There are all those who think interest rates ought to be more flexible and bonds should be more plentiful. I know some of my friends who are bond lawyers are here today, and I want to thank them for their generosity in appearing. I say that to make a point, and we are all laughing about it. I was thinking about what I ought to say today in my hallowed three to five minutes. In spite of the fact that he is the longest serving appellate judge in the United States today and has received all kinds of national acclaim, I think Judge Smith would not be offended if I were to say in this One Hundred and Fiftieth Year of our Statehood that in many ways he is pure undistilled Arkansas. He is liberal on some things and conservative on others. He is very intellectual and highly practical. He is compassionate and very hard-headed. He represents in sum the qualities that I always think about when I reflect on my heritage, and I am very proud that he served this court and our state for all these years. If I were to speculate a moment on what I think his lasting legacy will be, it will be, at least for me and for others who try to make a life in and around the law, these two things. First of all, for all of his intelligence he thought that the law ought to mean what it says and ought to be reasonably accessible to people who can understand ordinary English. That, it seems to me, is a very important thing in this very complicated, frustrating, and uncertain world in which we are living. And all the rest of us who either make laws or interpret them would do well to remember that straightforward lesson. And, secondly, and perhaps equally important, in a day and age where everything happens so rapidly, where all of us move from one experience to the next with a speed which makes it

almost impossible to appreciate what is happening in the moment — a time in which the American artist and satirist, Andy Warhol, once said that he felt the modern age would someday make it possible for him to make everyone famous for 30 seconds and then they would disappear — George Rose Smith exemplifies commitment, a lifetime of commitment, something which is important. When you give 38 years to something, it means there are all kinds of other things you can't do, other roads you can't walk down, other experiences you can't have, and I would argue that makes the commitment all the richer, all the more profound, all the more significant, not only for his life and Peg's and their friends and families, but for all the rest of us as well. So, Judge, as you go into your future, I hope that all of us will be worthy of your memory, that the law should mean something clear and reasonably accessible to all the people of the state, and that commitment is one of the most profoundly significant things that we can have, even in this day and age of rapid change. If I might be permitted one other personal note, for those of us who have to have some relief from the commitment of life, I hope you won't stop doing those wonderful crossword puzzles. Thank you very much.

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Chief Justice Jack Holt, Jr.

In conclusion, I would like to ask Dona Williams, our clerk, to come forward to receive from Justice Smith his last two opinions.

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Remarks by Justice George Rose Smith

My next to the last opinion is No. 86-58, *Eubanks v. National Federation Student Protection Trust*, reversed, with Justice Newbern dissenting, and my final opinion is No. 86-108, *Canady v. Canady*, affirmed.

Final Remarks

I do appreciate so many of you having come out today. As I look around I see a great many friendly faces of lawyers and friends, some former law clerks. I can't help wondering if perhaps two or three lawyers are here that may have been in disagreement with cases in which I wrote the opinion, and are perhaps here merely to be absolutely certain that I'm leaving. As you can imagine, I have listened intently to the speeches that have already been made. I thought they were appropriate, I thought they were well thought out, and they reminded me of Winston Churchill and his speeches to the House of Commons — he also was very skillful in the use of understatement.

I can't help comparing the circumstances of my departure with those of my arrival. When I was sworn in on January 1, 1949, it was on a Saturday morning at ten o'clock, and I am afraid most friends of my age (I was 37 at the time) had probably just not gotten up after New Year's Eve. It was held in the State Capitol in the courtroom where the court then had its offices, and I suppose, as one of President Reagan's speech writers might say, "the room was sparsely packed." As a matter of fact, by actual count, there were eight people there, including my wife and me. The others mostly were there by assignment. The Chief Justice came to administer the oath. Each of the newspapers sent a reporter who was also a photographer, and of course, there were no television cameras because we didn't have a television station at that time. There was one employee of the court who happened to be there and, of my many friends who urged me to run, neither one of the two was there. There were, however, a former law partner and a friend, which made a total of eight people.

It's been a long time since then, and I'm not going to review the past 38 years one by one. I will merely say that I have, on the whole, enjoyed them. I have enjoyed my work on the court. It has not always been easy, of course, and it's not easy at first at all because the whole thing is new to you, and I know that, as most new judges do, I spent long hours at the job. In my case there were two other factors that most judges don't have. One, I simply can't rest until I get to the bottom of a legal problem, and I feel that way in every case that we have, and at times it does take long hours. And the other thing was that my wife and I had an apartment just a block and a half from the Capitol over on 8th Street, and so it was easy for me to come back to the office at night, which I did.

