

# ARKANSAS SUPREME COURT

## PROCEEDINGS OF SEPTEMBER 24, 2020

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

[CV-19-983](#). Abraham Grant v. State of Arkansas, from Lincoln County Circuit Court. Appellant's pro se motions to discredit appellee's responsive brief, for Constitution of State of Arkansas of 1874 Preamble, for judgment on pleading, of facts to Supreme Court session, and for constitution of Arkansas and statutory law. Appeal dismissed; motions moot.

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

[CR-19-748](#). Zachary L. Atwood v. State of Arkansas, from Faulkner County Circuit Court. Affirmed. Wynne, J., concurs. Hart, J., dissents.

### **COURTNEY RAE HUDSON, JUSTICE**

[CR-19-854](#). Orlando Dominguez v. State of Arkansas, from Howard County Circuit Court. Affirmed. Hart, J., dissents.

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

[CR-19-563](#). Carl D. Prince v. State of Arkansas, from Sebastian County Circuit Court, Fort Smith District. Affirmed. Hart, J., dissents.

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

[CV-19-828](#). Tyrun L. Jones v. Wendy Kelley, Director, Arkansas Department of Correction, from Chicot County Circuit Court. Affirmed. Hart, J., dissents.

### **SHAWN A. WOMACK, JUSTICE**

[CV-19-982](#). Walter Sims v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Affirmed. Hart, J., concurs.

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**PER CURIAM ORDERS**

REVIEWS GRANTED: Petitions for review were granted today in the following cases.

CR-19-684. Bobby Kellensworth v. State of Arkansas, from Grant County Circuit Court. Appellee's petition for review.

CR-19-824. Tara Kolb v. State of Arkansas, from Drew County Circuit Court. Hart and Wynne, JJ., would deny.

CV-19-363. William B. Cherry v. Rhonda Marlene Cherry (now Fulkroad), from Columbia County Circuit Court. Hudson, Wood, and Womack, JJ., would deny.

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

CR-19-622. John William Marsh v. State of Arkansas, from Nevada County Circuit Court. Hart, J., would grant.

CR-19-684. Bobby Kellensworth v. State of Arkansas, from Grant County Circuit Court. Appellant's petition for review. Kemp, C.J., and Baker and Hart, JJ., would grant.

CR-19-685. Chris C. Brissette v. State of Arkansas, from Faulkner County Circuit Court. Hart, J., would grant.

CR-19-754. Jeremy Mickens v. State of Arkansas, from Jefferson County Circuit Court.

CR-19-756. Robert Jamar Fields v. State of Arkansas, from Union County Circuit Court.

CR-19-953. Darnell Washington v. State of Arkansas, from Jefferson County Circuit Court.

CV-19-123. Randy Lee Deason v. Angela Deason, from Washington County Circuit Court. Hart, J., would grant.

CV-19-344. Ben Motal v. City of Little Rock, from Pulaski County Circuit Court, Seventeenth Division.

CV-19-402. Lockard & Williams Insurance Services, Inc. v. Luther Waldrip, Administrator for the Estate of Timothy Waldrip, Deceased, from Benton County Circuit Court.

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**REVIEWS DENIED:** (continued)

CV-19-546. Dominika Szwedlo v. Arthur Cyrus, from Pulaski County Circuit Court, Fourteenth Division. Wynne, J., would grant.

CV-19-616. Gerald Stow v. John Montgomery, Sheriff for Baxter County, Arkansas, in His Official Capacity, from Pulaski County Circuit Court, Seventeenth Division. Hart, J., would grant.

CV-19-619. Linda Mickles v. Deborah Milam, from Pulaski County Circuit Court, Fifth Division.

CV-19-670. Brittany Kohler v. Randy Gene Croney, from Baxter County Circuit Court. Hart, J., would grant.

CV-19-688. Phyllis Hall v. Immanuel Baptist Church, Carlisle, from Lonoke County Circuit Court. Hart, J., would grant.

CV-19-702. Edward D. Jones & Co., LLC, and Alan Frazier v. Charles Michael Lewis, Individually and as Representative of the Estate of Charley Lewis, Deceased; Lauren Lewis; Andrea Lewis; and Margaret Anne Lewis, from Jefferson County Circuit Court. Hart, J., would grant.

CV-20-274. S.R. Land, LLC v. Drue Sims and Beverley Sims, from Drew County Circuit Court.

E-20-94. Janice Jorgensen v. Director et al., from the Arkansas Board of Review.

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CR-95-549. Timothy Wayne Kemp v. State of Arkansas, from Pulaski County Circuit Court, First Division. Respondent's motion for leave to file overlength response is granted.

CR-98-463. Timothy Wayne Kemp v. State of Arkansas, from Pulaski County Circuit Court, First Division. Respondent's motion for leave to file overlength response is granted.

CR-20-176. Rodney W. Rayburn v. State of Arkansas, from Cleburne County Circuit Court. Appellee's motion for supplemental certified record and abeyance of brief time is granted.

