

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 5, 2019

PER CURIAM ORDERS

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

CR-18-646. Duane Jefferson Gonder v. State of Arkansas, from Drew County Circuit Court. Hart, J., would grant.

CR-08-1232. Montrell Dashone Ventry v. State of Arkansas, from Saline County Circuit Court. Appellee's expedited motion for release of exhibits is granted upon substitution of copies. (Proceedings of August 1, 2019)

CR-18-646. Duane Jefferson Gonder v. State of Arkansas, from Drew County Circuit Court. Appellant's pro see motion for appointment of counsel is denied. Baker and Hudson, JJ., would moot. Hart, J., would grant.

CR-18-845. Karl D. Roberts v. State of Arkansas, from Polk County Circuit Court. Motion of April R. Golden to withdraw as counsel for appellant is granted.

CR-19-159. Donald Columbus Cagle v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's motion for accelerated consideration is denied. Wood, J., not participating. (Proceedings of August 7, 2019)

CR-19-159. Donald Columbus Cagle v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's motion for reconsideration of denial of petition for review is denied. Special Justice Bryan Tilley agrees. Baker, Hudson, and Hart, JJ., would grant. Wood, J., not participating.

CR-19-159. Donald Columbus Cagle v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's motion for rule on clerk is denied. Special Justice Bryan Tilley agrees. Baker and Hart, JJ., would grant. Wood, J., not participating.

CR-19-159. Donald Columbus Cagle v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's petition to review decision of the Arkansas Court of Appeals is denied. Special Justice Bryan Tilley agrees. Hart, J., would grant. Wood, J., not participating.

CR-19-159. Donald Columbus Cagle v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's petition for writ of certiorari is denied. Special Justice Bryan Tilley agrees. Hart, J., would grant. Wood, J., not participating.

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CR-19-159. Donald Columbus Cagle v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Appellant's motion to supplement the record is denied. Special Justice Bryan Tilley agrees. Baker, Hudson, and Hart, JJ., would grant. Wood, J., not participating.

CR-19-316. Karen Siegel v. State of Arkansas, from Craighead County Circuit Court, Western District. Appellant's motion to remand to correct the record is moot. Baker and Wood, JJ., would grant.

CR-19-316. Karen Siegel v. State of Arkansas, from Craighead County Circuit Court, Western District. Appellant's amended motion to correct the record or, in the alternative, to remand to correct the record and to stay briefing is granted.

CR-19-391. Jose Rufino Garcia-Chicol v. State of Arkansas, from Benton County Circuit Court. Appellant's motion to correct the record or, in the alternative, issue writ of certiorari to correct the record, and to stay briefing schedule is granted.

CR-19-576. Darin Lee Hutson v. State of Arkansas, from Independence County Circuit Court. Appellant's motion for rule on clerk is granted.

CR-19-577. Angelia Lauck v. State of Arkansas, from Saline County Circuit Court. Appellant's motion for belated appeal treated as motion for rule on clerk and granted.

CR-19-579. Alyssia Kirby v. State of Arkansas, from Baxter County Circuit Court. Appellant's motion for rule on clerk is granted.

CR-19-579. Alyssia Kirby v. State of Arkansas, from Baxter County Circuit Court. Appellant's pro se motion for rule on clerk is moot. Hart and Wood, JJ., would grant.

CR-19-617. Joseph Thomas Lacefield v. State of Arkansas, from Benton County Circuit Court. Appellant's motion for rule on clerk is granted. Wood, J., would deny.

CR-19-622. John William Marsh v. State of Arkansas, from Nevada County Circuit Court. Appellant's motion for rule on clerk is granted.

CR-19-626. Delvin Neal v. State of Arkansas, from Drew County Circuit Court. Appellant's motion for rule on clerk is granted.

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CV-18-351. City of Fort Smith, a Municipal Corporation; Keith Lau, in His Official Capacity as a City Director of the City of Fort Smith; Mike Lorenz, in His Official Capacity as a City Director of the City of Fort Smith; and Andre Good, in His Official Capacity as a City Director of the City of Fort Smith v. Bruce Wade, from Sebastian County Circuit Court, Fort Smith District. Appellee's motion to vacate assessment of costs is moot. Hart, J., would grant

CV-18-351. City of Fort Smith, a Municipal Corporation; Keith Lau, in His Official Capacity as a City Director of the City of Fort Smith; Mike Lorenz, in His Official Capacity as a City Director of the City of Fort Smith; and Andre Good, in His Official Capacity as a City Director of the City of Fort Smith v. Bruce Wade, from Sebastian County Circuit Court, Fort Smith District. Appellee's amended motion to vacate assessment of costs is denied. Hart and Wynne, JJ., would grant.

