

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**JOHN DAN KEMP, CHIEF JUSTICE**

[CR-95-1314](#). Lawrence Edward Martin v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Petitioner's pro se second petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis; motion seeking leave to file response; motion for the court to provide copies marked filed of petition, exhibits, motion for leave to file response, and any and all responses from the respondent should the court deny the petition; motion for appointment of counsel. Petition denied; motion for leave to file a response and motion for appointment of counsel moot; motion for copies at public expense denied. Hart, J., dissents.

[CV-18-109](#). Dayong Yang, as Special Administrator of the Estate of Le Yang, Deceased v. City of Little Rock, Arkansas; Stuart Thomas, Individually and in His Official Capacity as Chief of Police for the City of Little Rock; Wayne Bewley, Individually and in His Official Capacity as Assistant Chief of Police for the City of Little Rock; Laura Martin, Individually and in Her Official Capacity as Communications Center Manager for the City of Little Rock; Linda Wilson, Individually and in Her Official Capacity as Communications Administrator for the City of Little Rock; Sharon Martin, in Her Official Capacity as Communications Shift Supervisor for the City of Little Rock; Alan Cate, Individually and in His Official Capacity as Communications Shift Supervisor for the City of Little Rock; Marquita Dooley, Individually and in Her Official Capacity as Emergency Communications Trainer for the City of Little Rock; Candace Middleton, Individually and in Her Official Capacity as Communications Call Taker for the City of Little Rock; Karen Grimm, Individually and in Her Official Capacity as Communications Systems Specialist for the City of Little Rock; Gregory L. Summers, Individually and in His Official Capacity as Fire Chief for the City of Little Rock; Robert Sharp, Individually and in His Official Capacity as Fire Captain for the City of Little Rock; and Frank Scott and Eddie Rhine, Individually and in Their Official Capacities as Firefighters for the City of Little Rock, from Pulaski County Circuit Court, Sixth Division. Affirmed.

**KAREN R. BAKER, JUSTICE**

[CV-19-233](#). Charles Edward Jones, Sr. v. Honorable Quincey Ross, Circuit Judge, from Chicot County Circuit Court. Petitioner's pro se petition for writ of mandamus; motion to compel for an inquiry. Amended response requested; motion moot. Hart, J., concurs without opinion.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**JOSEPHINE LINKER HART, JUSTICE**

[cr-97-1412](#). Charles E. Alexander v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Petitioner's pro se petition, amended petition, and second, third, and fourth amended petitions to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis and audita querela; and pro se motion to show cause. Petition and amended petitions denied; motion moot.

[CR-98-1180](#). Michael Antonio Davis v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Petitioner's pro se second petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis; motion requesting court to seek discovery information. Petition denied; motion moot.

[CR-14-1088](#). Fred L. Williams v. State of Arkansas, from Drew County Circuit Court. Petitioner's pro se second petition and amended petitions to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. Petition and amended petitions denied.

[CV-18-63](#). Kyle Rhodes, Wesley Atwood, and Samantha Hudon, Individually and as Plaintiff Class Representatives v. The Kroger Co.; Andrea Tyson; and Patrick Scherrey, from Pulaski County Circuit Court, Second Division. Affirmed. Wood and Womack, JJ., concur in part and dissent in part.

**RHONDA K. WOOD, JUSTICE**

[CR-15-174](#). James Johnson III v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Petitioner's pro se motion to recall the mandate to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis. Motion treated as petition for writ of error coram nobis; petition denied.

**ROBIN F. WYNNE, JUSTICE**

[CV-17-653](#). Dennis Milligan, in His Official Capacity as Treasurer of the State of Arkansas v. David Singer, from Pulaski County Circuit Court, Second Division. Reversed and dismissed. Baker and Hart, JJ., dissent.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**PER CURIAM ORDERS**

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

CR-17-89. Mauricio Alejandro Torres v. State of Arkansas, from Benton County Circuit Court. Kemp, C.J., and Wood and Womack, JJ., would grant.

CR-18-207. Roderick R. Williams v. State of Arkansas, from Desha County Circuit Court.