Since we built our house in 1950, I've had a pretty good law library at home, and I haven't had to do that very much. I can be quite certain about how long I worked at that time, and I don't mean to claim any credit for it whatever; it was simply my nature. But, in the 1950 census which was taken the year after I came on the court, one of the questions to be asked was, "How many hours a week do you work?" Of course the thing was publicized because, at that time, the enumerators took it door-to-door, and they came to your house, and they came in, and you were expected to know the answer. For two or three weeks I kept a record, and I found that I worked on an average of 70 hours a week. Now, of course, I don't mean that I've kept that up. Naturally, it becomes easier as you get more accustomed to it. But, there is a lot of drudgery in it which most people probably don't realize, and there is a great deal of anxiety in it. I don't know that I could have stood it, had it not been for my wife. I have been very fortunate in being married to one of the most wonderful people in the world. Peg, would you stand up? [Standing ovation for Mrs. Smith.] And our daughter, Laurie, who has brought us a great deal of happiness and many occasions for pride. Laurie, would you stand up? Laurie is now a practicing physician.

I suppose it's customary when we old codgers retire to leave a word of advice, and I have tried to think of something. I'm not sure that it's possible. I really think that Adlai Stevenson was right when he was making a talk to a college graduating class in 1954, and he said, "Even if I would guide you, I cannot; for what a man knows at 50 that he did not know at 20 is, for the most part, incommunicable." I think that's right, and perhaps it is even more applicable to what a man knows at 75. I will mention only one thing, and then I'll conclude. That is, I did learn, and it took me certainly at least 20 years to learn it and perhaps longer, that when a judge is confronted with what at first appears to be almost an impossibly difficult case, and you read the briefs on both sides, your first reaction is, "This problem is just not capable of a solution." It doesn't happen often, maybe once a year, maybe twice, two or three times, but it does come up, and every judge experiences that. What I found and finally learned was that if you stay with it long enough, if you read all the pertinent authorities that you can, and if you think about the case hard enough, ultimately you will find an answer that seems to you to be satisfactory. You are able to go to conference with the feeling that you have reached an answer, even though you may change your

mind completely or to some extent when you hear the other members of the court. But the answer is there, and it's a matter of persevering until you find it. When I thought about what I might say on this occasion some weeks ago, it occurred to me in the back of my mind, "Well, didn't Justice Holmes say very much the same thing at one time?" I have admired Justice Holmes ever since I was in law school. I think all my colleagues know that. And so I ran it down. It was in a letter that he wrote to his young Chinese friend, C.H. Wu, who went to law school in the United States and became a friend of Justice Holmes. They corresponded after the young man went back to China, and I have written down what Justice Holmes said in one of his letters to Dr. Wu in 1928. I'll read it to be sure that I quote it exactly. We don't know exactly why he made these statements because Dr. Wu did not include his own letters in the publication. There are only the letters that Holmes wrote to Wu. Now Justice Holmes was still on the court then, and he was 87 years old, just like Sam Robinson, but he remained for another four years and finally retired at 91. This is what he said:

Each has to work out his own way, and if it is a good one he probably will have to suffer a good deal in the process. If I were to sum up what I have learned, I think I should say: Faith in effort, before you see the goal or can put articulately the question to be asked.

