

# ARKANSAS SUPREME COURT

## PROCEEDINGS OF JUNE 7, 2018

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

[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 appellant [sic] court; pro se motion for Arkansas Rule of Civil Procedure 55 default. Appeal dismissed; motions moot. Hart, J., dissents.

[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. Appeal dismissed; motion moot. Hart, J., dissents.

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

[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. Affirmed in part and reversed and remanded in part; petition denied; motion moot.

[CR-17-972](#). Richard J. Jackson v. State of Arkansas, from Clark County Circuit Court. Affirmed.

### **RHONDA K. WOOD, JUSTICE**

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

### **ROBIN F. WYNNE, JUSTICE**

[CR-17-801](#). Justin Thornton v. Alex Guynn, Circuit Judge, from Lincoln County Circuit Court. Petitioner's pro se petition for writ of mandamus. Petition moot.

[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. Remanded for additional findings of fact. Wood, J., dissents.

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**PER CURIAM ORDERS**

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

CR-16-537. Khalin Collins v. State of Arkansas, from Columbia County Circuit Court.

CR-17-76. Sammy W. Dortch, Jr. v. State of Arkansas, from Independence County Circuit Court. Wood and Womack, JJ., and Special Justice Mark D. Wankum would grant. Kemp, C.J., not participating.

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.

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

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

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 is granted.

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 is granted in the amount of \$6,724.38. Wood and Womack, JJ., would deny.

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* is granted. Goodson and Hart, JJ., not participating.

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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* is granted. Goodson and Hart, JJ., not participating.

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 is granted. Goodson and Hart, JJ., not participating.

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 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 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 is granted. Goodson and Hart, JJ., not participating.

CV-17-1055. Ryan Chase Gore v. Arkansas Teachers Federal Credit Union, from Lonoke County Circuit Court. Certification to the Supreme Court is granted. Baker, Goodson, and Wood, JJ., would deny.

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**PER CURIAM ORDERS**

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 is granted.

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 is granted. Baker, Goodson, and Wynne, JJ., would deny.

CV-18-332. Arkansas Department of Human Services v. Washington County Circuit Court, from Washington County Circuit Court. Petitioner's petition for certiorari is dismissed as moot. Baker, J., would moot. Hart, J., would grant.

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 is moot. Kemp, C.J., and Wood, J., would dismiss.

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 is granted. Hart, J., would deny.

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**PER CURIAM ORDERS**

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 file document under seal and for protective order. Responses due by Wednesday, June 6, 2018, at 3:00pm; any replies to the responses due by Wednesday, June 6, 2018, at 4:30pm. Concerning the motion to seal and protective order in the above referenced matter, the court hereby issues a temporary protective order of the Attorney General's June 5, 2018, tendered letter limiting distribution to counsel of record. All counsel is prohibited from distributing the letter or its contents to their clients or others. The Supreme Court Clerk may distribute the letter to counsel of record in this matter. Special Justice Emily White agrees. Hart, J., not participating. (Proceedings of June 6, 2018)

CV-18-473. Matthew M. Henry v. Pulaski County Circuit Court, Honorable Mackie Pierce, Circuit Judge; CSII Renovations, LLC; and Chris Irving, from Pulaski County Circuit Court. Petitioner's motion for expedited consideration of petition for writs of certiorari and habeas corpus and/or motion to set bond pending appeal is granted. Petitioner's petition for writ of certiorari and habeas corpus and/or motion to set bond pending appeal is denied. Hart, J., would grant. (Proceedings of June 6, 2018)

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

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 is moot. Kemp, C.J., would deny. Wood, J., would dismiss as moot.

CR-07-328. Tilton Rhodes v. State of Arkansas, from Drew County Circuit Court. Petitioner's pro se motion for trial transcript under Arkansas Rule of Appellate Procedure –Criminal 19 is granted. Womack, J., would deny.

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 is denied.

## **ARKANSAS SUPREME COURT**

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#### **PER CURIAM ORDERS**

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 is denied.

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 is denied.

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 is granted.

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 is granted.

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 is moot. Hart, J., would grant.

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 is moot. Hart, J., would grant.

CV-17-936. William Robert Null v. Arkansas Parole Board and John Felts, Chairman, from Lincoln County Circuit Court. Appellant's second pro se motion for extension of time to file brief is granted. Kemp, C.J., not participating.

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 is granted. Goodson, J., would moot.

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 is granted with prejudice to reinstatement of appeal.

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 is granted. Goodson, J., would moot.

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**PER CURIAM ORDERS**

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 is granted with prejudice to reinstatement of appeal.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF JUNE 7, 2018**

**MOTIONS SUBMITTED**

**PETITION FOR REHEARING:**

CV-17-676. Deandra L. Stephenson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court.