CV-18-931. Stephens Production Company v. Bill R. Mainer; Peggy Ann Mainer; Mary Hammond Living Trust; H.H. Hammond Living Trust; Billy Ray Mainer, Jr.; Dwight Edward Cole; and Cynthia Rose Cole; Individually and on Behalf of All Others Similarly Situated, from Franklin County Circuit Court, Southern District. Kemp, C.J., and Wood and Womack, JJ., would grant.

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CR-18-952. Lamar Daniel Ron Wilson v. State of Arkansas, from Garland County Circuit Court. Appellant's pro se motion for reconsideration is denied.

CR-19-257. Scotty Ray Gardner v. State of Arkansas, from Faulkner County Circuit Court. Appellant's motion for extension of time to comply with writ of certiorari is granted.

CR-19-347. Roy A. Hendrix v. State of Arkansas, from Grant County Circuit Court. Motion of Philip Wilson to be relieved and substitute counsel is granted.

CR-19-383. Sammie L. Thomas, Jr. v. State of Arkansas, from Faulkner County Circuit Court. Appellant's motion to correct the record, issue certiorari to complete the record, and to stay briefing schedule is granted. Wood, J., not participating.

CR-19-384. Carl Ray Sandlin v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District. Appellant's pro se motion for belated appeal is denied.

CR-19-388. Ashley Hull v. State of Arkansas, from Franklin County Circuit Court, Northern District. Appellant's motion to file belated appeal is granted. Kemp, C.J., and Baker and Womack, JJ., would deny.

CR-19-391. Jose Rufino Garcia-Chicol v. State of Arkansas, from Benton County Circuit Court. Motion of Lee Warden to be relieved as attorney for appellant and stay briefing schedule is granted.

## **ARKANSAS SUPREME COURT**

### **PROCEEDINGS OF MAY 30, 2019**

#### **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 belated motion for reconsideration is denied. Hart, J., would grant.

CV-19-83. Rick A. Blanchard, as Trustee of the Rick A. Blanchard Living Trust Agreement dated August 18, 1989 v. City of Springdale, Arkansas, a Municipal Corporation acting by and through its Water and Sewer Commission, from Benton County Circuit Court. Appellant's motion to transfer appeal to the Arkansas Supreme Court is denied. Kemp, C.J., and Goodson and Wood, JJ., would grant.

CV-19-172. Buffalo River Watershed Alliance, Inc.; The Arkansas Canoe Club; Gordon Watkins; and Marti Olesen v. Newton County Circuit Court; Hon. John R. Putman, Circuit Judge; and C&H Hog Farms, Inc., from Newton County Circuit Court. Petitioners' petition for writ of certiorari or prohibition taken with the case in Supreme Court case no. CV-19-237. Kemp, C.J., would grant. Hart and Womack, JJ., would deny.

CV-19-237. Buffalo River Watershed Alliance, Inc.; The Arkansas Canoe Club; Gordon Watkins; and Marti Olesen v. C&H Hog Farms, Inc.; and Arkansas Pollution & Ecology Commission, from Newton County Circuit Court. Appellants' motion to supplement the record is granted.

CV-19-283. Carol Wingo v. Stephens Timber Management, Inc., from Newton County Circuit Court. Appellant's motion for clarification of denial of motion for rule on clerk, and for reconsideration on portion of the appellate record is denied. Hart, J., would grant. Womack, J., not participating.

CV-19-378. Arkansas Board of Health; Catherine Tapp; Perry Amerine; Marsha Boss; Greg Bledsoe; Glen "Eddie" Bryant; Vanessa Falwell; Alan Fortenberry; Phillip Gilmore; Anthony N. Hui; David Kiessling; Carl Mike Riddell; Robbie Thomas Knight; Susan Weinstein; Terry Yamauchi; Dr. James Zini; and Nathaniel Smith, in Their Official Capacities as Members of the Arkansas Board of Health v. Little Rock Family Planning Services; and Planned Parenthood of Arkansas and Eastern Oklahoma d/b/a Planned Parenthood Great Plains, from Pulaski County Circuit Court, Sixth Division. Appellants'

unopposed motion to use the record filed in CV-19-284 is granted. Womack, J., would deny.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**PER CURIAM ORDERS**