CV-18-502. Connie Cantrell v. Toyota Motor Corporation; Toyota Motor Sales USA, Inc.; and Bale Management Company, Inc., from Pulaski County Circuit Court, Fifth Division. Joint motion to dismiss appeal and cross-appeal is granted. Special Justice Collier Moore agrees. Kemp, C.J., not participating.

CV-18-662. Joe Perry, Jr. v. State of Arkansas, from Chicot County Circuit Court. Appellee's motion to file belated brief is granted.

CV-18-799. Driver Solutions, LLC v. Michael Downey, Paul Mitchell, and Joseph McAfee, from Pulaski County Circuit Court, Seventeenth Division. Motion of Jerry Garner to withdraw as counsel for the appellees is granted.

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. Motion of Jerry Garner to withdraw as counsel for the appellees is granted.

CV-19-217. Heather Vaughn, Dawn France, Sara Bryson, Emily Brown, and Danielle Pfeiffer, Individually and on Behalf of Others Similarly Situated v. Mercy Clinic Fort Smith Communities; Mercy Health Fort Smith Communities; and Cooper Clinic, P.A., from Sebastian County Circuit Court, Fort Smith District. Motion of Jerry Garner to withdraw as counsel for the appellants is granted. Special Justice Randall Bynum agrees. Kemp, C.J., not participating.

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CV-19-293. City of Little Rock v. Ladonna Nelson, as Parent and Next Friend of Ricky Nelson, Individually and on Behalf of Others Similarly Situated, from Pulaski County Circuit Court, Second Division. Motion of Jerry Garner to withdraw as counsel for the appellee is granted.

CV-19-362. Infinity Healthcare Management of Arkansas, LLC; Skyline Health Care, LLC; Highlands of North Little Rock John Ashley Holdings, LLC, d/b/a North Little Rock Health and Rehabilitation; 2501 John Ashley Drive Holdings, LLC; Skyline Highland Holdings, LLC; JS Highland Holdings, LLC; Skyline Services Group, LLC; Skyline Arkansas Healthcare, LLC; and Skyline Arkansas Holdings, LLC v. Dafony Boyd; Deanna Atkins-Davis; Latoyia Floyd; and Hannah Barnes, Individually and on Behalf of All Others Similarly Situated, from Pulaski County Circuit Court, Fifth Division. Motion of Jerry Garner to withdraw as counsel for the appellees is granted.

CV-19-475. City of Little Rock v. Ladonna Nelson, as Parent and Next Friend of Ricky Nelson, Individually and on Behalf of Others Similarly Situated, from Pulaski County Circuit Court, Second Division. Appellant's motion to supplement the record is denied. Baker, Hudson, and Hart, JJ., would grant.

CV-19-538. DoctorDirectory.com, LLC; Everyday Health, Inc.; and John Does 1–10, Intending to Refer to Those Persons, Corporations, or Other Legal Entities that Acted as Agents, Consultants, Independent Contractors, or Representatives v. Davis Neurology, P.A., on Behalf of Itself and All Other Entities and Persons Similarly Situated, from Pope County Circuit Court. Appellants' notice of filing of notice of removal is noted. Wood, J., not participating.

CV-19-538. DoctorDirectory.com, LLC; Everyday Health, Inc.; and John Does 1–10, Intending to Refer to Those Persons, Corporations, or Other Legal Entities that Acted as Agents, Consultants, Independent Contractors, or Representatives v. Davis Neurology, P.A., on Behalf of Itself and All Other Entities and Persons Similarly Situated, from Pope County Circuit Court. Appellants' motion for stay pending outcome of removed case is granted. Wood, J., not participating.

CV-19-550. Paul M. Gordon v. Hon. Eddy Easley, Circuit Judge, from Hot Spring County Circuit Court. Petitioner's pro se motion for reconsideration is denied. Hart, J., would grant.

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CV-19-598. Sandra Henry, Jerry Henry, and Alisha Henry v. Thelma Ramsey, as Personal Representative of the Estate of Willie Earl Jordan, Deceased; and John C. Jordan, Only Child of Willie Earl Jordan, from Jefferson County Circuit Court. Petitioners' petition for permission to appeal is denied. Hart and Wynne, JJ., would grant.

