

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

JOHN DAN KEMP, CHIEF JUSTICE

[CR-17-533](#). Derrick Lynell Harris v. State of Arkansas, from Drew County Circuit Court. Reversed and remanded. Wynne, J., concurs. Wood and Womack, JJ., dissent.

KAREN R. BAKER, JUSTICE

[CV-17-332](#). Carl Davis, Jr. v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Affirmed in part; reversed and remanded in part.

COURTNEY HUDSON GOODSON, JUSTICE

[CR-96-428](#). Larry Rayford v. State of Arkansas, from Ashley County Circuit Court. Petitioner's pro se fourth petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. Petition denied.

[CV-17-949](#). Jefferson County Election Commission; Stu Soffer, in His Official Capacity as Jefferson County Election Commissioner; and Michael Adams, in His Official Capacity as Jefferson County Election Commissioner v. Hon. Hank Wilkins ex rel. Jefferson County, Arkansas, from Jefferson County Circuit Court. Reversed. Hart and Wood, JJ., dissent.

JOSEPHINE LINKER HART

[CR-17-677](#) Carl Mouton v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Affirmed on direct appeal; dismissed on cross-appeal. Kemp, C.J., and Baker, Wood, and Wynne, JJ., concur.

RHONDA K. WOOD, JUSTICE

[CR-17-806](#). Carl Dewayne Prince v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Petitioner's pro se motion for belated appeal. Motion denied.

ROBIN F. WYNNE, JUSTICE

[CV-17-871](#). First State Bank and Pinnacle Bank n/k/a Central Bank v. City of Elkins, Arkansas, from the United States District Court, Western District of Arkansas, Fayetteville Division. Certified question answered.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

SHAWN A. WOMACK, JUSTICE

[CR-17-842](#). Robert J. Moten v. State of Arkansas, from Arkansas County Circuit Court, Northern District. Appellee's motion to dismiss appeal. Motion granted.

[CR-18-10](#). Lee Charles Millsap, Jr. v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Appellant's pro se motion for use of the record on appeal as a pauper, and for extension of time to file appellant's abstract, brief, and addendum; and pro se motion to withdraw motion for use of record. Appeal dismissed; motions moot.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

PER CURIAM ORDERS

REHEARINGS DENIED: Petitions for rehearing were denied today in the following cases.

CV-17-246. Multi-Craft Contractors, Inc., and Gallagher Bassett Services, Inc. v. Rick Yousey, from the Arkansas Workers' Compensation Commission. Wood and Womack, JJ., would grant.

CV-17-1063. Jessie Hill v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court.

REVIEW GRANTED: Petition for review was granted today in the following case.

CV-18-259. Walter Farris v. Express Service, Inc., and New Hampshire Insurance Company, from the Arkansas Workers' Compensation Commission. Hart, J., would deny.

REVIEWS DENIED: Petitions for review were denied today in the following cases.

CR-18-230. Vernyell Yarquis Mosby v. State of Arkansas, from Desha County Circuit Court. Hart, J., would grant.

CR-18-267. Noah Steffy v. City of Fort Smith, from Sebastian County Circuit Court, Fort Smith District. Baker and Goodson, JJ., would grant.

CR-18-337. Frederick T. Jones v. State of Arkansas, from Pulaski County Circuit Court, First Division. Hart, J., would grant.

CR-18-338. Daniel Lynn Honey v. State of Arkansas, from Logan County Circuit Court, Northern District.

CV-18-226. Erwin-Keith, Inc. v. Henry Lee Stewart, Jr., d/b/a Stewart Farms, from Monroe County Circuit Court.

CV-18-231. Shokrolla Eliasnik (a/k/a Shawn Nik) v. Y & S Pine Bluff, LLC, and Shahrokh Javidzad (a/k/a Steve Javidzad), from Jefferson County Circuit Court.