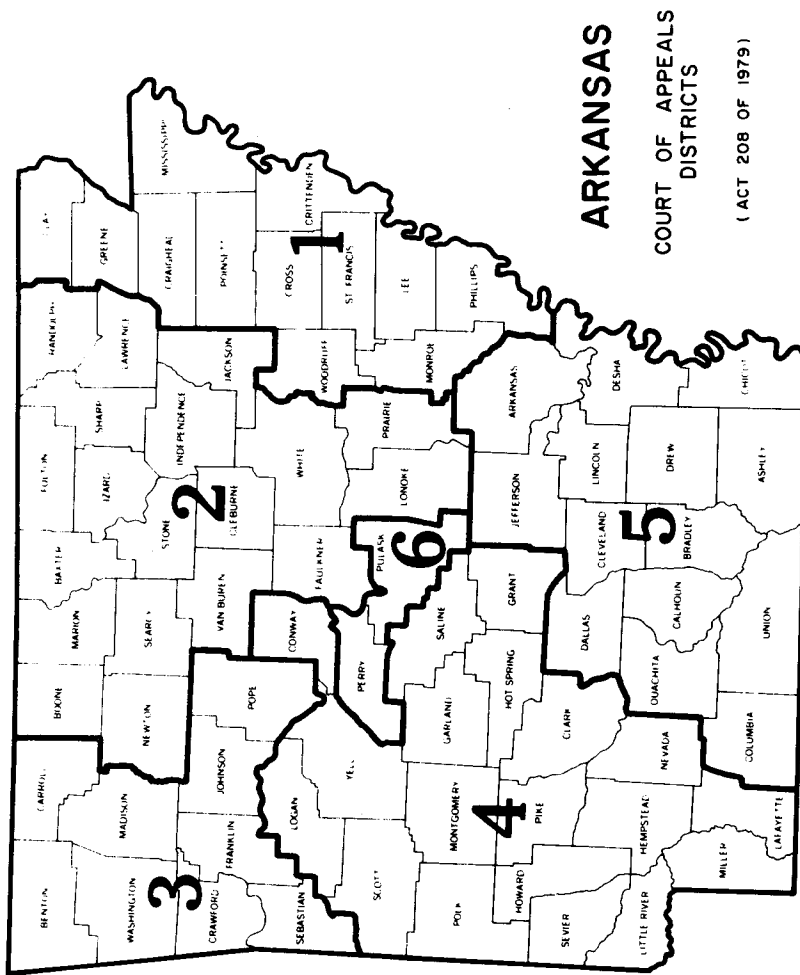
So I will let those be my final words: Have faith in effort.

[Standing ovation for Justice Smith.]

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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
(September 22, 1986—
December 23, 1986, inclusive)

JUDGES

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

OFFICERS

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

¹District 1. Resigned as Chief Judge, effective January 5, 1987

²District 2.

³District 3. Retired, effective December 31, 1986.

⁴District 4.

⁵District 5.

⁶District 6. Resigned, effective January 5, 1987, to assume office as Associate Justice of the Arkansas Supreme Court.

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

GEORGE K. CRACRAFT, CHIEF JUDGE:

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JAMES R. COOPER, JUDGE:

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LAWSON CLONINGER, JUDGE:

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DONALD L. CORBIN, JUDGE:

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MELVIN MAYFIELD, JUDGE:

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ERNIE E. WRIGHT, SPECIAL JUDGE:

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STANDARDS FOR PUBLICATION OF OPINIONS**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

- Abbit v. J.C. Crownover Forest Service*, CA 86-163 (Cracraft, C.J.), affirmed November 26, 1986.
- Allis-Chalmers Corp. v. Tutor*, CA 86-100 (Cloninger, J.), affirmed November 26, 1986.
- Alsept v. State*, CA CR 86-41 (Per Curiam), affirmed November 19, 1986.
- Amarshi v. Beck*, CA 86-16 (Cooper, J.), affirmed November 12, 1986.
- American Underwriters Ins. Co. v. Watson*, CA 86-92 (Cracraft, C.J.), affirmed October 22, 1986.
- Arkansas Blue Cross & Blue Shield, Inc. v. Reed*, CA 86-12 (Cracraft, C.J.), affirmed December 17, 1986.
- Arkansas Louisiana Gas Co. v. Cates*, CA 85-280 (Cooper, J.), affirmed November 19, 1986.
- Arkansas State Hwy. Comm'n v. Crank*, CA 86-15 (Cooper, J.), affirmed October 29, 1986.
- Arkansas State Hwy. Comm'n v. Lacy*, CA 86-77 (Corbin, J.), affirmed October 29, 1986.
- Arkansas State Hwy. Comm'n v. Nalley*, CA 86-127 (Cracraft, C.J.), affirmed December 17, 1986.
- Arkansas State Hwy. Comm'n v. Pearrow*, CA 86-219 (Corbin, J.), affirmed December 3, 1986.
- Bailey-Lineberry v. State*, CA CR 86-61 (Cracraft, C.J.), affirmed September 24, 1986.
- Bilal v. State*, CA CR 86-53 (Cooper, J.), affirmed September 17, 1986.
- Blankenship v. Hooper*, CA 86-18 (Cloninger, J.), affirmed September 17, 1986.
- Boswell v. Boswell*, CA 86-248 (Cracraft, C.J.), affirmed November 26, 1986.
- Boydston v. Snowden*, CA 86-149 (Corbin, J.), affirmed October 22, 1986.
- Bradley v. State*, CA CR 86-80 (Mayfield, J.), reversed and remanded November 12, 1986.
- Brenson v. State*, CA CR 86-103 (Mayfield, J.), affirmed December 3, 1986.
- Brewer v. State*, CA CR 86-90 (Cloninger, J.), affirmed December 10, 1986.
- Brown v. Boston Industrial*, CA 86-170 (Cloninger, J.), appeal dismissed and case remanded December 17, 1986.
- Cabot Locker Plant, Inc. v. Holmes*, CA 86-208 (Cracraft, C.J.), affirmed October 29, 1986.
- Carter v. Carter*, CA 86-51 (Cloninger, J.), affirmed December 17, 1986.