CV-19-378. Arkansas Board of Health; Catherine Tapp; Perry Amerine; Marsha Boss; Greg Bledsoe; Glen “Eddie” Bryant; Vanessa Falwell; Alan Fortenberry; Phillip Gilmore; Anthony N. Hui; David Kiessling; Carl Mike Riddell; Robbie Thomas Knight; Susan Weinstein; Terry Yamauchi; Dr. James Zini; and Nathaniel Smith, in Their Official Capacities as Members of the Arkansas Board of Health v. Little Rock Family Planning Services; and Planned Parenthood of Arkansas and Eastern Oklahoma d/b/a Planned Parenthood Great Plains, from Pulaski County Circuit Court, Sixth Division. Appellants’ unopposed motion to summarily vacate ex post facto injunction is granted. Goodson, Wood, and Womack, JJ., would deny as moot.

D-19-413. Thomas C. Morris III, Arkansas Bar No. 84110, an Original Action. Petition of Thomas C. Morris III, Arkansas Bar No. 84110, to surrender Arkansas law license is granted.

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CR-07-8. Anthony Jerome Fitzgerald v. State of Arkansas, from Jefferson County Circuit Court. Petitioner’s pro se motion and amended motion requesting evidentiary and reconstruction hearing. Motion and amended motion for an evidentiary hearing are denied; a response to the Rule 19 motion has been properly filed by trial counsel and the motion is dismissed. Hart, J., would grant.

CR-19-42. Terrance Keith Billups v. State of Arkansas, from Benton County Circuit Court. Petitioner’s pro se motion for rule on clerk and motion for belated appeal treated as motion for belated appeal and granted.

CR-19-46. Henry Harmon v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner’s pro se motion to file a belated appeal and rule on clerk. Motion for rule on clerk granted; Court of Appeals formal order dismissing appeal in case no. CR-18-659 vacated; clerk ordered to issue new briefing in Court of Appeals case no. CR-18-659. Womack, J., would deny.

CR-19-64. Steven Christopher Hayes v. State of Arkansas, from Saline County Circuit Court. Appellant's pro se motion and second motion for extension of time to file brief are granted.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**PER CURIAM ORDERS**

CV-18-135. Michael E. Rea v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Petitioner's pro se motions for extension of time to file brief and to file a belated brief. Motion for extension of time granted; motion to file belated brief moot.

CV-18-385. James E. Whitney v. Asa Hutchinson, Governor, from Lincoln County Circuit Court. Appellant's pro se motion for rule on clerk to file belated petition for rehearing treated as motion to file a belated motion for reconsideration and denied.

CV-18-866. Howard Wood v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motions for extension of time to file brief and for production of documents and/or tangible things. Appeal transferred to Court of Appeals. Wood, J., would deny motions and dismiss appeal.

In Re Arkansas Supreme Court Board of Certified Court Reporter Examiners. See [per curiam](#) this date.

The Court reappoints the Honorable Gordon "Mack" McCain, Jr., of Russellville, Circuit Judge, Fifth Judicial District, Division 2, to the Board of Certified Court Reporter Examiners for a three-year term expiring on May 31, 2022. The Court thanks him for his long-standing and continued service as Chair of this Board.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**PER CURIAM ORDERS**

In Re Arkansas Continuing Legal Education Board. See [per curiam](#) this date.

Kelsey Bardwell of Harrison is appointed to the Continuing Legal Education Board for a three-year term concluding on May 30, 2022. Ms. Bardwell will be an at-large member and replaces Rebecca Hattabaugh of Fort Smith whose term has concluded.

Tjuana Byrd of Little Rock is appointed to the Continuing Legal Education Board for a three-year term concluding on May 30, 2022. Ms. Byrd will be an at-large member and replaces the Honorable John Robbins of Hot Springs whose term has concluded.

Amber Wilson Bagley of Little Rock is appointed to the Continuing Legal Education Board for a three-year term concluding on May 30, 2022. Ms. Bagley will represent the Second Congressional District and replaces Diane Holitik of Little Rock whose term has concluded.

The court extends its sincere appreciation to Ms. Bardwell, Ms. Byrd, and Ms. Bagley for accepting appointment to this important board. The court also expresses its gratitude to Ms. Hattabaugh, Judge Robbins, and Ms. Holitik for their dedicated service to the board.