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CR-20-403. Tracy Duane Wright v. State of Arkansas, from Benton County Circuit Court. Appellant's petition for writ of certiorari to complete the record or, in the alternative, motion to remand to settle the record is denied in part and granted in part. Hart, J., would grant.

CR-20-409. Duane Jefferson Gonder v. State of Arkansas, from Drew County Circuit Court. Petitioner's pro se second motion for judicial notice is moot. Hart, J., would deny.

CV-20-50. Rent-A-Center East, Inc. v. Larry Walther, Director, Arkansas Department of Finance and Administration, from Pulaski County Circuit Court, Sixteenth Division. Joint motion to reassign case to the Supreme Court is granted.

CV-20-492. Samantha Edwards, Individually and as Special Administratrix of the Estate of William Bobby Wray Edwards, Deceased, and Arleigh Grayce Edwards, Deceased; and as Parent and Next Friend for Peyton Hale, a Minor v. Eric James Cornell Thomas and McElroy Truck Lines, Inc., an Original Action. Motion to certify a question of law is granted. Kemp, C.J., not participating.

CV-20-515. George Hunter and Joan Hunter v. Diamante Members Club, Inc.; and Diamante, a Private Membership Golf Club, LLC, from Saline County Circuit Court. Petitioners' petition for writ of certiorari and memorandum of authorities is denied.

CV-20-517. (In Re Gag Order in the Matter of the Investigation in the Death of Joshua Keshun Smith) Arkansas Democrat-Gazette, Inc.; and Arkansas Press Association v. State of Arkansas; Shaivonn Robinson; Le'Kamerin Tolbert; Quincy Isaiah Lewis; and Odies Wilson, from Columbia County Circuit Court. Petitioners' petition for writ of certiorari. Petitioners' motion for temporary relief or, alternatively, for expedited consideration; for rule on the circuit clerk; and to take the petition as a case. Hon. David Talley is ordered to file the gag orders with the Columbia County Circuit Clerk within three days of this order (September 22, 2020). The Columbia County Circuit Clerk is directed to supplement the record in this Court with certified copies of the gag orders

within five days of the date filed. The gag orders are stayed pending further review by this Court. Womack, J., would not grant stay of the gag orders. (Proceedings of September 17, 2020)

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**PER CURIAM ORDERS**

CV-20-536. Arkansas Department of Education; Johnny Key, in His Official Capacity as Arkansas Commissioner of Education; Diane Zook; Susan Chambers; Charisse Dean; R. Brett Williamson; O. Fitzgerald Hill; Ouida Newton; Sarah Moore; and Kathy McFetridge, in Their Official Capacities as Members of the Arkansas State Board of Education v. Amber Booth McCoy; Don Booth; Katherine Lu; Eugene Lu; and Skye Adams, from Pulaski County Circuit Court, Ninth Division. Appellants' emergency motion to stay circuit court proceedings is granted. Appellees' motion to dismiss appeal is denied. (Proceedings of September 23, 2020)

CV-20-546. Tom Steele v. John Thurston, in His Official Capacity as Secretary of State for the State of Arkansas, from Pulaski County Circuit Court, Ninth Division. Appellant's motion to expedite is granted. Hart and Womack, JJ., would dismiss the appeal. (Proceedings of September 21, 2020)

CV-20-548. Stay Strong, Status Quo, a Local Option Ballot Question Committee; and Bevan Family Limited Partnership v. The Van Buren County Board of Election Commissioners; Verna Hicks, in Her Official Capacity as Chair of the Van Buren County Board of Election Commissioners; and Let Van Buren County Vote, a Local Option Ballot Question Committee, from Van Buren County Circuit Court. Appellants' motion to docket and expedite appeal, and to consolidate for decision with related case. Motion to docket and expedite appeal granted; motion to consolidate with related case denied. Appeal to be submitted simultaneously with related case CV-20-527. Baker, J., not participating. (Proceedings of September 22, 2020)

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CR-20-85. Gregory Cook v. State of Arkansas, from Conway County Circuit Court. Appellee's motion to dismiss appeal is granted.

CR-20-121. Derrick S. Galvin v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division. Appellee's motion to dismiss appeal is granted.

CR-20-346. Rickie Green v. State of Arkansas, from Lonoke County Circuit Court. Appellant's pro se motion to file belated brief is granted.

CR-20-373. Alvin Aikens v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se petition for writ of mandamus. Amended response requested. Baker, Wood, and Womack, JJ., would moot.

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#### **PER CURIAM ORDERS**

CR-20-373. Alvin Aikens v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner's pro se second motion for dismissal is denied. Baker and Wood, JJ., would moot.

CR-20-423. Terrick Nooner v. State of Arkansas, from Saline County Circuit Court. Appellant's pro se motion for extension of time to file brief is granted.

CR-20-459. Darryl Lemar Lea v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Petitioner's pro se petition for writ of mandamus. Response requested. Baker and Wood, JJ., would deny.