- Cary v. Cary, CA 86-112 (Cracraft, C.J.), affirmed as modified October 22, 1986.
- Cassell v. Lewis, CA 85-293 (Cooper, J.), affirmed September 24, 1986.
- Chandler v. Chandler, CA 86-75 (Cloninger, J.), affirmed November 19, 1986.
- Clark v. State, CA CR 86-88 (Corbin, J.), affirmed October 22, 1986.
- Cleghorn v. Cleghorn, CA 86-265 (Cooper, J.), affirmed December 17, 1986.
- Cockrell v. State, CR 86-78 (Cracraft, C.J.), affirmed October 8, 1986.
- Coger v. Holland, CA 85-309 (Wright, Sp. J.), affirmed October 29, 1986.
- Collins v. State, CA CR 86-43 (Cooper, J.), affirmed October 1, 1986.
- Colony West Madcats, Inc. v. Gunter, CA 86-17 (Cracraft, C.J.), affirmed September 17, 1986.
- Conley v. State, CA CR 86-76 (Cracraft, C.J.), affirmed as modified September 24, 1986.
- Constitution State Ins. Co. v. Passmore, CA 86-173 (Cloninger, J.), reversed and remanded November 12, 1986.
- Cox v. Director of Labor, E 85-168 (Glaze, J.), affirmed September 17, 1986.
- Cox v. First Nat'l Bank, CA 86-98 (Wright, J.), affirmed October 15, 1986.
- Craig v. Craig, CA 86-340 (Per Curiam), appellant's motion for stay, granted September 17, 1986.
- Cullum v. Floyd, CA 86-33 (Corbin, J.), affirmed October 8, 1986.
- Cumberworth v. West, CA 86-176 (Corbin, J.), affirmed November 12, 1986.
- Daniel v. Daniel, CA 86-72 (Corbin, J.), affirmed October 29, 1986.
- Davis v. Taylor, CA 85-282 (Wright, J.), reversed and remanded October 22, 1986.
- Delk v. State, CA CR 86-102 (Per Curiam), Motion to be Relieved as Counsel and Motion to Appoint New Counsel granted November 26, 1986.
- Dickson v. Markley, CA 86-211 (Glaze, J.), affirmed November 19, 1986.
- Dunn v. Qualls, CA 86-66 (Glaze, J.), affirmed October 8, 1986.
- Dunn v. Williams, CA 86-226 (Mayfield, J.), affirmed December 10, 1986.
- Edwards v. Schaffer Sportswear Mfg., Inc., CA 86-168 (Cracraft, C.J.), affirmed November 26, 1986.
- Epps v. Earle Industries, CA 86-162 (Mayfield, J.), affirmed