CV-18-236. Terry Larue Wyatt v. Joyce Lorene Wyatt, from Faulkner County Circuit Court. Hart, Wynne, and Womack, JJ., would grant.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

PER CURIAM ORDERS

REVIEWS DENIED: (continued)

CV-18-240. Absolute Care Management and Guarantee Insurance Company v. Letha Stacy and Death & Permanent Total Disability Trust Fund, from the Arkansas Workers' Compensation Commission.

CV-18-262. Christopher Stephen Patterson and Rebecca Lynn Patterson, as the Special Co-administrators of the Estate of Micayla Anne Patterson, Deceased; and Daniela Salamo v. Southern Farm Bureau Casualty Insurance Company, from Washington County Circuit Court. Hart and Wynne, JJ., would grant.

CV-18-263. Peregrine Trading, LLC v. Steve Rowe and Stacy Rowe, from Lafayette County Circuit Court. Hart, J., would grant.

CV-18-265. Donna Swangel v. Arkansas Department of Human Services and Minor Children, from Marion County Circuit Court. Hart, J., not participating.

CV-18-269. Terry Larue Wyatt v. Joyce Lorene Wyatt, from Faulkner County Circuit Court.

CV-18-271. Herbert Ayers v. Tyson Poultry, Inc., and Second Injury Fund, from the Arkansas Workers' Compensation Commission.

CV-18-284. Kathy Frazier Mays v. Jacqueline Mullins, from Pulaski County Circuit Court, Thirteenth Division. Hart, J., would grant.

CV-18-285. Brookewood, Limited Partnership v. DeQueen Physical Therapy and Occupational Therapy, Inc., from Sevier County Circuit Court. Hart, J., would grant.

CV-18-286. Robert C. Goldtrap, D.D.S., and Robert C. Goldtrap, D.D.S., P.A., an Arkansas Dental Corporation v. Bold Dental Management, LLC, a Delaware Limited Liability Company, and Bold Dental Partners, PLLC, an Arkansas Professional Limited Liability Company, from Sebastian County Circuit Court, Fort Smith District.

CV-18-287. Rex L. Houston, Jr.; Kelton R. Brown, Jr.; John G. Homatas; and Jim West, Individually and on Behalf of Themselves and All Others Similarly Situated; Collectively Known as Opponents of Ordinance 6121 v. City of Hot Springs, Arkansas, from Garland County Circuit Court.

CV-18-290. Kristal L. Thompson v. Luke B. Brunck and Amber Brunck, from Washington County Circuit Court.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

PER CURIAM ORDERS

REVIEWS DENIED: (continued)

CV-18-294. Kristin Chelstrom v. Brandy Chelstrom and Randall Chelstrom, from Montgomery County Circuit Court. Hart, J., would grant.

CV-18-299. Shriners Hospital for Children v. First United Methodist Church of Ozark, from Franklin County Circuit Court, Northern District. Hart, J., would grant.

CV-18-322. Bobby Bolden v. Arkansas Department of Human Services and Minor Children, from Pope County Circuit Court.

CV-18-334. John Roach v. James Roach and Joe Roach, from Marion County Circuit Court.

CV-18-339. Misty Lawrence v. Arkansas Department of Human Services and Minor Child, from Greene County Circuit Court. Hart, J., would grant.

CR-00-1382. Gary Martin v. State of Arkansas, from Lonoke County Circuit Court. Petitioner's motion for leave to file inadvertently omitted exhibits to petition to reinvest jurisdiction is granted.

CR-17-988. Rodolfo A. Martinez v. State of Arkansas, from Washington County Circuit Court. Appellant's motion to remand to settle the record and to stay briefing is granted.

CR-18-68. Robert Lee Williams, Jr. v. State of Arkansas, from Nevada County Circuit Court. Appellant's motion to hold briefing in abeyance is granted. Wood, J., would deny.

CR-18-360. Rickey Brooks v. State of Arkansas, from Bradley County Circuit Court. Appellant's pro se motion for rule on clerk is denied.

CR-18-360. Rickey Brooks v. State of Arkansas, from Bradley County Circuit Court. Appellant's pro se motion for extension of time to lodge appeal is denied. Womack, J., would grant.

