

**ARKANSAS REPORTS
VOLUME 293**

**ARKANSAS
APPELLATE REPORTS
VOLUME 22**

THIS BOOK CONTAINS
ARKANSAS REPORTS
Volume 293

CASES DETERMINED
IN THE

**Supreme Court
of Arkansas**

FROM
July 13, 1987 — November 23, 1987
INCLUSIVE¹

AND

**ARKANSAS APPELLATE
REPORTS**
Volume 22

CASES DETERMINED
IN THE

**Court of Appeals
of Arkansas**

FROM
July 8, 1987 — November 18, 1987
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ARKANSAS REPORTS

Volume 293

CASES DETERMINED
IN THE

Supreme Court of Arkansas

FROM
July 13, 1987 — November 23, 1987
INCLUSIVE

CLYDE DICKENS CALLIOTTE
REPORTER OF DECISIONS

MARLO M. BUSH
ASSISTANT
REPORTER OF DECISIONS

PUBLISHED BY THE
STATE OF ARKANSAS
1987

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DURING THE PERIOD COVERED
BY THIS VOLUME
(July 13, 1987 —
November 23, 1987, inclusive)

JUSTICES

JACK HOLT, JR.	Chief Justice
DARRELL HICKMAN	Associate Justice
JOHN I. PURTLE	Associate Justice
ROBERT H. DUDLEY	Associate Justice
STEELE HAYS	Associate Justice
DAVID NEWBERN	Associate Justice
TOM GLAZE	Associate Justice

OFFICERS

STEVE CLARK	Attorney General
DONA L. WILLIAMS	Clerk ¹
LESLIE W. STEEN	Clerk ²
JACQUELINE S. WRIGHT	Librarian
CLYDE DICKENS CALLIOTTE	Reporter of Decisions

¹Retired, effective September 1, 1987.

²Appointed, effective November 1, 1987.

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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

- Adkins v. State, CR 87-160 (Per Curiam), Pro Se Motion for Transcript denied November 2, 1987.
- Bailey v. State, CR 87-108 (Per Curiam), Pro Se Motion for Appointment of Counsel denied and appeal dismissed September 28, 1987.
- Beasley v. State, CR 87-186 (Per Curiam), Pro Se Motion for Appointment of Counsel denied and appeal dismissed November 9, 1987.
- Beatty v. State, CR 87-74 (Per Curiam), Pro Se Rule 37 Petition granted in part and denied in part July 13, 1987.
- Blalock v. State, Pro Se Motion for Belated Petition for Writ of Certiorari and Pro Se Motion for Appointment of Counsel denied October 12, 1987.
- Blansett v. State, CR 87-43 (Per Curiam), affirmed September 28, 1987.
- Brown v. State, CR 82-115 (Per Curiam), Pro Se Rule 37 Petition granted November 2, 1987.
- Buckner v. Smith (Per Curiam), Motion for Rule on the Clerk granted November 16, 1987.
- Campbell v. State, CR 85-160 (Per Curiam), Pro Se Motion for Transcript denied July 20, 1987.
- Chambers v. State, CR 87-144 (Per Curiam), Pro Se Motion for Transcript denied November 2, 1987.
- Clinkscale v. Lockhart, 87-252 (Per Curiam), Pro Se Petition for Writ of Mandamus denied October 19, 1987.
- Cope v. State, CR 87-13 (Per Curiam), Pro Se Rule 37 Petition denied November 16, 1987.
- Cox v. State (Per Curiam), Pro Se Motion for Permission to File Belated Petition for Writ of Certiorari denied October 5, 1987.
- Dunn v. State, CR 86-146 (Per Curiam), Pro Se Rule 37 Petition denied September 21, 1987.
- Fisher, Cecil v. State, CR 86-87 (Per Curiam), Pro Se Motion for Transcript denied July 20, 1987.
- Fisher, Cecil v. State, CR 86-87 (Per Curiam), Pro Se Rule 37 Petition denied November 23, 1987.
- Gaylor v. State, CR 87-86 (Per Curiam), affirmed October 19, 1987.
- Griswold v. State, CR 86-88 (Per Curiam), Pro Se Rule 37 Petition granted November 9, 1987.
- Hagen v. State, CR 87-8 (Per Curiam), affirmed July 20, 1987.
- Halfacre, Kenny v. State, CR 86-183 (Per Curiam), Pro Se Rule 37 Petition denied November 9, 1987.
- Halfacre, Kenny v. State, CR 86-184 (Per Curiam), Pro Se Rule

- 37 Petition denied November 9, 1987.
- Hamilton v. State, CR 87-81 (Per Curiam), Pro Se Motion for Transcript denied July 20, 1987.
- Holden v. State, CR 87-52 (Per Curiam), Pro Se Rule 37 Petition denied November 2, 1987.
- Jackson v. State, CR 86-101 (Per Curiam), Pro Se Rule 37 Petition denied November 2, 1987.
- Jarreau v. State, CR 86-158 (Per Curiam), Pro Se Motion for Transcript denied November 9, 1987.
- Jennings v. State, CR 85-229 (Per Curiam), Rule 37 Petition denied September 21, 1987.
- Johnson v. State, CR 86-45 (Per Curiam), Pro Se Rule 37 Petition denied October 5, 1987.
- Jones, Joseph v. State, CR 87-77 (Per Curiam), Pro Se Rule 37 Petition denied July 20, 1987.
- Jones, Willie v. State, CR 87-2 (Per Curiam), Pro Se Rule 37 Petition denied November 2, 1987.
- Lewis v. State, 87-168 (Per Curiam), Pro Se Petition for Writ of Mandamus denied July 20, 1987.
- Lowery v. State, CR 87-64 (Per Curiam), Pro Se Petition for Writ of Certiorari and Motion to Amend denied September 28, 1987.
- McCoy v. State, CR 87-46 (Per Curiam), Pro Se Motion for Transcript denied November 2, 1987.
- McFadden v. State, CR 86-97 (Per Curiam), Pro Se Rule 37 Petition and Motion for Transcript denied October 5, 1987.
- Madison v. State, CR 85-120 (Per Curiam), Pro Se Rule 37 Petition denied November 9, 1987.
- Malone v. State, CR 87-109 (Per Curiam), Appellee's Motion to Compel the Preparation of a Proper Abstract granted October 12, 1987.
- Maynard v. State, CR 87-182 (Per Curiam), Pro Se Rule 37 Petition denied November 16, 1987.
- Parker v. State, CR 87-208 (Per Curiam), Pro Se Motion for Transcript denied November 2, 1987.
- Pogue v. State, CR 87-175 (Per Curiam), Rule 37 Petition denied November 2, 1987.
- Porter v. State, CR 87-118 (Per Curiam), Pro Se Rule 37 Petition dismissed September 21, 1987.
- Rabun v. State, CR 87-113 (Per Curiam), Pro Se Motion for Appointment of Counsel denied and Writ of Certiorari dismissed July 13, 1987.
- Reed v. State, CR 87-28 (Per Curiam), affirmed July 20, 1987.
- Reel v. State, CR 85-175 (Per Curiam), Pro Se Rule 37 Petition denied November 2, 1987.
- Richard v. State, CR 85-54 (Per Curiam), Pro Se Rule 37 Petition denied September 21, 1987.

