

# ARKANSAS SUPREME COURT

## PROCEEDINGS OF APRIL 26, 2018

### **JOHN DAN KEMP, CHIEF JUSTICE**

[CV-17-693](#). James Edward Whitney v. Antonio Guterres, Secretary General, United Nations, et al., from Lincoln County Circuit Court. Appellant's pro se petition for extension of time to file appellant's brief; pro se petition for leave to proceed with exception to Rule 4-7 of the Rules of the Supreme Court. Appeal dismissed; petitions moot. Hart, J., dissents.

### **KAREN R. BAKER, JUSTICE**

[CR-17-76](#). Sammy W. Dortch, Jr. v. State of Arkansas, from Independence County Circuit Court. Affirmed in part; reversed and remanded in part. Wood and Womack, JJ., and Special Justice Mark D. Wankum concur in part and dissent in part. Kemp, C.J., not participating.

### **COURTNEY HUDSON GOODSON, JUSTICE**

[CR-17-831](#). James Edward Whitney v. State of Arkansas, from Washington County Circuit Court. Appellant's pro se motion for leave to submit belated reply brief with supplemental addendum. Affirmed; motion moot. Hart, J., dissents.

[CR-17-986](#). Darwin Gaye v. State of Arkansas, from Pulaski County Circuit Court, Second Division. Appellant's pro se motion for extension of time to file brief. Appeal dismissed; motion moot. Hart, J., concurs.

[CV-17-514](#). Apprentice Information Systems, Inc., and David Randall Lamp a/k/a Randy Lamp v. DataScout, LLC, from Benton County Circuit Court. Reversed and remanded.

[CV-17-676](#). Deandra L. Stephenson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Affirmed. Hart, J., dissents.

### **JOSEPHINE LINKER HART**

[CR-12-190](#). Gilberto Martinez-Marmol v. State of Arkansas, from Washington County Circuit Court. Petitioner's pro se petition for permission to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. Petition denied.

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**RHONDA K. WOOD, JUSTICE**

[CV-16-575](#). Apprentice Information Systems, Inc., and David Randall Lamp a/k/a Randy Lamp v. DataScout, LLC, from Benton County Circuit Court. Motion to dismiss denied; reversed.

[CV-17-867](#). James Lee King v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Affirmed. Hart, J., concurs.

**ROBIN F. WYNNE, JUSTICE**

[CV-17-377](#). Apprentice Information Systems, Inc., and David Randall Lamp a/k/a Randy Lamp v. DataScout, LLC, from Benton County Circuit Court. Reversed.

[D-11-1259](#). Stark Ligon, as Executive Director of the Supreme Court Committee on Professional Conduct v. Bruce Jamison Bennett, Arkansas Bar ID #92140, an Original Action. Order of disbarment issued. Special Justice Robert Hudgins concurs. Baker, J., not participating.

**SHAWN A. WOMACK, JUSTICE**

[CR-95-872](#). Tommy R. Mosley v. State of Arkansas, from Garland County Circuit Court. Petitioner's pro se second petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis and motion to file a noncompliant brief/response and for extension of time. Petition dismissed; motion denied. Hart, J., concurs.

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**PER CURIAM ORDERS**

REHEARING DENIED: Petition for rehearing was denied today in the following case.

CV-17-435. 3 Rivers Logistics, Inc.; Heath Holbert; Amy Holbert; Gary Moss; Renee Moss; Judy McSwain; Richard F. Allen, Jr., and Judy Allen, as Trustees of the 2013 Allen Family Revocable Trust; and Richard F. Allen, Jr. v. Brown-Wright Post No. 158 of the American Legion, Department of Arkansas, Inc., from Arkansas County Circuit Court, Southern District. Baker, Hart, and Wynne, JJ., would grant.

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CR-92-1385. Don William Davis v. State of Arkansas, from Benton County Circuit Court. Appellant's motion to recall the mandate is denied. Hart, J., would grant. Wood, J., would moot.

CR-92-1385. Don William Davis v. State of Arkansas, from Benton County Circuit Court. Appellee's motion for rule on clerk is granted. Baker and Hart, JJ., would deny.

CR-98-657. Bruce Earl Ward v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Petitioners motion to recall the mandate is denied. Kemp, C.J., and Hart, J., would grant. Wood, J., would moot.

CR-98-657. Bruce Earl Ward v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Respondent's motion for rule on clerk is granted. Baker and Hart, JJ., would deny.