- November 26, 1986.
Ethridge v. McIlroy Bank & Trust, CA 85-291 (Cracraft, C.J.), affirmed October 22, 1986.
Eureka Log Homes, Inc. v. Thornton, CA 86-87 (Glaze, J.), reversed and remanded December 3, 1986.
Express Temporary Services, Inc. v. Burris, CA 86-315 (Per Curiam), Appellant's Motion to Remand granted October 22, 1986.
Federal Deposit Ins. Corp. v. Richey, CA 85-284 (Cracraft, C.J.), reversed and remanded October 29, 1986.
First National Bank of Fayetteville v. McIlroy Bank and Trust, CA 86-144 (Cracraft, C.J.), affirmed December 17, 1986.
Fountain v. Mar-Bax Shirt Co., CA 86-90 (Cracraft, C.J.), affirmed October 22, 1986.
Franks v. State, CA CR 86-69 (Corbin, J.), affirmed September 24, 1986.
Gawrieh v. Yale, CA 85-459 (Cloninger, J.), reversed October 29, 1986.
Gentry v. State, CA CR 86-70 (Mayfield, J.), affirmed October 8, 1986.
Green v. Farmers Ins. Co. of Arkansas, CA 86-78 (Cloninger, J.), affirmed October 8, 1986.
Gregory v. Director of Labor, E 85-165 (Cooper, J.), affirmed September 17, 1986.
Gregory v. State, CA CR 86-114 (Mayfield, J.), affirmed December 23, 1986.
Halfacre v. State, CA CR 86-58 (Cloninger, J.), reversed and dismissed October 1, 1986.
Hamilton v. State, CA CR 86-59 (Per Curiam), affirmed September 17, 1986.
Hampton v. Director of Labor, E 85-161 (Glaze, J.), reversed and remanded November 26, 1986.
Henson v. Director of Labor, E 86-55 (Glaze, J.), affirmed in part and reversed in part September 24, 1986.
Hernandez v. State, CA CR 86-56 (Corbin, J.), affirmed September 17, 1986.
Hill v. Director of Labor, E 86-97 (Mayfield, J.), affirmed November 19, 1986.
Hogg v. J.W. Operating Co., CA 86-204 (Corbin, J.), affirmed November 19, 1986.
Hoke v. State, CA CR 86-87 (Per Curiam), affirmed September 17, 1986.
In Re: Holstine, CA 86-347 (Per Curiam), original action September 17, 1986.
In the Matter of West v. Knight, CA 85-512 (Corbin, J.), affirmed November 19, 1986.
Jackson v. Graves, CA 86-103 (Wright, Sp. J.), affirmed October

- 29, 1986.
- James v. R.D. Williams & Sons Co., CA 86-255 (Cooper, J.), affirmed December 10, 1986.
- Jeffries v. State, CA CR 86-42 (Mayfield, J.), affirmed September 24, 1986.
- Johnson v. State, CA CR 86-63 (Cloninger, J.), affirmed September 17, 1986.
- Johnson v. State, CA CR 86-50 (Per Curiam), affirmed October 8, 1986.
- Jones v. Jones, CA 85-407 (Cooper, J.), affirmed October 29, 1986.
- Jones v. Vanderlois, CA 85-311 (Mayfield, J.), affirmed October 22, 1986.
- Kirby v. State, CA CR 86-49 (Cooper, J.), affirmed November 26, 1986.
- Klober v. Klober, CA 86-273 (Corbin, J.), affirmed December 17, 1986.
- Knight v. State, CA CR 86-118 (Corbin, J.), affirmed December 3, 1986.
- Kouchenbagh v. Sugg, CA 85-361 (Corbin, J.), affirmed October 1, 1986.
- Lancaster Construction Co. v. Lowry, CA 85-373 (Cloninger, J.), affirmed October 8, 1986.
- Lane v. D & D Fiberglass Mfg., CA 86-40 (Corbin, J.), affirmed December 17, 1986.
- Lawyers Co-Operative Publishing Co. v. Tackett, CA 86-240 (Corbin, J.), affirmed November 26, 1986.
- Lee v. State, CA CR 86-32 (Per Curiam), affirmed September 17, 1986.
- Lee v. State, CA CR 86-32 (Per Curiam), Petition for Rehearing denied October 22, 1986.
- McCastlain v. Helena Chemical Co., CA 85-488 (Mayfield, J.), affirmed December 23, 1986.
- McCormick v. Nichols, CA 86-52 (Cloninger, J.), affirmed October 1, 1986.
- McEntire v. Malloy, CA 85-329 (Glaze, J.), affirmed September 24, 1986.
- McLellan v. State, CA CR 86-113 (Corbin, J.), affirmed December 3, 1986.
- Marion v. Crawford County Courier, CA 86-132 (Wright, J.), affirmed October 15, 1986.
- Marlowe Manor Property Owners Ass'n v. Rector-Phillips-Morse, CA 85-308 (Corbin, J.), affirmed September 24, 1986.
- Mills v. Martin, CA 86-206 (Cooper, J.), affirmed November 19, 1986.
- Mills v. Martin, CA 86-206 (Cooper, J.), Petition for Rehearing