- Richardson v. State, CR 86-223 (Per Curiam), Pro Se Rule 37 Petition denied October 5, 1987.
- Roberts v. State, CR 83-150 (Per Curiam), Pro Se Motion for Transcript denied September 21, 1987.
- Runyon v. State, CR 87-76 (Per Curiam), Pro Se Rule 37 Petition denied July 20, 1987.
- Sims v. State, CR 85-58 (Per Curiam), Pro Se Rule 37 Petition and Motion to Amend denied September 28, 1987.
- Smith, Michael Lee v. State, CR 87-123 (Per Curiam), Pro Se Petition for Writ of Habeas Corpus denied July 13, 1987.
- Smith, Michael Lee v. State, CR 87-123 (Per Curiam), Pro Se Motion for Reduction of Bond pending Appeal denied November 23, 1987.
- Smith, Monroe v. State, CR 86-160 (Per Curiam), Pro Se Motion for Transcript denied September 21, 1987.
- Smith, Renice v. State, CR 87-97 (Per Curiam), Pro Se Rule 37 Petition denied September 21, 1987.
- Spivey v. State (Per Curiam), Pro Se Motion for Belated Appeal remanded November 16, 1987.
- Stewart v. State, CR 87-141 (Per Curiam), Rule 37 Petition denied October 5, 1987.
- Thomas, Kenneth v. State, CR 87-33 (Per Curiam), affirmed September 28, 1987.
- Thomas, Otis D. v. State, CR 85-195 (Per Curiam), Pro Se Petition and Amended Rule 37 Petition denied October 12, 1987.
- Timmons v. State, CR 87-84 (Per Curiam), Pro Se Rule 37 Petition and Motion for Transcript denied September 28, 1987.
- Wade v. State, CR 86-21 (Per Curiam), Pro Se Rule 37 Petition denied November 9, 1987.
- Walker v. State (Per Curiam), Pro Se Motion for Permission to file a Belated Petition for Writ of Certiorari denied November 23, 1987.
- Walters v. State, CR 87-124 (Per Curiam), affirmed October 26, 1987.
- Way v. State, CR 74-118 (Per Curiam), Pro Se Motion for Transcript denied September 21, 1987.
- Williams, David Hugh v. State (Per Curiam), Pro Se Motion for Belated Petition for Writ of Certiorari denied July 13, 1987.
- Williams, Jerome v. State, CR 87-96 (Per Curiam), Pro Se Motion for Transcript denied July 20, 1987.
- Williams, Jerome v. State, CR 87-96 (Per Curiam), Pro Se Rule 37 Petition and Motion for Transcript denied October 12, 1987.
- Wilson v. State, CR 87-32 (Per Curiam), affirmed July 20, 1987.
- Wing v. State, CR 85-43 (Per Curiam), Pro Se Rule 37 Petition

denied November 2, 1987.
Yawn v. State, CR 86-17 (Per Curiam), Rule 37 Petition
dismissed November 23, 1987.

Appointments to Committees

IN THE MATTER OF THE BOARD OF LAW
EXAMINERS

Supreme Court of Arkansas
Delivered August 17, 1987

PER CURIAM. Guy Amsler, Jr., Little Rock, Arkansas is appointed to the Arkansas State Board of Law Examiners to temporarily fill a vacancy caused by the inability of Roy E. Stanley, Springdale, Arkansas, to serve on the Board during the week of August 17 through August 23, 1987.

IN THE MATTER OF THE APPOINTMENT OF
CLERK OF THE SUPREME COURT

737 S.W.2d LXXVII

Supreme Court of Arkansas
Delivered November 2, 1987

PER CURIAM. Leslie W. Steen, Esquire, of Little Rock, is appointed to the position of Clerk of the Supreme Court for a term of six years, effective November 1, 1987.

The Court expresses its gratitude to Mr. Steen and Ms. Robin Henthorne for their faithful services as Chief Deputy Clerks during the absence of the Clerk.

IN THE MATTER OF APPOINTMENTS TO THE
ARKANSAS STATUTE REVISION COMMISSION

738 S.W.2d LV

Supreme Court of Arkansas
Delivered November 16, 1987

PER CURIAM. The following persons are reappointed for a four year term 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.

APPENDIX
Rules Adopted
and/or Amended
by Per Curiam Orders

IN RE: RULE 37,
RULES OF CRIMINAL PROCEDURE

732 S.W.2d 458

Supreme Court of Arkansas
Delivered July 13, 1987

PER CURIAM. The time has come to reexamine the need for postconviction relief procedure as provided for in Rule 37, Rules of Criminal Procedure.

It is not required of a state to have such a procedure. *Pennsylvania v. Finley*, No. 85-2099, slip op. at 4 (U.S. May 18, 1987).

Attorneys are provided free on appeals from denial of Rule 37 relief from the trial courts. This also is not a requirement. *Pennsylvania v. Finley*, *supra*.

Seldom is relief or a new trial granted under Rule 37. Yet, we are being inundated with petitions, mostly from inmates of the Arkansas Department of Correction, seeking relief under Rule 37. Each petition must be reviewed and considered, however involved, and most are lengthy and detailed. We have a fulltime lawyer and secretary serving to handle such petitions and assist the court. We have had to add another part-time lawyer to the staff. All of this work is related to petitions filed by prisoners. In 1986, 189 such petitions were filed with written opinions issued in the majority of the cases, usually finding them meritless. They are invariably handwritten, lengthy (a recent one was 100 pages long), and generally attempt to retry the case or attempt to prove their lawyer incompetent. The three year time limitation in which petitions may be filed is ignored. Also the rule that states only one petition may be filed is often ignored.

Grounds for relief vary according to our recent decisions. Ineffective assistance of counsel has become *de regueur*. Although we said in *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984), a writ of *coram nobis* was being granted under extremely limited circumstances, *coram nobis* became the new byword. We still get petitions citing *Penn v. State*, *supra*, in cases which are not remotely close to that case. Now the petitioners are using *Ricarte v. State*, 290 Ark. 100, 717 S.W.2d 488 (1987), as a reason for relief. *Ricarte* was limited to cases in which a specific objection was made. In other words, petitioners use arguments that are fashionable rather than relevant or meaningful.

We know some relief should exist to set aside void convictions; however, the remaining grounds for relief should be reexamined.

Every criminal defendant in Arkansas is entitled to a competent lawyer and an appeal. If he cannot afford a lawyer, the state will provide one for him and a free record. But there should not be two appeals.

The federal courts, through the *habeas corpus* procedure, probably consider as many, if not more, petitions after an appeal as we do. Rule 37 is becoming merely an attempt to gain a second review of a case.

The review of criminal convictions has become virtually an interminable process. For example, in a given case there is the direct appeal, which we or the court of appeals decide. A petition for review can be filed with us for any decision the court of appeals makes. A rehearing petition may be filed in any event. If a United States constitutional issue is involved, the United States Supreme Court may be asked to review our decision, and in most criminal cases the United States Constitution is a consideration.

Then there is Rule 37. If we grant a hearing (sometimes the petition is filed with the trial court), it is remanded to the trial court. If the trial court denies relief, an appeal may be lodged with us. A free record and lawyer will be provided. If we deny relief, again the United States Supreme Court may be asked to review our decision, if a United States constitutional issue is involved.

Then, if these avenues are exhausted, a person can begin with similar relief provided in the federal courts. A petition may be filed with the United States District Court. If relief is denied, an appeal may be taken to the United States Court of Appeals, and ultimately to the United States Supreme Court again.

Cases in which the death penalty is imposed demonstrate that review can be drawn out for years and years. The process has to be fair, but it should not be duplicitous and interminable.

We refer to the Supreme Court Committee on Rules of Pleading, Practice and Procedure in Criminal Cases for consideration of the question of whether and under what circumstances should we provide for and maintain a postconviction proceeding.

PURTLE, J., concurs.

JOHN I. PURTLE, Justice, concurring. I concur with the *Per Curiam* that Rule 37, Rules of Criminal Procedure, needs careful reconsideration in light of the complexity of the current use of the Rule. However, I wish to express a word of caution to the Supreme Court Committee on Criminal Rules against going too far. There should be *reasonable* limitations, both as to grounds for relief and length of petitions, on requests for Rule 37 relief.

