

# ARKANSAS SUPREME COURT

## PROCEEDINGS OF FEBRUARY 14, 2019

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

[CR-17-829](#). Christopher Segerstrom v. State of Arkansas, from Washington County Circuit Court. Reversed and remanded. Wood and Wynne, JJ., concur. Womack, J., dissents.

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

[CR-18-477](#). Samuel Jay Love v. State of Arkansas, from Johnson County Circuit Court. Affirmed.

[CV-18-567](#). Ke'ondra M. Chestang v. Richard Mays, Chairman, Arkansas Parole Board; and M. Graydon, Parole Officer, Cummins Unit, from Pulaski County Circuit Court, Sixth Division. Appellant's pro se motion for enforcement of statute. Dismissed; motion moot. Hart, J., dissents.

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

[CR-12-80](#). Shawn T. Rainer v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District. Petitioner's pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis; motion for Rule 55 default. Petition and motion denied.

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**PER CURIAM ORDERS**

CR-17-1003. Kenneth R. Isom v. State of Arkansas, from Drew County Circuit Court. Appellant's motion to stay the mandate is granted. Kemp, C.J., and Baker, J., would deny.

CR-18-860. State of Arkansas v. Kentara Brown, from Pulaski County Circuit Court, Fourth Division. Appellee's motion to be declared indigent and appointment of counsel is denied. Hart and Wynne, JJ., would grant.

CR-19-23. Roderick Talley v. Cross County Circuit Court, from Cross County Circuit Court. Petitioner's pro se petition for writ of certiorari is denied. Hart, J., would grant.

CR-19-44. Tanisha Karla Gillard v. State of Arkansas, from Crittenden County Circuit Court. Appellant's motion for rule on clerk is granted. Hart, J., would dismiss.

CR-19-52. Adam S. Childers v. State of Arkansas, from the Arkansas National Guard. Appellant's motion for rule on clerk is granted.

CV-17-653. Jim Harris, Individually and in His Official Capacity, and Dennis Milligan, Individually and in His Official Capacity as Treasurer of the State of Arkansas v. David Singer, from Pulaski County Circuit Court, Second Division. Appellee's motion for leave to file supplemental brief is denied. Baker and Hart, JJ., would grant.

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 of Northwest Arkansas; Anthony Clark; Noah Meeks; and Liz Petray, from Washington County Circuit Court. Appellees' motion for supplemental briefing and to strike is moot. Special Justices Hugh Finkelstein and Maureen Harrod agree. Goodson and Hart, JJ., not participating.

CV-17-873. 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 of Northwest Arkansas; Anthony Clark; Noah Meeks; and Liz Petray, from Washington County Circuit Court. Appellees' motion for supplemental briefing and to strike is moot. Special Justices Hugh Finkelstein and Maureen Harrod agree. Goodson and Hart, JJ., not participating.

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**PER CURIAM ORDERS**

CV-18-389. Mark Crockett and Macon Carter v. Shelter Mutual Insurance Company, from Phillips County Circuit Court. Certification to the Supreme Court is granted. Goodson and Wood, JJ., would deny.

CV-18-566. Heritage Properties, Limited Partnership v. Walt and Lee Keenihan Foundation, Inc., from Pulaski County Circuit Court, Sixth Division. Certification to the Supreme Court is granted.

CV-18-668. Hotels.com, L.P.; Hotwire, Inc.; Trip Network, Inc., d/b/a Cheaptickets.com; Expedia, Inc.; Internetnetwork Publishing Corp. d/b/a Lodging.com; 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. Pine Bluff Advertising and Promotion Commission; Jefferson City, Arkansas; City of North Little Rock, Arkansas; and All Others Similarly Situated, from Jefferson County Circuit Court. Appellees' motion for leave to file response to Arkansas State Chamber of Commerce's amicus curiae brief is denied. Baker, Hart, and Wynne, JJ., would grant.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to inform the court is dismissed. Wynne, J., would deny.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to inform the Court and add additional sanctions to Bryce Brewer and Hancock Law Firm is dismissed. Baker, J., would deny in part and dismiss in part. Wynne, J., would deny.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to waive State sovereign immunity is denied. Hart, J., would dismiss.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to the Supreme Court for wrongful detention of our property against Stark Ligon, Edward

Adcock, and Dan Hancock depriving me and my brother of our right to replevin, before any probate statutes applied is dismissed. Wynne, J., would deny.