CR-00-528. Don William Davis v. State of Arkansas, from Benton County Circuit Court. Appellant's motion to recall the mandate is denied. Hart, J., would grant. Wood, J., would moot.

CR-00-528. Don William Davis v. State of Arkansas, from Benton County Circuit Court. Appellee's motion for rule on clerk is granted. Baker and Hart, JJ., would deny.

CR-17-646. Ricky Wayne White v. State of Arkansas, from Miller County Circuit Court. Appellant's pro se motion for reconsideration is denied. Hart, J., would grant.

CR-17-940. Vernon Robinson v. State of Arkansas, from Ashley County Circuit Court. Appellee's motion for stay and, in the alternative, for extension of brief time is granted.

CR-17-1069. Matthew Ryan Elliott v. State of Arkansas, from Columbia County Circuit Court. Appellee's motion for stay and, in the alternative, for extension of brief time is granted.

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CR-18-275. Tonisha Mitchell v. State of Arkansas, from Craighead County Circuit Court, Western District. Appellant's motion for rule on clerk is granted.

CV-17-311. Doug Riley v. Welcometotutum Investment Properties, LLC, from Garland County Circuit Court. Appellee's motion to remit supersedeas bond to appellee on expedited basis is granted. (Proceedings of April 24, 2018)

[CV-17-317](#). State of Arkansas; Arkansas Department of Correction; Asa Hutchinson, in His Official Capacity as Governor of the State of Arkansas; Wendy Kelley, in Her Official Capacity as Director of the Arkansas Department of Correction v. Hon. Alice Gray, Circuit Judge and McKesson Medical-Surgical, Inc., from Pulaski County Circuit Court, Twelfth Division. Joint motion to dismiss is granted. Womack, J., concurs. See **concurring opinion** this date.

CV-17-500. Arkansas Department of Human Services, Erica Eneks, and Tony Huffman v. Tegan Dowdy and Minor Children, from Crawford County Circuit Court. Attorney General ordered to file response brief within thirty days of this order (May 23, 2018); appellant may reply within fifteen days thereafter. (Proceedings of April 23, 2018)

CV-17-678. Herman Conley, Kenneth Edwards, and James Tate, Sr., Individually and on Behalf of a Class of Similarly Situated Persons v. Boll Weevil Pawn Company, Inc., from Pulaski County Circuit Court, Sixth Division. Appellants' motion to correct the supplemental record is granted.

CV-18-100. Deran Ford, as Administrator of the Estate of Herman P. Ford, Deceased, and as Next Friend on Behalf of Indyia Ford, a Minor v. Natasa Milojkovic, M.D.; Angela Pennisi, M.D.; Matthew Steliga, M.D.; and Kyle Kalkwarf, M.D., from Pulaski County Circuit Court, Sixth Division. Motion of Jane W. Duke to withdraw as counsel of record is granted. Kemp, C.J., and Goodson, J., not participating.

CV-18-226. Erwin-Keith, Inc. v. Henry Lee Stewart, Jr., d/b/a Stewart Farms, from Monroe County Circuit Court. Appellant's motion for leave to file reply to appellee's response to petition for review is granted. Baker, J., would deny.

CV-18-277. Julie Henderling v. Arkansas Department of Human Services and Minor Child, from Crawford County Circuit Court. Arkansas Public Defender Commission's motion for leave to access appellant's motion and leave to file a response to motion for appointment of counsel is granted.

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CV-18-277. Julie Henderling v. Arkansas Department of Human Services and Minor Child, from Crawford County Circuit Court. Petitioner's petition to proceed in forma pauperis and for appointment of appellate counsel is denied. Goodson and Hart, JJ., would grant.

CV-18-288. Dr. Shakeb Hashmi v. Phillips County Circuit Court, from Phillips County Circuit Court. Petitioner's petition for writ of prohibition and request for temporary stay is denied. Kemp, C.J., not participating.

CV-18-309. Arkansas State Plant Board and Terry Walker, in His Official Capacity as Director of the Arkansas State Plant Board v. Michael McCarty, Perry Galloway, Matt Smith, Ross Bell, Becton Bell, and Greg Hart, from Pulaski County Circuit Court, Sixth Division. Appellees' expedited motion for relief from stay. Motion for expedited consideration is granted. Hart, J., would deny. Motion for relief from stay is denied. Baker, J., would grant. (Proceedings of April 25, 2018)

CV-18-342. Driving Arkansas Forward v. Leslie Rutledge, in Her Official Capacity as Attorney General for the State of Arkansas, an Original Action. Petitioner's motion for expedited consideration of petition and for accelerated briefing schedule. Motion for expedited consideration of petition is granted. Petition denied. Motion for accelerated briefing schedule and for emergency hearing is moot. (Proceedings of April 23, 2018)