- denied December 23, 1986.
- Mitcham v. Mitcham, CA 85-332 (Cloninger, J.), affirmed October 15, 1986.
- Mitchell v. Mitchell, CA 85-324 (Wright, Sp. J.), reversed in part and affirmed in part as modified November 5, 1986.
- Mitchell v. Mitchell, CA 86-229 (Mayfield, J.), affirmed December 17, 1986.
- Moddies v. State, CA CR 86-84 (Per Curiam), affirmed October 22, 1986.
- Montgomery v. Safeway Store, Inc., CA 86-215 (Cooper, J.), affirmed December 23, 1986.
- Moore v. First Baptist Church, CA 86-139 (Corbin, J.), reversed and remanded November 19, 1986.
- Moore v. State, CA CR 86-101 (Cracraft, C.J.), affirmed November 19, 1986.
- Moseby v. State, CA CR 86-71 (Glaze, J.), affirmed September 17, 1986.
- Moss v. State, CA CR 86-55 (Glaze, J.), affirmed October 1, 1986.
- Muchmore v. State, CA CR 86-85 (Cracraft, C.J.), affirmed October 15, 1986.
- Nalley v. Dietz, CA 86-200 (Cracraft, C.J.), affirmed November 19, 1986.
- Nichols v. State, CA CR 86-122 (Cracraft, C.J.), affirmed December 23, 1986.
- Norton v. Hospital Finance Corp., CA 85-290 (Mayfield, J.), reversed and remanded October 8, 1986.
- Omar v. Prudential Ins. Co. of America, CA 86-113 (Mayfield, J.), reversed and remanded November 5, 1986.
- Owens v. State, CA CR 86-54 (Cloninger, J.), affirmed September 17, 1986.
- Parson v. State, CA CR 86-89 (Wright, Sp. J.), affirmed October 29, 1986.
- Peerson v. Director of Labor, E 86-18 (Mayfield, J.), affirmed December 10, 1986.
- Perkins v. Hot Springs Rehabilitation Center, CA 86-130 (Corbin, J.), affirmed October 29, 1986.
- Perrine v. Pulaski Bank and Trust Co., CA 86-201 (Mayfield, J.), affirmed December 17, 1986.
- Phelps v. Pasley, CA 85-360 (Mayfield, J.), affirmed September 17, 1986.
- Pollock v. State, CA CR 86-37 (Cooper, J.), reversed and dismissed September 24, 1986.
- Porter v. Graybar Electric Co., CA 86-85 (Cracraft, C.J.), affirmed November 19, 1986.
- Porter v. Porter, CA 86-153 (Mayfield, J.), affirmed October 8, 1986.

- Prater v. Cedarville School District No. 44, CA 86-216 (Cloninger, J.), affirmed December 3, 1986.
- Pursifull v. Wilkinson Transport, Inc., CA 86-109 (Corbin, J.), affirmed October 1, 1986.
- Rand v. Twentieth Century Fox Film Corp., CA 86-96 (Cloninger, J.), affirmed October 22, 1986.
- Ratliff v. LBT, Inc., CA 86-74 (Corbin, J.), affirmed September 17, 1986.
- Rebsamen Memorial Hospital v. Keller, CA 86-19 (Cooper, J.), affirmed October 15, 1986.
- Reed-Joseph Land Co. v. Ag.-Air, Inc., CA 86-184 (Wright, Sp. J.), affirmed November 12, 1986.
- Reeves v. State, CA CR 86-105 (Cracraft, C.J.), affirmed in part; reversed and dismissed in part December 3, 1986.
- Reynolds v. Reynolds, CA 86-134 (Cloninger, J.), affirmed October 29, 1986.
- Riley's Oak Hill Manor v. McGee, CA 86-146 (Cracraft, C.J.), affirmed November 12, 1986.
- Roberts v. Nigus, CA 86-213 (Mayfield, J.), affirmed December 23, 1986.
- Roberts v. Roberts, CA 86-99 (Cooper, J.), affirmed October 1, 1986.
- Rooker v. Miller, CA 85-409 (Cloninger, J.), affirmed October 22, 1986.
- Rush v. Bishop, CA 86-93 (Mayfield, J.), affirmed September 17, 1986.
- Ruston v. State, CA CR 86-93 (Cloninger, J.), affirmed November 5, 1986.
- Second Injury Fund v. Easley, CA 86-9 (Mayfield, J.), reversed and remanded October 15, 1986.
- Second Injury Fund v. Hays, CA 86-49 (Corbin, J.), reversed and remanded October 15, 1986.
- Second Injury Fund v. Hinton, CA 85-240 (Mayfield, J.), reversed and remanded October 15, 1986.
- Second Injury Fund v. Huggins, CA 85-225 (Cracraft, C.J.), affirmed in part and reversed in part October 22, 1986.
- Second Injury Fund v. Turner, CA 85-381 (Cracraft, C.J.), affirmed in part and reversed in part October 22, 1986.
- Service Finance Corp. v. Hall, CA 86-123 (Cooper, J.), affirmed October 22, 1986.
- Shelter General Ins. Co. v. Wahl, CA 85-387 (Cracraft, C.J.), affirmed October 1, 1986.
- Shewmake v. State, CA CR 86-92 (Cooper, J.), affirmed October 29, 1986.
- Simpson v. Sentry Ins. Co., CA 86-83 (Wright, J.), reversed October 22, 1986.
- Smith v. Bodnar & Kalemeris, Inc., CA 85-507 (Cloninger, J.),