CV-19-604. Dwight C. Jones v. Centennial Bank f/k/a Liberty Bank of Arkansas, from Yell County Circuit Court, Northern District. Petitioner's pro se emergency motion to stay enforcement of judgment with expedited consideration. Petitioner's pro se petition for leave to proceed in forma pauperis. Request for expedited consideration is granted; motion to stay enforcement of judgment is denied. Petitioner's pro se petition for leave to proceed in forma pauperis is moot. Womack, J., would deny. (Proceedings of August 1, 2019)

CV-19-608. Sue Ann Newman v. James Adger Smyth, Janet Marie Smyth, and Washington County Circuit Court, from Washington County Circuit Court. Petitioner's motion to stay proceedings or, for emergency or accelerated proceedings; and petition for writ of certiorari. Motion to stay denied; expedited consideration granted; and petition for writ of certiorari granted. Goodson and Hart, JJ., not participating. (Proceedings of August 5, 2019)

CV-19-609. Arkansas Bar Association, In Re Administrative Order No. 15.3, an Original Action. Petitioner's petition to adopt Administrative Order No. 15.3 is noted. Wynne, J., would grant. Hart, J., would deny.

CV-19-610. Arkansas Bar Association, In Re Arkansas Rules of Professional Conduct – Rules 7.1 through 7.5, an Original Action. Petitioner's petition to amended Arkansas Rules of Professional Conduct -Rules 7.1 through 7.5. Referred to the Committee on Professional Conduct for comment.

CV-19-612. (In the Matter of the Estate of Douglas James Main, Jr., Deceased) Shauna Main Franklin v. Judith Anne Main, Executrix of the Estate of Douglas James Main, Jr., Deceased, from Marion County Circuit Court. Appellant's motion to correct the record on appeal is denied. Hart, J., would grant.

CV-19-620. Josue Tovias v. Arkansas Department of Human Services and Minor Child, from Washington County Circuit Court. Appellant's motion for rule on clerk is granted.

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CV-19-621. Frederick Lee Pitchford v. City of Earle; Mayor Sherman Smith, in His Individual and Official Capacity; City Council Members Robert Malone, Bobby Luckett, Sr., Donnie Cheers, Charlie Young, Jessie Selvey, Tyrome Hurst, Jimmie Barham, and Cynthia Conner, in Their Individual and Official Capacities; and City Attorney Davis Loftin, in His Individual and Official Capacity, from Crittenden County Circuit Court. Appellant’s pro se motion for rule on clerk is denied. Hart, J., would grant.

CV-19-641. Safe Surgery Arkansas, a Ballot Question Committee; and Sponsor, Laurie Barber, M.D., Individually and on Behalf of Safe Surgery Arkansas v. John Thurston, in His Official Capacity as Secretary of State for the State of Arkansas, an Original Action. Respondent’s motion for clarification and extension. Extension of time granted until August 28, 2019 at 5:00pm. (Proceedings of August 21, 2019)

CV-19-641. Safe Surgery Arkansas, a Ballot Question Committee; and Sponsor, Laurie Barber, M.D., Individually and on Behalf of Safe Surgery Arkansas v. John Thurston, in His Official Capacity as Secretary of State for the State of Arkansas; State of Arkansas; Arkansans for Healthy Eyes, a Ballot Question Committee; and Vicki Farmer, Individually and on Behalf of Arkansans for Healthy Eyes, an Original Action. Petitioners’ motion to expedite, appoint special master, bifurcate proceedings, impose expedited briefing schedule, and hear oral argument. Expedited consideration and expedited briefing schedule granted; motion to bifurcate and appoint special master held in abeyance pending full briefing; motion to hear oral argument denied. Petitioners’ original action petition for writ of mandamus taken as a case. Briefing commenced. Petitioners’ motion for stay is denied. Motion to intervene of the State of Arkansas is granted. Motion to intervene of Arkansans for Healthy Eyes and Vicki Farmer, Individually and on Behalf of Arkansans for Healthy Eyes is granted. Motions to dismiss of respondent and the State of Arkansas are denied. (Proceedings of August 30, 2019)

CR-18-1041. William Todd, Sr. v. State of Arkansas, from Benton County Circuit Court. Appellee’s motion to dismiss appeal is granted.

CR-19-310. Terry Swanigan v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellee’s motion to dismiss appeal is granted.

CR-19-403. Dennis Matthews v. Hon. Wendell Griffen, Circuit Judge, from Pulaski County Circuit Court, Fifth Division. Petitioner's pro se petition for writ of mandamus is denied as moot. Hart, J., would moot. Hudson and Wood, JJ., would deny.

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CR-19-438. Myron Anderson v. Hon. Robert Bynum Gibson, Jr., Circuit Judge, from Ashley County Circuit Court. Petitioner's pro se petition for writ of mandamus is denied as moot. Hart and Wood, JJ., would moot.

CV-18-882. Calvin Robinson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellee's motion to dismiss appeal is granted.

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MOTIONS SUBMITTED

CR-19-396. Cameron Halliburton v. State of Arkansas, from Miller County Circuit Court. Appellant's motion for extension of time to file supplemental record.