CV-17-291. Bruce Earl Ward v. William Asa Hutchinson, Governor of the State of Arkansas; Wendy Kelley, Director, Arkansas Department of Correction; Mark Cashion,

Warden, Varner Supermax Unit; and Benny Magness, Chairperson, Arkansas Board of Correction, in Their Respective Official Capacities, from Jefferson County Circuit Court. Motion of Joseph J. Perkovich to appear *pro hac vice* is granted.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

PER CURIAM ORDERS

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' motion to supplement the record is granted.

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. Appellants' motion to consolidate appeals is denied.

CV-18-343. Paul M. Gordon v. Hon. Eddy Easley, Circuit Judge, from Hot Spring County Circuit Court. Petitioner's pro se petition for leave to proceed in forma pauperis is denied.

CV-18-345. Fallon Cox v. Robert Canada and Amber Canada, from Logan County Circuit Court, Southern District. Appellant's motion for rule on clerk is denied. Hart, J., would grant.

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' motion to consolidate appeals is denied.

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' motion to consolidate appeals is denied.

CV-18-369. Arkansas State Plant Board and Terry Walker, in His Official Capacity as Director of the Arkansas State Plant Board v. Nickie Bell et al., from Clay County Circuit Court, Eastern District. Appellants' motion to consolidate appeals is denied.

CV-18-432. David Couch v. Leslie Rutledge, in Her Official Capacity as Attorney General for the State of Arkansas, an Original Action. Respondent's motion for extension of time to respond to petition is granted. (Proceedings of May 17, 2018)

CV-18-432. David Couch v. Leslie Rutledge, in Her Official Capacity as Attorney General for the State of Arkansas, an Original Action. Petitioner's motion to expedite is granted. Petition for mandatory injunction compelling the Attorney General to either

approve and certify one of the versions of the ballot title submitted, or to substitute and certify a more suitable and correct ballot title within three days is granted. Wood and Womack, JJ., would deny the petition. (Proceedings of May 23, 2018)

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

PER CURIAM ORDERS

CV-18-449. Ellis Williams III; Elise Yarbrough; and Democratic Party of Arkansas v. Lonoke County Board of Election Commissioners and Honorable Barbara Elmore, Circuit Judge, from Lonoke County Circuit Court. Petitioners' verified emergency petition for writ of mandamus, writ of prohibition, writ of certiorari, or supervisory writ. Expedited consideration of the petition is granted. Petition for writ of mandamus, writ of prohibition, writ of certiorari, or supervisory writ is denied. See *Republican Party of Ark. v. Kilgore*, 350 Ark. 540, 98 S.W.3d 798 (2002). (Proceedings of May 22, 2018)

CR-17-120. Morris Dean Davis v. State of Arkansas, from Boone County Circuit Court. Petitioner's pro se motion to file belated reply brief is granted.

CR-18-224. Adam Patton v. State of Arkansas, from Desha County Circuit Court. Appellant's pro se petition for leave to proceed in forma pauperis is granted.

CR-18-224. Adam Patton v. State of Arkansas, from Desha County Circuit Court. Appellant's pro se motion for appointment of counsel is granted.

CV-17-385. Russell Berger v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion to file belated brief is granted.

CV-18-246. Russell Berger v. James Gibson, Warden, Varner Supermax Unit, from Lincoln County Circuit Court. Appellant's pro se motion for access to record and for extension of time to file brief on appeal is granted.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CR-17-76. Sammy W. Dortch, Jr. v. State of Arkansas, from Independence County Circuit Court.

CR-17-831. James Edward Whitney v. State of Arkansas, from Washington County Circuit Court.

CV-17-693. James Edward Whitney v. Antonio Guterres, Secretary General, United Nations, et al., from Lincoln County Circuit Court.

CR-17-89. Mauricio Alejandro Torres v. State of Arkansas, from Benton County Circuit Court. Appellant's motion for leave to file enlarged brief.

CR-18-177. Mo Shay v. State of Arkansas, from Johnson County Circuit Court. Appellee's motion for permission to file supplemental brief.