It is true the petitions are usually lengthy and frequently handwritten. I'm sure the inmates would prefer to dictate the petitions and have them typewritten. This would, of course, be more convenient for the Court. It is also true that the petitions generally attempt to retry the case or attempt to prove the trial lawyer incompetent. Moreover, the petitions frequently argue issues that were or should have been addressed on direct appeal. Nevertheless, the courts must address the statutory and constitutional rights of people who are unfortunate enough to be in prison. Furthermore, I can understand that practically every inmate would rather have freedom. They should not be penalized for attempting to claim what is theirs as a matter of right.

The appellate process in Arkansas, like that in the other forty-nine states, is extended by the federal courts. It is absolutely necessary for federal courts to have the right to determine whether an individual has been denied any rights guaranteed by the Constitution. However, it is not necessary that the procedures in the state and federal courts make the appellate process interminable. Perhaps if the federal courts did not intrude so deeply into other affairs of the states, they would have more time to expedite these appeals.

The convenience of the courts should be considered. However, that convenience must give way to the rights of individuals. I do not interpose objections to a reasonable streamlining of Rule 37, but I would strenuously oppose any attempt to emasculate it.

IN RE: THE MATTER OF LOCAL COURT RULES

730 S.W.2d LXV

Supreme Court of Arkansas

Delivered July 13, 1987

PER CURIAM. Our Committee on Rules of Pleading, Practice

and Procedure has, pursuant to our order of June 24, 1985, reviewed local rules tendered to the court for filing. The following local rules, with certain exceptions noted, are accepted for filing:

Rules of the Twelfth Chancery Circuit; tendered January 20, 1987, consisting of Revised Standing Orders I through IV.

Rules of the Twentieth Judicial District, tendered March 5, 1987, consisting of Rules 1. through 52., except the following: Rule 34(3), which conflicts with Ark. R. Civ. P. 41(b); Rule 42(2), which conflicts with Ark. R. Civ. P. 38(a); and Rule 46(3), which conflicts with Ark. R. Civ. P. 56 and 36.

IN THE MATTER OF AMENDMENT OF THE
ARKANSAS RULES OF CRIMINAL PROCEDURE

731 S.W.2d XCIV

Supreme Court of Arkansas
Delivered July 13, 1987

PER CURIAM. The following changes in the Arkansas Rules of Criminal Procedure are hereby adopted, effective October 1, 1987. These changes are proposed by the Supreme Court Committee on the Arkansas Rules of Criminal Procedure which has rendered faithful service to this Court and to the bar of Arkansas in considering these and other changes in the Rules of Criminal Procedure. The Court expresses its gratitude to the Chair, Judge William Enfield, Reporters Rafael Guzman, recently succeeded by Samuel A. Perroni, and to the members of the Committee: H. William Allen, Robert Edwards, John A. Fogleman, Ray Hartenstein, Judge Philip B. Purifoy, James A. Ross, Jr., Stevan E. Vowell and Robert Hays Williams.

Rule 22.3(b), A.R.Cr.P.

Rule 22.3(b) is hereby amended to read as follows:

(b) The Court, on application of the prosecuting attorney, or on application of the defendant other than under Subsection (a), shall grant a severance of defendants:

(i) if before trial it is deemed necessary to protect a defendant's right to a speedy trial, or it is deemed appropriate to promote a fair determination of the guilt or innocence of one (1) or more defendants; or

(ii) if before trial the court determines that one (1) or more of the defendants will not receive a fair trial because of potentially prejudicial publicity against another defendant; or

(iii) if during trial, upon consent of the defendant to be severed, it is deemed necessary to achieve a fair determination of the guilt or innocence of one (1) or more defendants.

The Committee's comment:

The Committee recommends a change in the Arkansas Rules of Criminal Procedure relating to severance of defendants. Specifically, the Committee recommends the adoption of a new provision in Rule 22.3(b) that would assure a defendant severance from co-defendants in those situations where pre-trial publicity against the co-defendant threatens the defendant's right to a fair trial.

The Committee recognized the current language of Rule 22.3(b) is probably broad enough to cover this situation. Nevertheless we believe the new provision, recommended by the American Bar Association Standards of Criminal Justice, and the Arkansas Bar Foundation's Committee on Free Press-Fair Trial, may make the trial judge more sensitive to the potential problem.

Rule 28, A.R.Cr.P.

Rule 28.1 is hereby amended to read as follows:

LIMITATIONS AND CONSEQUENCES.

(a) Any defendant charged with an offense in circuit court and incarcerated in a city or county jail in this state pending trial shall be released on his own recognizance if not brought to trial within nine (9) months from the time provided in Rule 28.2, excluding only such periods of necessary delay as are authorized in Rule 28.3.

(b) Any defendant charged with an offense in circuit court and incarcerated in prison in this state pursuant to conviction of another offense shall be entitled to have the

charge dismissed with an absolute bar to prosecution if not brought to trial within twelve (12) months from the time provided in Rule 28.2, excluding only such periods of necessary delay as are authorized in Rule 28.3.

(c) Any defendant charged after October 1, 1987, in circuit court and held to bail, or otherwise lawfully set at liberty, including released from incarceration pursuant to subsection (a) hereof, shall be entitled to have the charge dismissed with an absolute bar to prosecution if not brought to trial within twelve (12) months from the time provided in Rule 28.2, excluding only such periods of necessary delay as are authorized in Rule 28.3.

The Committee's comment:

The Committee recommends a change in Arkansas Speedy Trial rules. The time limitation in Rule 28.1(c) should be changed to twelve (12) months.

Determining an appropriate time limitation for the speedy trial rules was quite difficult for the Committee. We were cognizant of the specific problems faced by some prosecutors due to the size of the district, terms of court, prosecutorial staff, population, etc. Nevertheless the Committee concluded the current time limitation of 18 months in Rule 28.1(c) was excessive in light of the obvious benefits to society of a speedy disposition of a criminal case.

It is always possible that unusual circumstances will arise that will make it difficult or impossible for the prosecutor to meet the time limitation. Rule 28.3(h) which excludes from the basic time limitations all periods of delay "for good cause" should cover such circumstances.

Rule 24.3, A.R.Cr.P.

Rule 24.3 is hereby amended to read as follows:

PLEADING BY DEFENDANT.

(a) A plea of guilty or nolo contendere shall be received only from the defendant himself in open court, except that counsel may enter a plea of guilty on behalf of a defendant in misdemeanor cases where only a fine is imposed by the court. If the defendant is a corporation the plea may be received from counsel or an authorized

corporate officer.

(b) With the approval of the court and the consent of the prosecuting attorney, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgment, to review of an adverse determination of a pretrial motion to suppress evidence. If the defendant prevails on appeal, he shall be allowed to withdraw his plea.

(c) A defendant may plead nolo contendere only with the consent of the court. The court shall not accept a plea of nolo contendere unless it is satisfied, after due consideration of the views of the parties, that the interest of the public in the effective administration of justice would thereby be served.

(d) No plea of guilty or nolo contendere shall be accepted by any court unless the prosecuting attorney of the governmental unit in which the offense occurred is given opportunity to be heard at the time the plea is tendered.

The Committee's Comment:

Under the current rules there can be no appeal following a plea of guilty. Thus a defendant who wants to appeal an adverse decision on a motion to suppress must plead not guilty, stand trial and then appeal. With the large number of drug offenses in recent years, the motion to suppress issue is often the critical or only issue in the criminal case. The Committee concluded the current procedure often leads to unnecessary criminal trials.