CV-18-346. Arkansas State Plant Board and Terry Walker, in His Official Capacity as Director of the Arkansas State Plant Board v. Harry Stephens et al., from Phillips County Circuit Court. Appellants' expedited motion for stay pending appeal is granted. Baker, J., would deny the stay. Hart, J., would deny expedited consideration. (Proceedings of April 25, 2018)

CV-18-356. Arkansas Department of Finance & Administration, Arkansas Alcoholic Beverage Control Division; Arkansas Medical Marijuana Commission; Natural State Wellness Enterprises, LLC; Osage Creek Cultivation, LLC; BOLD Team, LLC; and Delta Medical Cannabis Company, LLC v. Naturalis Health, LLC; Arkansas Medicinal Source, LLC; Clear Creek Medical, Inc.; Natural State Agronomics, Inc.; River Valley Production, LLC d/b/a River Valley Relief Cultivation; Acanza Health Group, LLC; Carpenter Farms Medical Group, LLC; Mildred Griggs; and Delta Cannabinoid Corporation, from Pulaski County Circuit Court, Fifth Division. Appellants' motion to expedite appeal and memorandum in support is granted. Kemp, C.J., and Baker, J., dissent. Hart, J., not participating. (Proceedings of April 25, 2018)

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CV-18-362. Arkansas State Plant Board and Terry Walker, in His Official Capacity as Director of the Arkansas State Plant Board v. Gary Johnson et al., from Mississippi County Circuit Court, Osceola District. Appellants' expedited motion for stay pending appeal is granted. Baker, J., would deny the stay. Hart, J., would deny expedited consideration. (Proceedings of April 25, 2018)

In Re Suspension of Attorneys Who Failed to Pay 2018 Annual Attorney-License Fee. See [per curiam](#) this date.

In Re Supreme Court Committee on Model Jury Instructions – Criminal. See [per curiam](#) this date.

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**MOTIONS SUBMITTED**

**PETITIONS FOR REHEARING:**

CR-16-1024. Chris Beason Taffner v. State of Arkansas, from Washington County Circuit Court.

CV-17-896. Arkansas Game and Fish Commission, Public Employee Claims Division; and Death & Permanent Total Disability Trust Fund v. Oscar A. Gerard, Jr., from the Arkansas Workers' Compensation Commission.

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CR-00-1382. Gary Martin v. State of Arkansas, from Lonoke County Circuit Court. Motion of Kathryn Henry to substitute counsel of record for appellee.

CR-17-164. Gary Martin v. State of Arkansas, from Lonoke County Circuit Court. Motion of Kathryn Henry to substitute counsel of record for appellee.

CR-17-1003. Kenneth Roshell Isom v. State of Arkansas, from Drew County Circuit Court. Appellant's motion for permission to file supplemental addendum.

CR-18-171. Steven Wade Miller v. State of Arkansas, from Columbia County Circuit Court. Appellant's petition for writ of certiorari and additional time to file appellant's abstract and brief.

CR-18-232. James Nelson England v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Motion of Amanda Jegley to substitute counsel of record for appellee.

CR-18-314. Andy Vanhook v. Faulkner County Circuit Court, from Faulkner County Circuit Court. Petitioner's petition for writ of certiorari or, alternatively, for writ of habeas corpus.

CR-18-329. David Wayne McClendon v. State of Arkansas, from Lafayette County Circuit Court. Motion of Jason Mitchell to withdraw and motion to stay appellate deadlines pending ruling.

CR-18-335. Emmitt Riley v. Hon. Robert Bynum Gibson, Jr., Circuit Judge; and Mark Gober, Drew County Sheriff, from Drew County Circuit Court. Petitioner's petition for writ of prohibition and writ of mandamus.

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CR-18-335. Emmitt Riley v. Hon. Robert Bynum Gibson, Jr., Circuit Judge; and Mark Gober, Drew County Sheriff, from Drew County Circuit Court. Petitioner's motion to strike footnote to respondent's response to petition for writ of prohibition.

CR-18-335. Emmitt Riley v. Hon. Robert Bynum Gibson, Jr., Circuit Judge; and Mark Gober, Drew County Sheriff, from Drew County Circuit Court. Motion of Wayne Boren, agent for Bail Bond Financing, Inc., for leave to intervene.