CR-19-526. John Edward Kelly v. Circuit Court of Crawford County, from Crawford County Circuit Court. Petitioner's petition for rehearing and brief in support treated as motion for reconsideration.

CV-16-113. 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 of clerk refusing to file petitioner's filing.

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, from Pulaski County Circuit Court, Third Division. Appellant's pro se fourth belated motion for reconsideration.

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 of clerk refusing to file petitioner's filing.

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. Petitioner's pro se motion of clerk refusing to file petitioner's filing.

CV-19-638. Adela Chavez v. Arkansas Department of Human Services and Minor Children, from Washington County Circuit Court. Joint motion for extension of time to lodge appellate record.

CV-19-640. Valeria Greer and Brett Greer v. Arkansas Department of Human Services and Minor Child, from Johnson County Circuit Court. Appellee's motion to dismiss appeal.

CV-19-652. Leah Thrasher v. Tracy Thrasher and Hon. Doug Schrantz, Circuit Judge, from Benton County Circuit Court. Petitioner's petition for writ of certiorari or mandamus, and motion for stay of circuit court proceedings.

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MOTIONS SUBMITTED

CV-19-656. Carlton Newsome v. Hon. David F. Guthrie, Circuit Judge; and City of El Dorado, Arkansas, from Union County Circuit Court. Petitioner’s pro se petition for a writ of mandamus or, alternatively, motion for interlocutory appeal or, alternatively, for any other relief that is appropriate.

CR-18-418. James E. Whitney v. State of Arkansas, from Washington County Circuit Court. Appellant’s pro se motion for rule on clerk.

CR-19-150. Mark Antonio Williams v. State of Arkansas, from Chicot County Circuit Court. Petitioner’s pro se motion for belated appeal.

CR-19-176. Ronnie Flow, Jr. v. State of Arkansas, from Columbia County Circuit Court. Appellant’s pro se motion for rule on clerk.

CR-19-176. Ronnie Flow, Jr. v. State of Arkansas, from Columbia County Circuit Court. Appellant’s pro se motion for extension of time to file brief.

CR-19-254. Jacob Jerome Taylor v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellee’s motion to dismiss appeal.

CR-19-254. Jacob Jerome Taylor v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellant’s pro se motion to file belated brief.

CR-19-270. Wesley E. Grissom v. State of Arkansas, from Garland County Circuit Court. Appellant’s pro se petition to withdraw.

CR-19-271. Damien Durflinger v. State of Arkansas, from Benton County Circuit Court. Petitioner’s pro se motion for belated appeal.

CR-19-271. Damien Durflinger v. State of Arkansas, from Benton County Circuit Court. Petitioner’s pro se motion for appointment of counsel.

CR-19-294. Jerry Nutt v. State of Arkansas, from Pulaski County Circuit Court, First Division. Appellant’s pro se motion for rule on clerk.

CR-19-300. Steven Deloney v. State of Arkansas, from Little River County Circuit Court. Appellant’s pro se motion for rule on clerk.

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MOTIONS SUBMITTED

CR-19-300. Steven Deloney v. State of Arkansas, from Little River County Circuit Court. Appellant's pro se motion for appointment of counsel.

CR-19-555. Willie Coleman v. Hon. Wendell Griffen, Circuit Judge, from Pulaski County Circuit Court, Fifth Division. Petitioner's pro se petition for writ of mandamus.

CV-19-160. Troy Riley v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Petitioner's pro se motion for belated appeal.

CV-19-220. Anarian C. Jackson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion to dismiss appeal without prejudice.

CV-19-220. Anarian C. Jackson v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion to subsequently dismiss the appeal without prejudice.

CV-19-261. Jessie Hill v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for recusal.

CV-19-261. Jessie Hill v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion against the court filed in pro se appeal of order dismissing petition for writ of habeas corpus and motion for audita querela.

CV-19-548. Romario V. Waller v. State of Arkansas, from Union County Circuit Court. Petitioner's pro se motion for rule on clerk.

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CASES SUBMITTED

CR-18-700. Stacey Eugene Johnson v. State of Arkansas, from Sevier County Circuit Court. Orally argued.

CR-18-460. Andwelle Sieed Ellis v. State of Arkansas, from Jackson County Circuit Court.

CR-18-707. Rodney Wayne Rayburn v. State of Arkansas, from Cleburne County Circuit Court.

CR-18-816. Derrick A. Dixon v. State of Arkansas, from Union County Circuit Court.

CR-18-900. Corey D. Perkins v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division.

CV-17-761. Bullock's 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.

CV-18-1024. M.G.1, C.G., K.G., and M.G.2, Minor Children v. Arkansas Department of Human Services, Jacklyn Gabbard, and Micah Gabbard, from Perry County Circuit Court.