CV-17-341. Tyrell Benson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion for permission to file pro se supplemental brief in response to appellee's supplemental response brief to brief of amicus curiae.

CV-17-377. Apprentice Information Systems, Inc., and David Randall Lamp a/k/a Randy Lamp v. DataScout, LLC, from Benton County Circuit Court. Appellee's motion for attorney's fees and costs related to supplemental abstract and addendum.

CV-17-849. State of Arkansas; Protect Fayetteville f/k/a Repeal 119; Paul Sagan; Peter Tonnessen; and Paul Phaneuf v. The City of Fayetteville, Washington County, Arkansas; Lioneld Jordan, in His Official Capacity as Mayor of Fayetteville; Adella Gray; Sarah Marsh; Mark Kinion; Matthew Petty; Alan Long; Justin Tennant; Martin W. Schoppmeyer, Jr.; and John La Tour, in Their Official Capacities as Aldermen of the Fayetteville City Council; PFLAG Northwest Arkansas; Anthony Clark; Noah Meeks; and Liz Petray, from Washington County Circuit Court. Motion of Susan Baker Manning for admission *pro hac vice*.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

MOTIONS SUBMITTED

CV-17-849. State of Arkansas; Protect Fayetteville f/k/a Repeal 119; Paul Sagan; Peter Tonnessen; and Paul Phaneuf v. The City of Fayetteville, Washington County, Arkansas; Lioneld Jordan, in His Official Capacity as Mayor of Fayetteville; Adella Gray; Sarah Marsh; Mark Kinion; Matthew Petty; Alan Long; Justin Tennant; Martin W. Schoppmeyer, Jr.; and John La Tour, in Their Official Capacities as Aldermen of the Fayetteville City Council; PFLAG Northwest Arkansas; Anthony Clark; Noah Meeks; and Liz Petray, from Washington County Circuit Court. Motion of Jawad B. Muaddi for admission *pro hac vice*.

CV-17-849. State of Arkansas; Protect Fayetteville f/k/a Repeal 119; Paul Sagan; Peter Tonnessen; and Paul Phaneuf v. The City of Fayetteville, Washington County, Arkansas; Lioneld Jordan, in His Official Capacity as Mayor of Fayetteville; Adella Gray; Sarah Marsh; Mark Kinion; Matthew Petty; Alan Long; Justin Tennant; Martin W. Schoppmeyer, Jr.; and John La Tour, in Their Official Capacities as Aldermen of the Fayetteville City Council; PFLAG Northwest Arkansas; Anthony Clark; Noah Meeks; and Liz Petray, from Washington County Circuit Court. Motion of 27 Arkansas employers for permission to file brief as amici curiae in support of appellees.

CV-17-873. State of Arkansas; Protect Fayetteville f/k/a Repeal 119; Paul Sagan; Peter Tonnesson; and Paul Phaneuf v. City of Fayetteville, Washington County, Arkansas; Lioneld Jordan, in His Official Capacity as Mayor of Fayetteville; Adella Gray; Sarah Marsh; Mark Kinion; Matthew Petty; Alan Long; Justin Tennant; Martin W. Schoppmeyer, Jr.; and John LaTour, in Their Official Capacities as Alderman of the Fayetteville City Council; PFLAG Northwest Arkansas; Anthony Clark; Noah Meeks; and Liz Petray, from Washington County Circuit Court. Motion of the Arkansas Legislative Council, President Pro Tempore of the Senate, and Speaker of the House of Representatives for permission to file an amicus curiae brief in support of appellant.

CV-18-45. Robinson Nursing and Rehabilitation Center, LLC, d/b/a Robinson Nursing and Rehabilitation Center; Central Arkansas Nursing Centers, Inc.; Nursing Consultants, Inc.; and Michael Morton v. Andrew Phillips, as Personal Representative of the Estate of Dorothy Phillips, and on Behalf of the Wrongful Death Beneficiaries of Dorothy Phillips; and on Behalf of Themselves and All Others Similarly Situated, from Pulaski County Circuit Court, Sixth Division. Appellees' motion to correct the supplemental record due to pagination error.