CV-17-761. Bullocks Kentucky Fried Chicken, Inc.; Karen King; and Arkansas Pulpwood Company, Inc. v. City of Bryant, Arkansas, Municipal Property Owners' Multipurpose Improvement District No. 84; Bank of the Ozarks; and TND Developers, LLC, from Saline County Circuit Court. Appellants' motion to reassign to the Arkansas Supreme Court and brief in support of motion.

CV-18-114. Miracle Kids Success Academy, Inc. v. Marvin Henry Maurras, from Pulaski County Circuit Court, Twelfth Division. Appellee's motion for permission to file supplemental briefs.

CV-18-282. Honorable Mark Martin, in His Official Capacity as Secretary of State for the State of Arkansas and in His Official Capacity as Chairman of the State Board of Election Commissioners; Rhonda Cole, James Harmon Smith III, Stuart Soffer, Charles Roberts, Chad Pekron, and James Sharp, in Their Official Capacities as Commissioners of the Arkansas State Board of Election Commissioners v. Pulaski County Circuit Court, Honorable Alice S. Gray, Circuit Judge; and Barry Haas, from Pulaski County Circuit Court, Twelfth Division. Motion to withdraw motion for substitution of party pursuant to Arkansas Rules of Civil Procedure – Rule 25(d).

CV-18-305. Ricky Lee Scott v. Arkansas Department of Human Services, from Pulaski County Circuit Court, Fifth Division. Petitioner's pro se affidavit in support of request to proceed in forma pauperis.

CV-18-311. Timothy Steadman v. Benton County Circuit Court, from Benton County Circuit Court. Petitioner's petition for writ of certiorari or prohibition.

CV-18-311. Timothy Steadman v. Benton County Circuit Court, from Benton County Circuit Court. Joint motion to dismiss petition for writ of certiorari or prohibition.

CV-18-332. Arkansas Department of Human Services v. Washington County Circuit Court, from Washington County Circuit Court. Petitioner's petition for certiorari.



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**MOTIONS SUBMITTED**

D-14-67. Stark Ligon, as Executive Director of the Supreme Court Committee on Professional Conduct v. Robert Brent Crews, Arkansas Bar No. 91237, an Original Action. Petitioner's motion for default and order of disbarment.

D-18-330. In Re Alene Bryson, Arkansas Bar No. 91164, an Original Action. Petition of Alene Bryson, Arkansas Bar No. 91164, for voluntary surrender of license (resignation).

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CR-79-199. Lewis C. Wallace v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CR-17-482. Tyrone Swift v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellant's pro se motion to expedite.

CR-17-725. Edmond McClinton v. State of Arkansas, from Jefferson County Circuit Court. Appellant's pro se motion for leave to file motion for default judgment.

CR-17-777. Donnie Maiden v. State of Arkansas, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motion for extension of time to file brief.

CR-18-172. Fred L. Williams v. State of Arkansas, from Drew County Circuit Court. Petitioner's pro se motion for belated appeal.

CR-18-172. Fred L. Williams v. State of Arkansas, from Drew County Circuit Court. Petitioner's pro se amendment or modification of notice of appeal-belated appeal.

CV-17-888. Dexter Harmon v. Moses Jackson, Deputy Warden, Varner Supermax Unit, Arkansas Department of Correction; Randy Watson, Warden, Varner Supermax Unit, Arkansas Department of Correction; and Flora Washington, Classification Officer, Varner Supermax Unit, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion for copies at public expense.

CV-17-951. Taurin A. Johnson v. State of Arkansas, from Lee County Circuit Court. Appellant's pro se motion to file belated brief.

CV-18-164. Abraham Grant v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion pursuant to Rule 60 relief from judgment order with leave of the appellate court.

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**CASES SUBMITTED**

CR-17-404. Brandon Eugene Lacy v. State of Arkansas, from Benton County Circuit Court. Orally argued.

CR-17-164. Gary Martin v. State of Arkansas, from Lonoke County Circuit Court.

CR-17-684. Elizabeth Roberts Force v. State of Arkansas, from Independence County Circuit Court.

CV-17-723. The Park Apartments at Fayetteville, LP; The Park Apartments at Fayetteville Management Company, LLC; and Lindsey Management Co., Inc. v. Shilah R. Plants, from Washington County Circuit Court.

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CR-17-338. James Flowers v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-17-981. Sammy Earl Stewart v. State of Arkansas, from Pope County Circuit Court.

CV-17-1067. Kelvin Collier v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court.

Opinions are available on the internet at

<http://courts.arkansas.gov>