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#### **PER CURIAM ORDERS**

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se notice of constitutional questions is noted. Hart, J., would dismiss.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to expedite a fair and impartial resolution is denied. Hart, J., would dismiss.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to the court for fees to compensate for business losses that are "fair and just"; request that the Office of Professional Conduct return attorney Bryce Brewer's attorney fees to the Estate is denied. Hart, J., would dismiss.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to the Supreme Court to vacate Judge Compton's denial of claim is dismissed. Wynne, J., would deny.

CV-18-993. James Lancaster v. Estate of John Burt Lancaster, Deceased; and Michael Lancaster, as Personal Representative of the Estate of John Burt Lancaster, Deceased, from Pulaski County Circuit Court, Third Division. Petitioner's pro se motion to set aside judgment and motion for new trial is dismissed. Wynne, J., would deny.

CV-18-1013. Theresa Marshall v. Deutsche Bank National Trust Company, as Trustee for Vendee Mortgage Trust 1993-1, from Pulaski County Circuit Court, Fifth Division. Petitioner's pro se motion for extension of time to file record is denied. Hart, J., would grant.

CV-18-1013. Theresa Marshall v. Deutsche Bank National Trust Company, as Trustee for Vendee Mortgage Trust 1993-1, from Pulaski County Circuit Court, Fifth Division.

Petitioner's pro se motion for extension of time to pay filing fee is denied. Hart, J., would grant.

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**PER CURIAM ORDERS**

CV-18-1062. Angela Jones v. John E. Jones, Jr., from Marion County Circuit Court. Appellant's petition for writ of certiorari and alternative motion to remand to settle the record. Alternative motion to remand to settle the record is granted. Kemp, C.J., and Wood and Womack, JJ., would deny.

CV-19-37. Arkansas Department of Human Services v. Amy Ardelean Jackson, Nicholas Hohn, Stephanie Hohn, and Minor Child, from Garland County Circuit Court. Appellant's motion to voluntarily dismiss appeal is granted.

CV-19-38. Arkansas Department of Human Services v. Sharon Couture, Ouachita Children's Center, and Minor Child, from Garland County Circuit Court. Appellant's motion to voluntarily dismiss appeal is granted.

CV-19-55. 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 granted.

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CR-18-822. Patrick Johnson v. Hon. Leon Johnson, Circuit Judge, from Pulaski County Circuit Court, First Division. Petitioner's pro se petition for writ of mandamus is moot. Hart, J., would grant.

CV-18-792. Kenny Halfacre v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Petitioner's pro se motion for rule on clerk. Motion treated as motion for belated appeal and denied. Hart, J., would grant.

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**PROCEEDINGS OF FEBRUARY 14, 2019**

**MOTIONS SUBMITTED**

**PETITION FOR REHEARING:**

CR-95-872. Tommy Mosley v. State of Arkansas, from Garland County Circuit Court.

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CR-18-590. State of Arkansas v. Roger Jones, from Washington County Circuit Court. Appellee's motion to dismiss State's appeal.

CR-19-79. State of Arkansas v. Monroe County Circuit Court and Lindie Thompson, from Monroe County Circuit Court. Petitioner's petition for a writ of prohibition.

CV-18-259. Walter Farris v. Express Service, Inc., and New Hampshire Insurance Company, from the Arkansas Workers' Compensation Commission. Appellant's motion to file supplemental addendum.

CV-18-1020. GGNSC Arkadelphia, LLC, d/b/a Golden Living Center-Arkadelphia; GGNSC Camden, LLC; GGNSC Crossett, LLC; GGNSC El Dorado III, LLC; GGNSC Harrison II, LLC; GGNSC Heber Springs, LLC; GGNSC Hilltop, LLC; GGNSC Hot Springs, LLC; GGNSC McGehee, LLC; GGNSC Monticello, LLC; GGNSC North Little Rock, LLC; GGNSC Rogers, LLC; Golden Gate National Senior Care, LLC; GGNSC Holdings, LLC; GGNSC Administrative Services, LLC; GGNSC Clinical Services, LLC; Golden Gate Ancillary, LLC; GGNSC Equity Holdings, LLC; Andrea Clark; Leslie Campbell; Angela Marlar; Sybil Adams; Troy Morris; Larry McFadden; Billie Palculict; Avie Singleton; Mincie Thomas; John McPherson; Tracey Burlison; Norean Bailey; Laurie Herron; Margaret Green; Marsha Parker; and Lisa Hensley v. Nellie R. Lamb, by and through Richard Williams, as Guardian of the Estate and Person of Nellie R. Lamb; Betty Huebner, as Special Administrator of the Estate of Wilma Richey, Deceased; Greg Brown, as Special Administrator of the Estate of Louise Brown, Deceased; Dianne Roche, as Attorney-in-Fact of Thomas Roche; Leon Robinson, Jr.; Claude Henderson and Ruby Henderson, as Co-special Administrators of the Estate of Lucille Henderson, Deceased; and on Behalf of Themselves and All Others Similarly Situated, from Ouachita County Circuit Court. Appellants' motion for reconsideration.