The Committee's proposal to allow a defendant to enter a conditional guilty plea is patterned after Rule 11 of the Federal Rules of Criminal Procedure. The requirement that the defendant obtain the consent of the court and the prosecutor should prevent an abuse of the procedure and limit its use to those cases where judge, prosecutor, and defendant determine it would be desirable. The conditional guilty plea procedure appears to work well in the federal courts.

To implement the recommended procedure it will be necessary to amend Rule 24.3 Pleading by Defendant and

Rule 36.1 Right of Appeal.

Rule 36.1, A.R.Cr.P.

Rule 36.1 is hereby amended to read as follows:

RIGHT OF APPEAL.

Any person convicted of a misdemeanor or a felony by virtue of trial in any circuit court of this state has the right to appeal to the Arkansas Court of Appeals or to the Supreme Court of Arkansas. An appeal may be taken jointly by co-defendants or by any defendant jointly charged and convicted with another defendant, and only one (1) appeal need be taken where a defendant has been found guilty of one (1) or more charges at a single trial. Except as provided by Rule 24.3(b) there shall be no appeal from a plea of guilty or nolo contendere.

IT IS SO ORDERED.

**IN THE MATTER OF AN AMENDMENT TO THE
RULES OF PROFESSIONAL CONDUCT**

730 S.W.2d LXIV

Supreme Court of Arkansas
Delivered July 13, 1987

PER CURIAM. Effective July 13, 1987, Rule 5 of the Rules of Professional Conduct is hereby amended by adding the following:

(C) Reinstatement. Following any period of suspension from the practice of law an attorney desiring reinstatement shall file with the Executive Secretary a verified petition requesting reinstatement and setting out the following: a) that he or she did fully and promptly comply with Rule 11 of these rules; b) that he or she has refrained from practicing law during the period of suspension; c) that his or her license fee is current or has been tendered to the Clerk of the Supreme Court; d) that he or she has fully complied with any requirements imposed by the Committee as conditions for reinstatement. Any misstatement of fact may constitute grounds for contempt or revocation of reinstatement.

IN RE: ARKANSAS BAR ASSOCIATION RULES &
REGULATIONS FOR MANDATORY CONTINUING
LEGAL EDUCATION

85-302

734 S.W.2d XXXIX

Supreme Court of Arkansas
Opinion delivered July 20, 1987

PER CURIAM. The Arkansas Bar Association has filed a supplemental petition seeking the adoption of Rules and Regulations for Mandatory Continuing Legal Education and recommending an increase of the Supreme Court bar membership dues to cover the costs of a court administrator whose duties, in part, would be to oversee the continuing education program.

The Bar Association first petitioned this court to adopt these rules in December of 1985. We took no action at that time, but allowed a comment period until March 15, 1986. 287 Ark. 495, 700 S.W.2d LXVII (1985). The comments we received were then referred to a special committee appointed by the Bar Association. 288 Ark. 650, 705 S.W.2d XIV (1986). In a per curiam order handed down May 30, 1986, this court approved the concept of mandatory continuing legal education for all members of the bar of this court. We explained, however, that such a program would require close supervision and would necessitate a court administrator to supervise and direct the program. Since we had no authority or funds to employ such an administrator, this court directed the Judicial Department to study the means by which other states' highest courts maintain supervisory control of and support financially their continuing legal education efforts. We delayed any further action until a means of supervising and funding the program was devised.

In the supplemental petition currently before us, the Bar Association explains that, after a thorough study of other states' programs and an unsuccessful attempt at obtaining legislative funding for the court administrator position, the Association has concluded that bar membership dues should be increased sufficiently to cover the cost of the position. The Association formally petitions this court to adopt the proposed continuing education rules and regulations, and to order the increase in the bar dues.

As is our custom, we will allow time for interested parties to study these proposals and, if they deem it appropriate, to file objections thereto. In the event of establishing the position of

court administrator and adopting rules and regulations for mandatory continuing legal education, we contemplate increasing annual bar dues from \$25.00 to \$50.00.

We will take no further action on this petition until after September 30, 1987, to allow time for any response to be filed. Copies of the proposed rules may be obtained from the Supreme Court Clerk.

IN RE: Jack Wayne DICKERSON

732 S.W.2d 167

Supreme Court of Arkansas
Opinion delivered July 20, 1987

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

IN RE: Harry E. CLAIBORNE

Supreme Court of Arkansas
Opinion delivered September 14, 1987

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

IN THE MATTER OF THE BICENTENNIAL OF THE
UNITED STATES CONSTITUTION

735 S.W.2d LII

Supreme Court of Arkansas
Delivered September 17, 1987

PER CURIAM. The matter under consideration is the Bicen-

ennial of the Constitution of the United States of America. By this instrument, we reaffirm our support of that Constitution which was signed on this day 200 years ago.

This is a nation governed by the will of its people, who have dedicated themselves to that ideal, and have preserved that ideal through law. Our commitment to the process and principles of government which are enshrined in our Constitution remains firm.

This great country has survived not merely by reliance on the letter of the law, but by attention to the spirit of the law. Our society is one where the aspirations of individuals must be balanced against the dictates of an orderly society. Our Constitution has allowed us to maintain this balance while sustaining a prospering society founded on principles of justice.

The flexibility of our federal constitution has allowed us to seek, and reach, great achievements. It has also allowed us to be made aware of our failures and, to remedy those failures. Our Constitution effectuates our commitment to equal justice, and recognizes the dignity of humanity.

By this order we acknowledge the legacy that has passed to us through the sacrifices of our forefathers. That same legacy vests in us a continuing duty to insure the continuity of our constitutional form of government and the ideals that are its essence.

Response of John P. Gill
Before the Supreme Court of Arkansas

Your Honors, I undertake to speak on behalf of the lawyers of Arkansas in joining this celebration of freedom under law which "we the people" cherish. This anniversary is a phenomenal achievement which no other nation has equalled in the history of man.

But this is not a day to look backward; we lawyers and judges look to precedent — but never dwell on it, because precedent only permits us to analyze the future. So it is with this celebration. We will not dwell on what the framers did or why, but what we can do and why. Certainly those of us who love the law must keep foremost in our minds that we are not observers of the scene. Like John Marshall and Clarence Darrow, we are now players. It is our turn. The Constitution's precedents teach us that each individual

lawyer and judge weaves the fabric of freedom.

Let me share with you just one illustration. Our forefathers' unique idea of constitutional government has been imitated several times in the past two hundred years. Today many richly worded constitutions proclaim individual freedom in no uncertain terms. Look at the constitution of the Union of Soviet Socialistic Republics — the Russian constitution — where we find the statement that all power in the Soviet Union belongs to the people. But we know that is not so, it is just rhetoric on a piece of paper.

So on this special day we must ask the question: "Why is their constitution just a piece of paper and ours a written guaranty of freedom?" One unequivocal answer is that the American judiciary has continuously struck the balance of the rule of law and has insured that the Constitution speaks to men and women of each age.

While other nations look to single minded ideologies, or ethnic oneness, or kings, or armies for their national identity, American judges and lawyers have been primarily responsible for molding the American character so that the rule of law is our national identity.

But I look into your faces and into the faces of other lawyers in this room and you look into mine, and we ask "Are we equal to the task? Can we decide the Constitutional right to die? Can we cope with electronic eavesdropping? Can we stop the arms race?" The rule of law says "yes" to each of these questions; you and I can do these things and more. But the price of liberty is vigilance, and lawyers and judges alike must be good stewards of our legal heritage. As we begin the third century of constitutional government, we, no less than Ben Franklin or James Madison must conduct vigorous self examination, and discard outmoded concepts, and demonstrate modern enlightenment for *our* contemporaries.