**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**MOTIONS SUBMITTED**

**PETITION FOR REHEARING:**

CR-18-366. Quenton Edward King v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division.

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CR-18-366. Quenton Edward King v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellant’s motion for stay of mandate in order to petition for writ of certiorari.

CR-19-377. James Derrick Grubbs v. State of Arkansas, from White County Circuit Court. Motion of Ellen Reif to withdraw as attorney on direct appeal and motion for extension of time.

CR-19-400. Michael Smith v. Circuit Court of Searcy County, from Searcy County Circuit Court. Petitioner’s petition for writ of certiorari.

CV-18-668. Hotels.com, L.P.; Hotwire, Inc.; Trip Network, Inc., d/b/a Cheaptickets.com; Expedia, Inc.; Internetwork 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. Appellants’ motion to take judicial notice of recent legislative enactment.

CV-19-151. BHC Pinnacle Pointe Hospital, LLC v. Debra Nelson and Henry Anderson, Jr., Individually and on Behalf of all Others Similarly Situated, from Pulaski County Circuit Court, Sixth Division. Appellant’s motion to certify appeal to the Arkansas Supreme Court.

CV-19-243. Clair Danner v. Leslie Rutledge, in Her Official Capacity as Attorney General for the State of Arkansas, an Original Action. Petitioner’s original action complaint.

CV-19-255. City of Fort Smith, Arkansas v. Jennifer Merriott, Individually and on Behalf of Those Similarly Situated, from Sebastian County Circuit Court, Fort Smith District. Appellee’s motion for reconsideration of ruling on motion to dismiss.



**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**MOTIONS SUBMITTED**

CV-19-417. Theresa Marshall v. Deutsche Bank National Trust Company, as Trustee for Vendee Mortgage 1993-1, from Pulaski County Circuit Court, Fifth Division. Appellant's pro se certiorari to complete the record and motion for rule on clerk.

CV-19-423. (In the Matter of the Guardianship of D.R.P. and D.R.P. III, Minors) Katie Lockheart Phillips and Lien Phan v. Michelle Davis, from Sebastian County Circuit Court, Fort Smith District. Appellee's motion to dismiss appeal.

CV-19-425. (In the Matter of the Estate of Jo Ann Yancey, Deceased) Dena Yancey v. Hon. David Goodson, Administrator of the Estate of Jo Ann Yancey, Deceased, from Pulaski County Circuit Court, Ninth Division. Appellant's motion for rule on clerk.

D-19-447. In Re Robert R. Keegan, Arkansas Bar No. 73064, an Original Action. Petition of Robert R. Keegan, Arkansas Bar No. 73064, for voluntary surrender of license (resignation).

D-19-448. In Re Leon Marks, Arkansas Bar No. 76175, an Original Action. Petition of Leon Marks, Arkansas Bar No. 76175, for voluntary surrender of license (resignation).

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**ARKANSAS SUPREME COURT**

**PROCEEDINGS OF MAY 30, 2019**

**CASES SUBMITTED**

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, Greg Hart, Ross Bell, and Becton Bell, from Pulaski County Circuit Court, Sixth Division.

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, Stephen Higginbothom, West Higginbothom, et al., from Phillips County Circuit Court.

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; Randy Johnson; Davis Farm Partnership/Robert Tyler Davis, et al., from Mississippi County Circuit Court, Osceola District.

CV-18-433. John David Moore v. Nancy Moore, from Logan County Circuit Court, Southern District.

CV-18-623. Kevin Hackie v. Colonel William J. Bryant, in His Official Capacity as the Director of the Arkansas State Police, from Pulaski County Circuit Court, Sixth Division.

CV-18-733. (In the Matter of the Guardianship of Betty Bevill) Jonathan R. Streit v. State of Arkansas, from White County Circuit Court.

CV-18-813. Meranda Martin, Successor Special Administratrix of the Estate of Virgil Brown, Jr., Deceased v. Dr. Leslie Smith, from Pulaski County Circuit Court, Seventeenth Division.

Opinions are available on the internet at

<http://arcourts.gov>