CV-20-177. Korey Rabion v. Wendy Kelley, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion to take judicial notice is moot. Hart, J., would deny.

CV-20-288. Larry Osborn v. Dexter Payne, Director, Arkansas Department of Correction, from Jefferson County Circuit Court. Appellant's pro se motion for extension of time to file reply brief is moot.

In Re Arkansas Access to Justice Month. See [per curiam](#) this date.

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**MOTIONS SUBMITTED**

CR-20-60. Jerry McKee v. State of Arkansas, from Greene County Circuit Court. Appellant's pro se motion to dismiss appointed attorneys and to proceed with pro se appeal or vacate sentence.

CR-20-60. Jerry McKee v. State of Arkansas, from Greene County Circuit Court. Appellant's pro se motion for investigators to be appointed.

CR-20-60. Jerry McKee v. State of Arkansas, from Greene County Circuit Court. Appellant's pro se motion to pay for investigators, prison, and others.

CR-20-60. Jerry McKee v. State of Arkansas, from Greene County Circuit Court. Appellant's pro se motion for extension of time to get information.

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

CV-20-377. Stark Ligon, Executive Director of the Office of Professional Conduct v. Reginald Shelton McCullough, a Former Attorney, an Original Action. Petitioner's motion for extension of time to serve petition for contempt and summons.

CV-20-456. C.J. Mahan Construction Company, LLC; Parsons-Mahan Joint Venture; Parsons Construction Group, Inc.; Anthony Cruz; Scott Richardson; Chris Gentry; and Bryan Hoffman v. Paul Betzner and Rhonda Betzner, Husband and Wife; The Calvin Fred Betzner Revocable Trust; James Alberson and Tiffani Alberson, as Parent and Next Friend of M.J., a Minor; Kelley Kelly; Tony Patterson; and City of Fredonia a/k/a City of Biscoe, on Behalf of All Others Similarly Situated, from Prairie County Circuit Court. Appellants' unopposed motion to supplement the record on appeal.

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CR-95-975. Jimmy Don Wooten v. State of Arkansas, from Pope County Circuit Court. Petitioner's pro se second petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CR-96-428. Larry Rayford v. State of Arkansas, from Ashley County Circuit Court. Petitioner's pro se fifth petition to reinvest jurisdiction in the trial court to consider petition for writ of error coram nobis or other extraordinary relief.

CR-96-428. Larry Rayford v. State of Arkansas, from Ashley County Circuit Court. Petitioner's pro se petition for writ of certiorari or motion to recall the mandate.

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**MOTIONS SUBMITTED**

CR-96-428. Larry Rayford v. State of Arkansas, from Ashley County Circuit Court. Petitioner's pro se motion to amend petition for certiorari and motion to recall the mandate.

CR-02-228. James E. Smith v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se eighth petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CR-02-228. James E. Smith v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se motion to execute subpoena duces tecum.

CR-20-284. LaJason Coakley v. State of Arkansas, from Miller County Circuit Court. Appellant's pro se motion for extension of time to file reply brief.

CV-20-360. Arlo C. Benedict v. Wendy Kelley, Director, Arkansas Department of Correction, from Pulaski County Circuit Court, Ninth Division. Petitioner's pro se motion for extension of time to file brief.

CV-20-416. James Ray Thompson, Jr. v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for use of the record on appeal.

CV-20-416. James Ray Thompson, Jr. v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for extension of brief time.

CV-20-416. James Ray Thompson, Jr. v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion to amend petition to add addendum with extension of time once ruled on by this Court.

CV-20-416. James Ray Thompson, Jr. v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion to duplicate at State's expense.

CV-20-416. James Ray Thompson, Jr. v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for appointment of counsel.



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**CASES SUBMITTED**

CV-19-975. Lawrence C. Bandy, M.D.; and Arkansas Gyn Oncology, P.A. v. Mildred Vick, from Pulaski County Circuit Court, Sixth Division. Orally argued.

CR-19-643. Laron Hayes, Jr. v. State of Arkansas, from Bradley County Circuit Court.

CR-19-745. Matthew Armstrong v. State of Arkansas, from Searcy County Circuit Court.

CR-19-870. Harold Bennett v. State of Arkansas, from Mississippi County Circuit Court, Chickasawba District.

CR-19-981. Curtis Dorsey v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division.

CR-20-60. Jerry McKee v. State of Arkansas, from Greene County Circuit Court.

CR-20-88. Anthony Dewayne Brown v. State of Arkansas, from Ashley County Circuit Court.

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CR-18-495. Jacob Jerome Taylor v. State of Arkansas, from Pulaski County Circuit Court, Fourth Division.

CR-19-421. Robert Woodward v. State of Arkansas, from Chicot County Circuit Court.

CR-19-64. Steven C. Hayes v. State of Arkansas, from Saline County Circuit Court.

CV-20-13. Darryl Talley v. Wendy Kelley, Director, Arkansas Department of Correction, from Jefferson County Circuit Court.