- affirmed November 26, 1986.
- Smith v. Painter, CA 86-147 (Mayfield, J.), affirmed November 19, 1986.
- Smith v. State, CA CR 86-72 (Cloninger, J.), affirmed September 24, 1986.
- Soifer v. State, CA CR 86-115 (Cracraft, C.J.), reversed and remanded December 3, 1986.
- Southard v. Southard, CA 85-300 (Per Curiam), Appellee's Motion to Dismiss Appeal denied September 17, 1986.
- Southern Electric, Inc. v. Streett, CA 86-105 (Mayfield, J.), affirmed December 23, 1986.
- Spence v. Holland Co., CA 86-160 (Cloninger, J.), reversed and remanded November 19, 1986.
- Springdale Memorial Hospital v. Thomas, CA 85-520 (Corbin, J.), affirmed October 1, 1986.
- Standard Welders Supply Co. v. Helena Electric Co., CA 85-397 (Mayfield, J.), affirmed September 17, 1986.
- Stanley v. State, CA CR 86-106 (Per Curiam), affirmed October 1, 1986.
- Sullivan v. Wickliffe, CA 86-116 (Cracraft, C.J.), affirmed September 17, 1986.
- Teague v. State, CA CR 86-112 (Cloninger, J.), affirmed December 3, 1986.
- Thompson v. State, CA CR 86-94 (Corbin, J.), affirmed November 12, 1986.
- Tillman v. State, CA CR 86-81 (Corbin, J.), affirmed October 15, 1986.
- West v. M & W Logging Co., CA 85-287 (Cracraft, C.J.), reversed and remanded October 8, 1986.
- Whalen v. J. B. Hunt Transport, CA 86-152 (Cooper, J.), affirmed November 5, 1986.
- White v. Hampton, CA 86-270 (Corbin, J.), affirmed December 17, 1986.
- White v. White, CA 85-341 (Cracraft, C.J.), reversed and remanded October 22, 1986.
- Wilder v. State, CA CR 86-64 (Corbin, J.), affirmed September 17, 1986.
- Williams v. Babcock, CA 86-157 (Mayfield, J.), affirmed October 15, 1986.
- Williams v. State, CA CR 86-62 (Cooper, J.), affirmed September 17, 1986.
- Williams v. State, CA CR 86-119 (Mayfield, J.), affirmed December 23, 1986.
- Wilson, Engstrom & Corum v. Director of Labor, E 86-30 (Cracraft, C.J.), affirmed December 23, 1986.
- Wingate v. State Farm Mutual Automobile Ins. Co., CA 86-136 (Cooper, J.), affirmed November 12, 1986.

Wofford v. State, CA CR 85-217 (Mayfield, J.), affirmed
October 1, 1986.

Woodward v. Lakeview Midway Water Ass'n, CA 85-337
(Corbin, J.), appeal dismissed October 15, 1986.

Wyrick v. State, CA CR 86-82 (Wright, J.), affirmed October 15,
1986.