For example what good is a constitutional right to trial by jury, if we cling, solely in the name of a "day in court," to a reluctance to encourage summary judgment of frivolous lawsuits or frivolous defenses which clog the dockets and delay all trials.

As we usher in this new century in *our* age of enlightenment, let us discharge our duty to form an even more perfect union and let us always be guided by the precedent, that the American Constitution was drafted in large part to outline the relationship

of the majority to the minority or, said another way, to limit the power of government over the individual. As government grows, as our population grows and our affairs become more complex, there are always those who seek to limit the individual and his freedom. When that happens the Great American Experiment — the Constitution — comes into play, reminding us once again, that it guarantees the freedom of “we the people.”

Thank you for allowing me to share in this opportunity to tell our grandchildren that we helped introduce the Constitution to its third century.

In Re: JEPHTHA A. EVANS

737 S.W.2d 459

Supreme Court of Arkansas
Delivered October 12, 1987

PER CURIAM. Mr. Jephtha A. Evans has petitioned this court to accept the surrender of his license to practice law. The petition alleges that advancing age and ill-health prevent him from continuing in the practice.

It appearing that the petition should be granted, it is hereby ordered that the surrender of the license of Jephtha A. Evans to practice law in the State of Arkansas is accepted.

IN THE MATTER OF THE RULES OF THE
SUPREME COURT AND COURT OF APPEALS

737 S.W.2d LXII

Supreme Court of Arkansas
Delivered October 19, 1987

PER CURIAM. Effective November 1, 1987, Rule 18(a) of the Rules of the Supreme Court and Court of Appeals is amended to read as follows:

(a) Request Made in Time.—Where either side desires to make an oral argument in any case, counsel shall give the Court and opposing counsel written notice filed with the Clerk not more than fifteen days after appellant's reply brief is filed or becomes due, whichever occurs first.

Counsel who have not requested oral argument are not required to appear at the argument but must, at least five days before the date the argument is to be heard, notify the Clerk that they do not intend to appear.

IN RE Day Drew LUTTRELL

738 S.W.2d 805

Supreme Court of Arkansas
Delivered November 9, 1987

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

IN RE: BAR OF ARKANSAS MEMBERSHIP DUES

739 S.W.2d LI

Supreme Court of Arkansas
Delivered November 23, 1987

PER CURIAM. Beginning January 1, 1988, the annual dues for membership in the Bar of Arkansas will be \$50.

This change was proposed in our order of September 20, 1987, in which we discussed the petition of the Arkansas Bar Association requesting we increase the dues for the purpose of funding our supervision of the proposed program of mandatory continuing legal education. *In re: Arkansas Bar Association Rules and Regulations for Mandatory Continuing Legal Education*, 293 Ark. 617, 734 S.W.2d XXXIX (1987). In that order we sought comments of the members of the bar with respect to raising the dues from \$25 to \$50. We received no comments in

opposition to the proposal.

In an earlier per curiam order we approved the concept of mandatory continuing legal education for the Bar of Arkansas. *In re: Arkansas Bar Association Rules and Regulations for Mandatory Continuing Legal Education*, 289 Ark. 597, 711 S.W.2d 446 (1986). Our purpose in raising the dues is to finance the hiring of a court administrator, whose job, in part, will be the supervision of the continuing legal education program on behalf of this court.

HICKMAN, J., dissents.

DARRELL HICKMAN, Justice, dissenting. Mandatory continuing legal education is inevitable, and I write merely to protest the use of the power of this judicial body to accommodate the latest fad of our professional legal association. Some of their proposals are good — some not good. For example, the lawyer specialization plan has been a failure.

I expect it is not that the court favors this project so much as it is they do not want to disappoint the leaders of the Arkansas Bar Association.

Continuing legal education has been in existence for some time in Arkansas, and it is a valuable resource to lawyers and judges. But now we have reached the point when some promoters of legal education are not satisfied in “preaching to the saved.” They, somewhat like religious zealots, will accept nothing less than shoving “education” down the throats of every Arkansas lawyer. It cannot be made mandatory unless we lend our power to that end. In doing so we take over legal education and make it our project. Consequently, a new bureaucracy will be created, as an arm of the court. We will hire one or two or three people in the beginning and perhaps more later to keep up with the inevitable expansion of the bureaucracy. No doubt a computer system will be the first priority. It will cost money—more money for dues and considerably more money for the lawyers to attend the seminars and conferences. Those who practice alone will especially feel the bite.

That is the bad news. The good news is that nobody is really serious about education. Formal classroom work will not be required. There will be no tests such as the teachers have had. The producers of the seminars and conferences probably will not even

check the rolls for awhile; sleeping during boring lectures will probably be tolerated.

Judges can, of course, continue to merely attend their bi-annual conference and be certified "educated." Since they do not pay for the conferences anyway, it will not cost them anything to remain educated.

The senior judge in Arkansas, Chancellor Thomas F. Butt of Fayetteville, said:

I predict, if the proposal is adopted, a proliferation of "schools", "seminars", law firm-sponsored "exercises" and "classes" in various fields of law, all with fancy attendance fees and equally fancy certificates of attendance and completion.

I share his sentiments.

I realize objection to progress and education is heresy, but it surprises me that my profession is led by people who have not learned the most fundamental thing about people and that is: you cannot teach those who are not willing to learn. Adult, licensed attorneys should decide when and how they will improve themselves. They have graduated from law school and passed the bar examination. If they require education, we should send them back to school or require reexamination. But this court should not get in the reeducation business.

I respectfully dissent.

IN RE: Ronald D. HELLER

739 S.W.2d 539

Supreme Court of Arkansas

Delivered November 23, 1987

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

ARKANSAS
APPELLATE
REPORTS

Volume 22

CASES DETERMINED
IN THE

Court of Appeals
of Arkansas

FROM
July 8, 1987 — November 18, 1987
INCLUSIVE

CLYDE DICKENS CALLIOTTE
REPORTER OF DECISIONS

MARLO M. BUSH
ASSISTANT
REPORTER OF DECISIONS

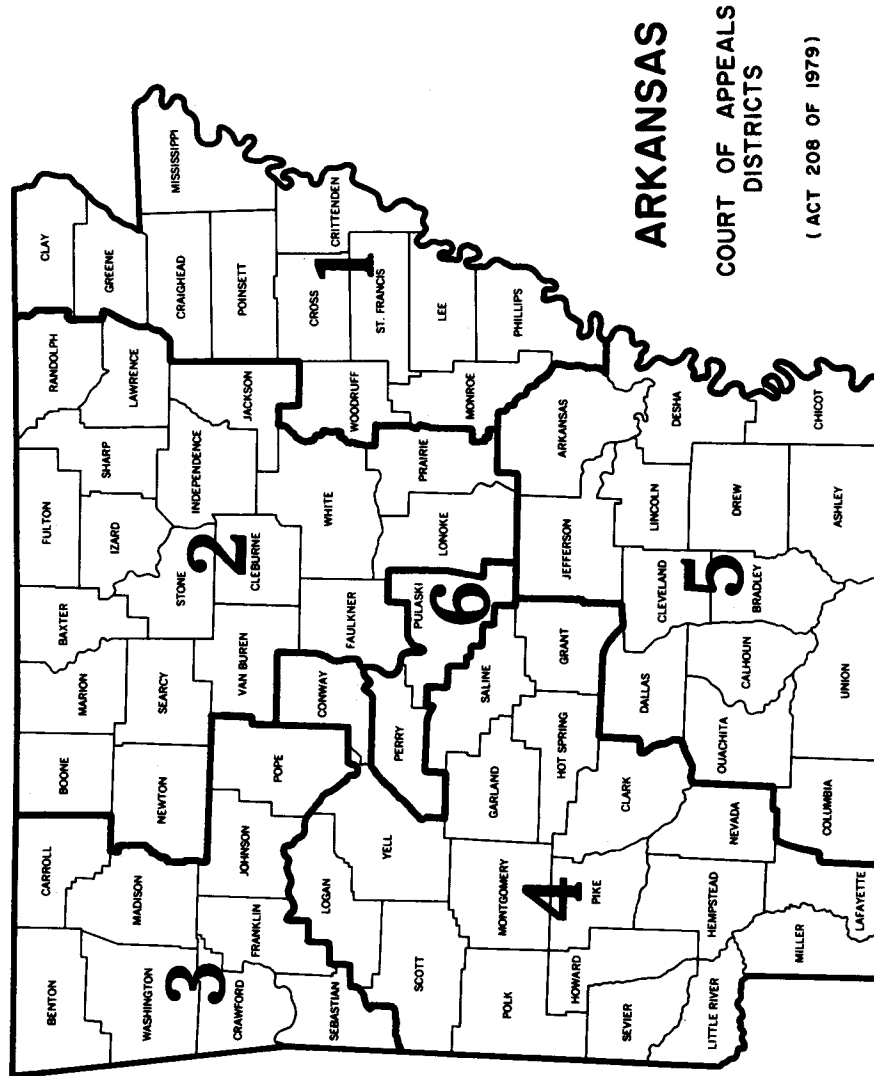
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ARKANSAS