CV-18-1051. James E. Gooch and Betsy Gooch v. Leslie J. Davis and Landhawg, LLC, from Faulkner County Circuit Court. Motion of David M. Donovan for substitution of counsel for appellee.

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### MOTIONS SUBMITTED

CV-19-68. Entergy Arkansas, Inc., and Entergy Operations, Inc. v. Susan Allen, Individually and as Administratrix of the Estate of Wade Walters, Deceased; Jess Clayton; Ronnie Francis; Christopher Reed; and Julia Schmid, from Pope County Circuit Court. Petitioners' petition for permission to appeal.

CV-19-68. Entergy Arkansas, Inc., and Entergy Operations, Inc. v. Susan Allen, Individually and as Administratrix of the Estate of Wade Walters, Deceased; Jess Clayton; Ronnie Francis; Christopher Reed; and Julia Schmid, from Pope County Circuit Court. Petitioners' motion to supplement the addendum.

CV-19-100. Brianna Jones v. Arkansas Department of Human Services and Minor Children, from Hempstead County Circuit Court. Appellant's petition for permission to file a belated petition for review and a motion for belated appeal.

D-16-174. Stark Ligon, Executive Director of the Supreme Court Committee on Professional Conduct v. Jeffery H. Kearney, Arkansas Bar ID #91249, an Original Action. Petitioner's motion to dismiss appeal.

D-19-117. In Re Sylvia L. Borchert, Arkansas Bar No. 89173, an Original Action. Petition of Sylvia L. Borchert, Arkansas Bar No. 89173, for voluntary surrender of license (resignation).

D-19-118. In Re John P. Kabealo, Arkansas Bar No. 2016107, an Original Action. Petition of John P. Kabealo, Arkansas Bar No. 2016107, for voluntary surrender of license (resignation).

D-19-119. In Re Richard Aker, Arkansas Bar No. 74159, an Original Action. Petition of Richard Aker, Arkansas Bar No. 74159, for voluntary surrender of license (resignation).

D-19-120. In Re Michael B. Kivort, Arkansas Bar No. 2006027, an Original Action. Petition of Michael B. Kivort, Arkansas Bar No. 2006027, for voluntary surrender of license (resignation).

D-19-121. In Re Steven James Powers, Arkansas Bar No. 2003016, an Original Action. Petition of Steven James Powers, Arkansas Bar No. 2003016, for voluntary surrender of license (resignation).

D-19-122. In Re Betty Ann Milligan, Arkansas Bar No. 2006004, an Original Action. Petition of Betty Ann Milligan, Arkansas Bar No. 2006004, for voluntary surrender of license (resignation).

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**MOTIONS SUBMITTED**

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CV-18-629. Allen Lynn Penn v. Richard Gallagher, Kermit B. Channell, and Arkansas State Crime Lab, from Pulaski County Circuit Court, Sixth Division. Petitioner's pro se motion for belated appeal.

CV-18-909. David Edward McLaughlin v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Petitioner's pro se motion for belated appeal.

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**CASES SUBMITTED**

CV-18-601. Larry Walther, Director, Arkansas Department of Finance and Administration; Andrea Lea, State Auditor; and Dennis Milligan, State Treasurer v. Mike Wilson and Central Arkansas Planning and Development District, from Pulaski County Circuit Court, Second Division. Orally argued.

CR-17-1028. Tony Alan Ray v. State of Arkansas, from Crawford County Circuit Court.

CR-18-275. Tonisha Mitchell v. State of Arkansas, from Craighead County Circuit Court, Western District.

CR-18-553. Avante Lawshea v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District.

CR-18-568. Jonathan Antonio Woods v. State of Arkansas, from Drew County Circuit Court.

CR-18-597. Courtney Jerrel Douglas v. State of Arkansas, from Union County Circuit Court.

CV-18-143. Alicia Michelle Morris v. Janelle Marie Clark, from Jefferson County Circuit Court.

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CV-17-936. William Robert Null v. Arkansas Parole Board and John Felts, Chairman, from Lincoln County Circuit Court.

CV-18-569. Eric C. Burgie v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division.

CV-18-686. Curtis Colston v. Wendy Kelley, Director, Arkansas Department of Correction, from Pulaski County Circuit Court, Second Division.