CV-18-47. KW-DW Properties, LLC, an Arkansas Limited Liability Corporation; Debra A. Lang, in Her Official Capacity as White County Tax Assessor; Sue Liles, in Her Official Capacity as White County Tax Collector; Certain Lands Being 2.363 Acres, More or Less, in White County, Arkansas; and Any and All Persons or Entities Claiming an Interest Therein v. Arkansas State Highway Commission, from White County Circuit Court. Appellee's motion for transfer and brief in support.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

MOTIONS SUBMITTED

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

CV-18-332. Arkansas Department of Human Services v. Washington County Circuit Court, from Washington County Circuit Court. Petitioner's motion to compel compliance with writ of certiorari.

CV-18-395. Cindy Gillespie, Director, Arkansas Department of Human Services, in Her Official Capacity v. Planned Parenthood of Arkansas & Eastern Oklahoma, Inc., d/b/a Planned Parenthood Great Plains; and Washington County Circuit Court, from Washington County Circuit Court. Petitioner's petition for writ of mandamus, prohibition, certiorari, or a supervisory writ, or other appropriate relief.

CV-18-428. Lamar D. Wilson v. Honorable Lynn Williams, Circuit Judge, from Garland County Circuit Court. Petitioner's pro se petition for leave to proceed in forma pauperis.

CR-06-1320. James B. Ryan v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se motion for transcript.

CR-06-1320. James B. Ryan v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se motion for expedited review.

CR-16-574. John Richard Lukach v. State of Arkansas, from Hot Spring County Circuit Court. Appellant's pro se petition for writ of mandamus ; pro se motion for clarification.

CR-16-849. Frederick Pennington, Jr. v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Petitioner's pro se petition for writ of mandamus.

CR-17-143. Frederick Pennington, Jr. v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Petitioner's pro se petition for writ of mandamus.

CR-17-144. Frederick Pennington, Jr. v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Petitioner's pro se petition for writ of mandamus.

CR-17-801. Justin Thornton v. Alex Guynn, Circuit Judge, from Lincoln County Circuit Court. Petitioner's pro se petition for writ of mandamus.

CR-18-134. Jimmy Lee Scherrer v. State of Arkansas, from Desha County Circuit Court. Appellant's pro se motion for extension of time to file appellant's brief.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

MOTIONS SUBMITTED

CR-18-272. Eugene Issac Pitts v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se motion for belated appeal.

CR-18-272. Eugene Issac Pitts v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se motion to supplement motion for belated appeal.

CR-18-272. Eugene Issac Pitts v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se motion to consolidate with CR-80-40.

CV-17-936. William Robert Null v. Arkansas Parole Board and John Felts, Chairman, from Lincoln County Circuit Court. Appellant's pro se motion for extension of time to file brief.

CV-17-1009. Michael Lee Anderson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellee's motion to dismiss appeal.

CV-17-1009. Michael Lee Anderson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion to dismiss appeal without adjudication of claims.

CV-17-1061. Michael Lee Anderson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellee's motion to dismiss appeal.

CV-17-1061. Michael Lee Anderson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion to dismiss appeal without adjudication of claims.

CV-18-84. Kyron Watkins v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion to file belated brief.

CV-18-141. Wallace A. Gardner v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motions for appointment of counsel, for extension of time to correct brief, and to order circuit clerk to furnish documents.

CV-18-218. Ivory Joe Love v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion for extension of brief time.

ARKANSAS SUPREME COURT

PROCEEDINGS OF MAY 24, 2018

CASES SUBMITTED

CR-17-916. Edward Darnell Rogers v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division.

CR-16-574. John Richard Lukach v. State of Arkansas, from Hot Spring County Circuit Court.

CR-17-972. Richard J. Jackson v. State of Arkansas, from Clark County Circuit Court.

CV-16-1017. Jeremy S. Kennedy v. John Felts, Chairman, and Arkansas Parole Board, from Pulaski County Circuit Court, Sixth Division.

Opinions are available on the internet at

<http://courts.arkansas.gov>