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
(July 8, 1987—
November 18, 1987, inclusive)

JUDGES

DONALD L. CORBIN	Chief Judge ¹
GEORGE K. CRACRAFT	Judge ²
JAMES R. COOPER	Judge ³
JOHN E. JENNINGS	Judge ⁴
MELVIN MAYFIELD	Judge ⁵
BETH GLADDEN COULSON	Judge ⁶

OFFICERS

STEVE CLARK	Attorney General
DONA L. WILLIAMS	Clerk ⁷
LESLIE W. STEEN	Clerk ⁸
JACQUELINE S. WRIGHT	Librarian
CLYDE DICKENS CALLIOTTE	Reporter of Decisions

¹District 4.

²District 1.

³District 2.

⁴District 3.

⁵District 5.

⁶District 6.

⁷Retired, effective September 1, 1987.

⁸Appointed, effective November 1, 1987.

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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

DONALD L. CORBIN, CHIEF 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

- Allen v. State, CA CR 87-60 (Jennings, J.), affirmed November 18, 1987.
- Angell v. Director of Labor, E 86-198 (Cracraft, J.), affirmed October 21, 1987.
- Arkansas State Highway Comm'n v. American Centennial Ins. Co., CA 87-168 (Jennings, J.), affirmed November 11, 1987.
- Arkansas State Highway Comm'n v. McIlroy, CA 87-169 (Corbin, C.J.), affirmed November 11, 1987.
- Arnold v. State, CA CR 87-47 (Jennings, J.), affirmed October 21, 1987.
- Ashworth v. Ashworth, CA 87-187 (Jennings, J.), affirmed November 18, 1987.
- Backstrom v. Sisco Funeral Chapel, Inc., CA 87-144 (Cooper, J.), affirmed September 30, 1987.
- Barnett v. Security Bank, CA 86-367 (Per Curiam), Appellant's Motion to Tax Costs granted July 29, 1987.
- Beasley v. Archer, CA 87-6 (Per Curiam), Appellee's Pro Se Motion for Release of Transcript denied July 8, 1987.
- Bell v. State, CA CR 87-95 (Cracraft, J.), affirmed November 11, 1987.
- Bentley v. Hendricksen, CA 87-79 (Coulson, J.), affirmed as modified, September 16, 1987.
- Blaylock v. Blaylock, CA 87-239 (Per Curiam), Motion to Withdraw as Counsel granted July 29, 1987.
- Boehm v. Moench, CA 85-313 (Cooper, J.), affirmed October 14, 1987.
- Bradford v. State, CA CR 87-40 (Mayfield, J.), affirmed September 23, 1987.
- Branon v. Poppy, CA 86-447 (Jennings, J.), affirmed as modified and remanded July 8, 1987.
- Brantley v. Bearden Public Schools, CA 86-452 (Mayfield, J.), affirmed in part; reversed in part and remanded; affirmed on cross-appeal July 29, 1987.
- Bristow v. Director of Labor, E 87-9 (Jennings, J.), affirmed October 28, 1987.
- Brown v. State, CA CR 87-53 (Jennings, J.), affirmed October 14, 1987.
- Caldarera v. Caldarera, CA 86-460 (Coulson, J.), affirmed July 8, 1987.
- Cason v. Cason, CA 87-95 (Corbin, J.), reversed and remanded July 22, 1987.
- Chenowith v. State, CA CR 87-37 (Cooper, J.), affirmed November 4, 1987.
- City of Paragould v. Murray, CA 87-175 (Mayfield, J.), affirmed

- in part and reversed in part November 18, 1987.
- Clark v. Clark, CA 87-103 (Corbin, C.J.), affirmed as modified July 15, 1987.
- Cliff Peck Chevrolet v. Bradley, CA 87-109 (Cracraft, J.), affirmed September 23, 1987.
- Cook v. Velsical Chemical Corp., CA 87-43 (Cracraft, J.), affirmed October 7, 1987.
- Crafton v. Crafton, CA 87-188 (Jennings, J.), affirmed November 18, 1987.
- Crossland v. State, CA CR 87-61 (Cracraft, J.), affirmed October 28, 1987.
- Cullison v. Southern American Ins. Co., CA 86-364 (Mayfield, J.), reversed and remanded July 29, 1987.
- Davis v. Davis, CA 87-90 (Jennings, J.), affirmed July 8, 1987.
- Davis v. Souter Construction Co., CA 87-106 (Cracraft, J.), affirmed September 16, 1987.
- Davis & Associates, P.A. v. Director of Labor, E 86-183 (Corbin, C.J.), affirmed October 21, 1987.
- Delhaute v. Peterson, CA 87-189 (Mayfield, J.), affirmed October 14, 1987.
- Dizer v. State, CA CR 86-175 (Jennings, J.), affirmed October 7, 1987.
- Douglas v. Speer, CA 87-98 (Cooper, J.), affirmed October 21, 1987.
- Elms v. Estate of Morton, CA 87-39 (Corbin, C.J.), affirmed October 7, 1987.
- Evans v. George's Inc., CA 87-88 (Coulson, J.), affirmed July 15, 1987.
- Ferguson v. State, CA CR 87-49 (Corbin, C.J.), affirmed October 21, 1987.
- First State Bank of Sherwood v. Wolf, CA 87-133 (Coulson, J.), affirmed November 11, 1987.
- Flowers v. Van Hook, CA 87-151 (Corbin, C.J.), reversed and remanded September 16, 1987.
- Folkner v. State, CA CR 87-45 (Mayfield, J.), affirmed November 4, 1987.
- Forrest v. State, CA CR 87-195 (Per Curiam), Motion of Co-defendant to be Allowed to use Original Transcript denied November 4, 1987.
- Fox v. State, CA CR 86-239 (Mayfield, J.), affirmed July 22, 1987.
- Gaither v. Gaither, CA 87-91 (Cracraft, J.), affirmed July 8, 1987.
- Gaslight Club, Inc. v. Fullerton, CA 87-149 (Coulson, J.), reversed November 4, 1987.
- Gonzales v. State, CA CR 87-102 (Cooper, J.), affirmed November 11, 1987.