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

Anderson v. Director of Labor, E 86-106, November 12, 1986.
Ball v. Director of Labor, E 86-104, November 12, 1986.
Barnett v. Director of Labor, E 86-76, October 8, 1986.
Battles v. Director of Labor, E 86-96, October 22, 1986.
Beard-Breeding Painting Co. v. Director of Labor, E 86-67,
November 12, 1986.
Bell v. Director of Labor, E 86-117, December 17, 1986.
Brooks v. Director of Labor, E 86-95, October 22, 1986.
Brown v. Director of Labor, E 86-66, October 8, 1986.
Bucks & Ducks Sporting Goods v. Director of Labor, E 86-101,
November 12, 1986.
Burnett v. Director of Labor, E 86-83, October 8, 1986.
Byrd v. Director of Labor, E 86-111, December 3, 1986.
Cain v. Director of Labor, E 86-78, October 8, 1986.
Collins v. Director of Labor, E 86-56, September 24, 1986.
Cox v. Director of Labor, E 86-57, September 24, 1986.
Creamer v. Director of Labor, E 86-71, October 8, 1986.
Cunningham v. Director of Labor, E 86-99, December 3, 1986.
Davis v. Director of Labor, E 86-90, October 15, 1986.
Dixon v. Director of Labor, E 86-102, November 12, 1986.
Dunwood v. Director of Labor, E 86-116, December 17, 1986.
Erickson v. Director of Labor, E 86-39, September 17, 1986.
Estell v. Director of Labor, E 86-91, October 15, 1986.
Ferrell v. Director of Labor, E 86-86, October 15, 1986.
Garrison v. Director of Labor, E 86-112, December 3, 1986.
Givens v. Director of Labor, E 86-58, September 24, 1986.
Goodwin v. Director of Labor, E 86-42, September 17, 1986.
Guanajuato v. Director of Labor, E 86-89, October 15, 1986.
Harris v. Director of Labor, E 86-72, November 12, 1986.
Hartman v. Director of Labor, E 86-73, October 8, 1986.
Herron v. Director of Labor, E 86-85, October 15, 1986.
Horvath v. Director of Labor, E 86-120, December 17, 1986.
Howard v. Director of Labor, E 86-77, October 8, 1986.
Jackson v. Director of Labor, E 86-46, September 17, 1986.
Jones (Eddie) v. Director of Labor, E 86-70, November 12, 1986.
Jones (Robin) v. Director of Labor, E 86-88, October 15, 1986.
Kimble v. Director of Labor, E 86-38, September 17, 1986.
Landrum v. Director of Labor, E 86-110, November 12, 1986.

- Loudd v. Director of Labor, E 86-60, September 24, 1986.
McClure v. Director of Labor, E 86-37, September 17, 1986.
McMorris v. Director of Labor, E 86-87, November 12, 1986.
Manis v. Director of Labor, E 86-64, October 8, 1986.
Martin v. Director of Labor, E 86-17, September 17, 1986.
Mayes v. Director of Labor, E 86-92, October 15, 1986.
Nelson v. Director of Labor, E 86-84, October 8, 1986.
Newby v. Director of Labor, E 86-75, October 8, 1986.
Overton v. Director of Labor, E 86-28, September 17, 1986.
Owens v. Director of Labor, E 86-81, October 8, 1986.
Palmer v. Director of Labor, E 86-98, October 22, 1986.
Parker v. Director of Labor, E 86-74, October 8, 1986.
Penny v. Director of Labor, E 86-31, September 17, 1986.
Poole v. Director of Labor, E 86-43, September 17, 1986.
Porter v. Director of Labor, E 86-79, October 8, 1986.
Raper v. Director of Labor, E 86-100, November 12, 1986.
Ray v. Director of Labor, E 86-94, October 15, 1986.
Saddler v. Director of Labor, E 86-68, November 12, 1986.
Shelter Ins. v. Director of Labor, E 86-13, September 17, 1986.
Simmons v. Director of Labor, E 86-40, September 17, 1986.
Smith (Gaye Lyn) v. Director of Labor, E 86-65, October 8, 1986.
Smith (Mearl) v. Director of Labor, E 86-54, November 12, 1986.
Smith (Rick) v. Director of Labor, E 86-108, November 12, 1986.
Sparks Regional Medical Center v. Director of Labor, E 86-118, December 17, 1986.
Spencer v. Director of Labor, E 86-62, September 24, 1986.
Spradlin v. Director of Labor, E 86-49, September 17, 1986.
Stewart v. Director of Labor, E 86-93, October 15, 1986.
Sumers v. Director of Labor, E 86-69, October 8, 1986.
Thompson v. Director of Labor, E 86-53, September 24, 1986.
Tucker v. Director of Labor, E 86-24, September 17, 1986.
Turner v. Director of Labor, E 86-114, December 17, 1986.
Vest v. Director of Labor, E 86-103, November 12, 1986.
Walker v. Director of Labor, E 86-82, October 8, 1986.
Weise v. Director of Labor, E 85-156, September 17, 1986.
West v. Director of Labor, E 86-105, November 12, 1986.
Western Sizzlin Steak House v. Director of Labor, E 86-50, September 17, 1986.
White v. Director of Labor, E 86-125, December 17, 1986.
Willis v. Director of Labor, E 86-63, September 24, 1986.

Wilson v. Director of Labor, E 86-52, September 24, 1986.
Wyatt v. Director of Labor, E 86-51, September 24, 1986.