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CR-17-1051. Ricardo McDaniel v. State of Arkansas, from St. Francis County Circuit Court. Appellant's request for additional time to comply with writ of certiorari to supplement the record with missing transcript.

CR-18-434. Jason Allen Farmer v. State of Arkansas, from Benton County Circuit Court. Appellant's petition for writ of certiorari to complete and correct the record.

CR-18-461. Charles Hawkins and Wayne Boren, Agent for Bail Bond Financing, Inc. v. Robert Bynum Gibson, Jr., Circuit Judge; and Mark Gober, Drew County Sheriff, from Drew County Circuit Court. Petitioners' motion to dismiss.

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. Appellants' motion for expansion of page limit.

CV-18-61. Sheila McHughes, David Hodges, and Josh McHughes v. Anissa Wayland and Children's Medical Transportation Services, LLC, from Saline County Circuit Court. Appellant's motion to transfer to the Arkansas Supreme Court with supporting brief.

CV-18-223. Arkansas Oil & Gas Commission; Lawrence Bengal, in His Official Capacity as Director of the Arkansas Oil & Gas Commission; W. Frank Morledge, Mike Davis, Lee Dawkins, Jerry Langley, Jim Phillips, Chris Weiser, Timothy Smith, Charles Wohlford, and Thomas McWilliams, in Their Official Capacities as Commissioners of the Arkansas Oil & Gas Commission v. J.R. Hurd; Sara Smith Hurd; Patricia Hurd McGregor; Victoria Hurd Goebel; David W. Killam; Adrian Kathleen Killam; Tracy Leigh Killam-Dileo; Hurd Enterprises, Ltd.; and Killam Oil Co., Ltd., from Pulaski County Circuit Court, Sixth Division. Motion of separate appellant SWN Production (Arkansas), LLC, to supplement the record.



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**MOTIONS SUBMITTED**

CV-18-375. 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, Belinda Harris-Ritter, Charles Roberts, Chad Pekron, and James Sharp, in Their Official Capacities as Commissioners of the Arkansas State Board of Election Commissioners v. Barry Haas, from Pulaski County Circuit Court, Twelfth Division. Motion of appellant, Secretary of State, to supplement the record and to stay briefing schedule pending consideration of motion to supplement.

CV-18-421. Larry Hamilton v. Honorable Richard Moore, Circuit Judge; Pulaski County Circuit Court; and Bank of the Ozarks, from Pulaski County Circuit Court, Fifteenth Division. Petitioner's pro se petition for writ of certiorari to vacate order.

CV-18-421. Larry Hamilton v. Honorable Richard Moore, Circuit Judge; Pulaski County Circuit Court; and Bank of the Ozarks, from Pulaski County Circuit Court, Fifteenth Division. Petitioner's pro se motion to cite case.

CV-18-455. Hotels.com, L.P.; Hotwire, Inc.; Trip Network, Inc., d/b/a Cheaptickets.com; Expedia, Inc.; Internetnetwork Publishing Corp. d/b/a Lodging.com; Lowestfare.com, Incorporated; Orbitz, LLC; Priceline.com, Incorporated n/k/a Booking Holdings, Inc.; Priceline.com, LLC; Travelocity.com, L.P., n/k/a TVL, L.P.; Travelweb, LLC; and Site59.com, LLC v. Jefferson County Circuit Court and Honorable Robert H. Wyatt, Jr., Circuit Judge, from Jefferson County Circuit Court. Petitioners' petition for writ of prohibition or certiorari.

CV-18-457. Beverly West v. Honorable Scott Jackson, Circuit Judge, from Carroll County Circuit Court, Eastern District. Petitioner's pro se petition for writ of mandamus.

CV-18-479. Alexcia Pruitt v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Eighth Division. Appellant's motion for rule on clerk.

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CR-95-985. Greg Hogue v. State of Arkansas, from Pulaski County Circuit Court, Second Division. Petitioner's pro se motion to reinvest the trial court with jurisdiction to consider the issuance of the writ of error coram nobis and the issuance of the writ of audita querela, or other relief.

CR-98-1332. Randy Turrell Johnson v. State of Arkansas, from Crittenden County Circuit Court. Petitioner's pro se motion for photocopies at public expense pursuant to the freedom of information act.

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**MOTIONS SUBMITTED**

CR-10-43. Michael Dashun Jackson v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Petitioner's pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CV-18-179. Theodore Anderson v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motions for appointment of counsel and to correct the docket number on the coversheet.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF JUNE 7, 2018**

**CASES SUBMITTED**

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. Orally argued.

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CV-16-898. Dexter J. Harmon v. State of Arkansas, from Pulaski County Circuit Court, Second Division.

CV-18-179. Theodore Anderson v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court.