- Graham v. State, CA CR 86-207 (Per Curiam), Appellant's Motion to File Belated Brief denied July 29, 1987.
- Greenhurst, Inc. v. Director of Labor, E 86-190 (Coulson, J.), affirmed October 21, 1987.
- Hamilton v. Spaulding, CA 87-94 (Jennings, J.), affirmed October 28, 1987.
- Hardin v. Adams, CA 87-66 (Coulson, J.), affirmed July 8, 1987.
- Harrison v. Harrison, CA 87-75 (Corbin, C.J.), affirmed September 16, 1987.
- Hodo v. State, CA CR 87-32 (Jennings, J.), affirmed July 22, 1987.
- Hooks v. Arkansas Power & Light Co., CA 87-179 (Coulson, J.), reversed and remanded November 4, 1987.
- Hubbard v. Hubbard, CA 87-128 (Cracraft, J.), affirmed September 23, 1987.
- Hubble v. Monroe Auto Equipment, CA 87-148 (Jennings, J.), affirmed October 14, 1987.
- Huffman v. Darling Store Fixtures, CA 87-87 (Mayfield, J.), affirmed September 30, 1987.
- J.B. Hays Trust v. Albright Children's Trust, CA 87-126 (Corbin, C.J.), affirmed November 4, 1987.
- Jackson v. USX Chemicals Co., CA 87-57 (Jennings, J.), reversed and remanded September 30, 1987.
- Johnson v. State, CA CR 86-132 (Cracraft, J.), affirmed October 21, 1987.
- Keith v. Keith, CA 87-102 (Mayfield, J.), affirmed as modified July 15, 1987.
- Kusuma v. Reece Brothers Apiaries, Inc., CA 87-190 (Coulson, J.), affirmed November 18, 1987.
- Lackey v. State, CA CR 87-84 (Coulson, J.), affirmed November 11, 1987.
- Lamb v. Lamb, CA 87-181 (Cracraft, J.), affirmed in part and reversed and remanded in part November 11, 1987.
- La-Rue Designs, Inc. v. Barzda, CA 87-85 (Mayfield, J.), affirmed October 7, 1987.
- Lashley v. Life Ins. Co. of North America, CA 86-182 (Jennings, J.), affirmed July 15, 1987.
- Lemon v. Lemon, CA 87-63 (Coulson, J.), reversed July 8, 1987.
- Lovell v. Lovell, CA 87-199 (Cooper, J.), affirmed November 11, 1987.
- Lucas v. Lucas, CA 87-61 (Coulson, J.), affirmed September 23, 1987.
- McGaugh v. McGaugh, CA 86-334 (Per Curiam), Joint Motion to Stay Briefing Schedule granted July 15, 1987.
- McGhee v. State, CA CR 87-43 (Corbin, C.J.), affirmed October 14, 1987.
- McGraw v. State, CA CR 87-54 (Corbin, C.J.), affirmed October

- 14, 1987.
- Maness v. State*, CA CR 87-82 (Cracraft, J.), affirmed November 18, 1987.
- Marshall v. Madden*, CA 86-443 (Coulson, J.), affirmed October 7, 1987.
- Martin v. Director of Labor*, E 86-185 (Mayfield, J.), affirmed November 18, 1987.
- Martin v. Parkview Nursing Home*, CA 87-104 (Coulson, J.), affirmed September 30, 1987.
- Mask v. Waldo Wood Co.*, CA 87-155 (Corbin, C.J.), affirmed September 30, 1987.
- Massey v. State*, CA CR 87-23 (Jennings, J.), affirmed July 15, 1987.
- Metropolitan Life Ins. Co. v. Berry*, CA 87-37 (Mayfield, J.), reversed and dismissed July 8, 1987.
- Mid-State Construction Co. v. Davis*, CA 86-429 (Mayfield, J.), Supplemental Opinion on Denial of Rehearing November 11, 1987.
- Mid-State Construction Co. v. Second Injury Fund*, CA 86-429 (Corbin, C.J.), affirmed July 15, 1987.
- Mitchell v. Meisch*, CA 87-93 (Cooper, J.), appeal dismissed July 15, 1987.
- Monk v. Farmers Ins. Co.*, CA 87-73 (Cooper, J.), affirmed July 8, 1987.
- Moore v. Casey*, CA 87-114 (Cracraft, J.), affirmed July 22, 1987.
- Moore v. First Baptist Church*, CA 87-74 (Jennings, J.), affirmed July 8, 1987.
- Moore v. State*, CA CR 87-79 (Per Curiam), Appellant's Motion to Rescind the Trial Court Order Assessing Costs of Transportation granted July 29, 1987.
- Moore v. State*, CA CR 87-79 (Per Curiam), Appellant's Motion to Set Bond denied July 29, 1987.
- Mulhausen v. State*, CA CR 87-19 (Cracraft, J.), affirmed September 16, 1987.
- Mullins v. State*, CA CR 87-1 (Mayfield, J.), affirmed July 15, 1987.
- Murphy v. Bank of Dardanelle*, CA 87-83 (Jennings, J.), affirmed September 16, 1987.
- Oleson v. Warren*, CA 86-389 (Cooper, J.), Substituted Opinion on Denial of Rehearing, September 16, 1987.
- Oliver v. Oliver*, CA 87-138 (Cracraft, J.), affirmed October 28, 1987.
- Owens v. City of Russellville*, CA CR 87-101 (Cooper, J.), affirmed November 18, 1987.
- Pack v. Employers Modern Life Co.*, CA 86-395 (Cooper, J.), affirmed July 29, 1987.

- Perfection Fire Control Co. v. Denco Steel Corp., CA 87-54 (Per Curiam), Appellant's Motion to Supplement the Record granted July 29, 1987.
- Perfection Tire Control Co. v. Denco Steel Corp., CA 87-54 (Jennings, J.), affirmed November 11, 1987.
- Person v. Director of Labor, E 86-159 (Cooper, J.), affirmed October 21, 1987.
- Phillips v. Director of Labor, E 87-1 (Jennings, J.), affirmed October 21, 1987.
- Phillips v. LaValle, CA 86-159 (Cracraft, J.), reversed and remanded July 15, 1987.
- Phillips v. State, CA CR 87-72 (Coulson, J.), affirmed November 18, 1987.
- Powell v. State, CA CR 87-36 (Jennings, J.), affirmed September 23, 1987.
- Rains v. State, CA CR 86-232 (Mayfield, J.), affirmed July 22, 1987.
- Rodgers v. Morris, CA 87-157 (Coulson, J.), reversed and remanded on direct appeal and affirmed on cross-appeal October 28, 1987.
- Sandlin v. Kochman, CA 87-129 (Jennings, J.), affirmed September 30, 1987.
- Scales v. State, CA CR 87-30 (Corbin, C.J.), affirmed July 15, 1987.
- Shelley v. Chrysler Life Ins. Co., CA 87-120 (Coulson, J.), reversed and remanded October 7, 1987.
- Shelter Ins. Co. v. Amerson, CA 87-159 (Corbin, C.J.), affirmed October 21, 1987.
- Shelter Mutual Ins. Co. v. Washkowiak, CA 86-262 (Cracraft, J.), reversed and remanded July 8, 1987.
- Sherman v. Petit Jean Poultry, Inc., CA 87-156 (Mayfield, J.), affirmed November 18, 1987.
- Shrader Construction Co. v. Phillips Development Corp., CA 87-140 (Corbin, C.J.), affirmed as modified November 18, 1987.
- Slaughter v. Slaughter, CA 87-131 (Jennings, J.), affirmed October 28, 1987.
- Sloan v. State, CA CR 87-155 (Per Curiam), Appellant's Motion to Set Bond denied September 23, 1987.
- Smith v. Arkansas State Hwy. Comm'n, CA 87-26 (Mayfield, J.), affirmed July 29, 1987.
- Smith v. Subaru South, Inc., CA 87-116 (Mayfield, J.), affirmed July 15, 1987.
- Southard v. Southard, CA 85-300 (Corbin, C.J.), affirmed October 14, 1987.
- Stanfield v. State, CA CR 87-13 (Cracraft, J.), affirmed July 8, 1987.

- Steel v. Nicholson, CA 87-150 (Mayfield, J.), affirmed November 11, 1987.
- Stevens v. State, CA CR 87-24 (Cracraft, J.), affirmed July 22, 1987.
- Stewart v. State, CA CR 87-63 (Corbin, C.J.), affirmed November 18, 1987.
- Stroud v. State, CA CR 87-38 (Corbin, C.J.), affirmed September 23, 1987.
- Thrasher v. Director of Labor, E 87-90 (Cracraft, J.), reversed and remanded October 21, 1987.
- Tiller v. Sears, Roebuck & Co., CA 86-335 (Mayfield, J.), reversed and remanded July 15, 1987.
- Trane Co. v. Miller Engineering, Inc., CA 87-58 (Mayfield, J.), affirmed November 11, 1987.
- Tuberville v. International Paper Co., CA 87-134 (Mayfield, J.), reversed and remanded November 4, 1987.
- Tuxhorn v. Tuxhorn, CA 87-84 (Corbin, J.), affirmed July 8, 1987.
- Uhrhammer v. Uhrhammer, CA 87-178 (Mayfield, J.), affirmed as modified October 21, 1987.
- Wagoner v. Wagoner, CA 87-81 (Jennings, J.), reversed July 22, 1987.
- Waters v. State, CA CR 87-44 (Per Curiam), Appellant's Motion to File a Belated Brief denied July 29, 1987.
- Weyerhaeuser Corp. v. Jones, CA 87-8 (Mayfield, J.), affirmed July 15, 1987.
- Wheeler v. State, CA CR 87-59 (Coulson, J.), affirmed October 28, 1987.
- Wicker v. State, CA CR 87-5 (Coulson, J.), affirmed July 22, 1987.
- Wilkerson v. State, CA CR 87-50 (Cracraft, J.), affirmed October 14, 1987.
- Williams v. State, CA CR 86-96 (Cooper, J.), affirmed October 7, 1987.
- Wilson v. Director of Labor, E 87-10 (Corbin, C.J.), affirmed October 28, 1987.
- Wilson v. Harris, CA 87-28 (Coulson, J.), affirmed July 29, 1987.
- Windsor v. Cross County Special Workshop, CA 87-82 (Corbin, J.), affirmed July 8, 1987.
- Woodson v. Woodson, CA 87-166 (Cracraft, J.), affirmed November 4, 1987.
- Yell County v. Hodges, CA 87-119 (Jennings, J.), affirmed September 23, 1987.

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

- Aldridge v. Director of Labor, E 87-95, September 23, 1987.
American Building Services v. Director of Labor, E 87-19, July 29, 1987.
Archie v. Director of Labor, E 87-26, July 29, 1987.
Arkansas Dep't of Correction v. Director of Labor, E 87-58, October 7, 1987.
Ashley v. Director of Labor, E 87-52, September 30, 1987.
Bailey v. Director of Labor, E 87-18, July 29, 1987.
Barclay v. Director of Labor, E 87-6, July 8, 1987.
Bishop v. Director of Labor, E 86-192, July 8, 1987.
Blocker v. Director of Labor, E 87-109, September 23, 1987.
Burdin v. Director of Labor, E 87-93, November 11, 1987.
Burnett v. Director of Labor, 87-13, July 8, 1987.
Collins v. Director of Labor, E 87-38, September 30, 1987.
Curry v. Director of Labor, E 87-43, July 29, 1987.
Deaton v. Director of Labor, E 87-67, October 21, 1987.
Fields v. Director of Labor, E 87-55, September 30, 1987.
Fleming v. Director of Labor, E 87-30, September 23, 1987.
Ford v. Director of Labor, E 86-195, July 8, 1987.
Franklin v. Director of Labor, E 87-29, July 29, 1987.
Frolic Footwear v. Director of Labor, E 87-28, September 23, 1987.
Galloway v. Director of Labor, E 87-75, July 8, 1987.
Gene's Enterprises v. Director of Labor, E 87-68, October 7, 1987.
Gilhaus v. Director of Labor, 87-39, September 30, 1987.
Gotcher v. Director of Labor, E 86-200, July 8, 1987.
Greenlee v. Director of Labor, E 87-36, July 29, 1987.
Gregory v. Director of Labor, E 87-77, October 7, 1987.
Guess v. Director of Labor, E 87-16, July 29, 1987.
Hamilton v. Director of Labor, E 87-24, July 29, 1987.
Hayes, Doris v. Director of Labor, E 87-78, July 29, 1987.
Hayes, Peggy v. Director of Labor, E 86-191, July 8, 1987.
Hines v. Director of Labor, E 87-65, October 21, 1987.
Hudson v. Director of Labor, E 87-12, July 8, 1987.

Jennings v. Director of Labor, E 87-14, July 29, 1987.
Jobe v. Director of Labor, E 87-34, September 30, 1987.
Johnson v. Director of Labor, E 87-63, November 11, 1987.
Jones v. Director of Labor, E 87-85, October 21, 1987.
Kendig v. Director of Labor, E 87-2, July 8, 1987.
Kennedy v. Director of Labor, E 87-41, July 29, 1987.
Lang v. Director of Labor, E 87-11, July 29, 1987.
Loftis v. Director of Labor, E 87-15, July 29, 1987.
Long v. Director of Labor, E 87-40, July 29, 1987.
Marshall v. Director of Labor, E 87-5, July 29, 1987.
Martin v. Director of Labor, E 87-80, October 7, 1987.
Moore v. Director of Labor, E 86-197, July 8, 1987.
Mopkins v. Director of Labor, E 87-17, July 29, 1987.
Nelson v. Director of Labor, E 87-89, September 23, 1987.
Parker v. Director of Labor, E 86-136, October 21, 1987.
Powers v. Director of Labor, E 87-35, July 29, 1987.
Putty v. Director of Labor, E 87-20, September 23, 1987.
Reed v. Director of Labor, E 87-37, July 29, 1987.
Reedy v. Director of Labor, E 87-86, September 23, 1987.
Riley's Oak Hill Manor v. Director of Labor, E 87-51, September 23, 1987.
Robinson v. Director of Labor, E 87-47, September 23, 1987.
Royall v. Director of Labor, E 87-54, September 30, 1987.
Russell v. Director of Labor, E 87-25, July 29, 1987.
Sanders, Jimmy v. Director of Labor, E 87-70, July 29, 1987.
Sanders, Pamela v. Director of Labor, E 87-91, November 11, 1987.
Sheraton Inn v. Director of Labor, E 87-79, October 7, 1987.
Staerker v. Director of Labor, E 87-94, November 11, 1987.
Stafford v. Director of Labor, E 87-131, November 11, 1987.
Stapleton v. Director of Labor, E 87-23, July 29, 1987.
Walker v. Director of Labor, E 87-74, July 29, 1987.
Watson v. Director of Labor, E 87-83, November 11, 1987.
Watts v. Director of Labor, E 87-42, July 29, 1987.
Weeks v. Director of Labor, E 87-3, July 8, 1987.
Williams v. Director of Labor, E 87-48, September 23, 1987.
Wilson v. Director of Labor, E 87-87, September 23, 1987.
Winfrey v. Director of Labor, E 87-33, July 29, 1987.
Yates v. Director of Labor, E 87-59, October 7, 1987.
Zeigler v. Director of Labor, E 87-44, September 23, 1987.

