

ARKANSAS SUPREME COURT

PROCEEDINGS OF APRIL 8, 2021

BARBARA W. WEBB, JUSTICE

[CR-20-597](#). Emmitt Riley v. State of Arkansas, from Drew County Circuit Court. Affirmed. Baker, Hudson, and Wynne, JJ., dissent.

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PER CURIAM ORDERS

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

CR-04-18. DeLarron Washington v. State of Arkansas, from Union County Circuit Court.

CR-14-5. Stanley Carter v. State of Arkansas, from Crittenden County Circuit Court. Petitioner's pro se motion for reconsideration is denied.

CR-19-981. Curtis Dorsey v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Motion of Craig Lambert for access to trial transcript is granted with limitations. Appellant, Curtis Dorsey, is not allowed unsupervised access to or copies of sealed material, and public disclosure of sealed material is prohibited.

CR-21-3. Terry Marshall, Jr. v. State of Arkansas, from Cleburne County Circuit Court. Appellant's unopposed petition for writ of certiorari to complete the record is granted.

CR-21-22. Cameron Scott Halliburton v. State of Arkansas, from Miller County Circuit Court. Motion of Erin M. Keil to withdraw as counsel is granted.

CR-21-43. Arkansas Parole Board; John Felts, John Belkin, Andy Shock, Dawn Benafield, Jerry Riley, Lona McCastlain, and Abraham Carpenter, Jr., in Their Official Capacities as Members of the Arkansas Parole Board; Arkansas Department of Correction; and Dexter Payne, in His Official Capacity v. Terrance Proctor, from Pulaski County Circuit Court, Fifth Division. Appellants' motion to supplement the record and for brief time is granted.

CR-21-78. Demarcus Donnell Parker v. State of Arkansas, from Crittenden 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 granted.

CV-20-542. Malik Muntaqim v. Wendy Kelley, Director, Arkansas Department of Correction, et al., from Hot Spring County Circuit Court. Petitioner's pro se motion for reconsideration is denied.

CV-20-623. Velma Levingston v. Ardease Gooch, from Pulaski County Circuit Court, Sixteenth Division. In clarification of the order entered on December 3, 2020, petitioner's petition for writ of certiorari, writ of mandamus, writ of prohibition, and/or supervisory writ treated as petition for writ of certiorari and granted. The circuit court is directed to set aside its emergency order entered July 28, 2020, and to file a status report in this court within ten days (April 18, 2021). Webb, J., not participating.

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CV-20-623. Velma Levingston v. Ardease Gooch, from Pulaski County Circuit Court, Sixteenth Division. Petitioner's motion to hold Pulaski County Clerk Terri Hollingsworth in contempt of the Supreme Court is denied. Webb, J., not participating.

CV-20-682. State of Arkansas *ex rel.* Leslie Rutledge, Attorney General v. Purdue Pharma L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company, Inc.; Johnson & Johnson; Janssen Pharmaceutica, Inc., n/k/a Janssen Pharmaceuticals, Inc.; Ortho-McNeill-Janssen Pharmaceuticals, Inc., n/k/a Janssen Pharmaceuticals, Inc.; Endo Health Solutions, Inc.; Endo Pharmaceuticals, Inc.; and Does 1 through 100, Inclusive, from Pulaski County Circuit Court, Sixteenth Division. Appellees' motion for judicial notice of unpublished opinions cited by appellees is noted. Kemp, C.J., and Baker, J., would deny. Womack, J., would grant.

CV-20-714. Alexius Macklin v. Arkansas Department of Human Services and Minor Child, from Pulaski County Circuit Court, Eleventh Division. Certification from the Court of Appeals is granted. Hudson, J., would deny.

CV-20-721. Representative/Senator-Elect Dan Sullivan, in His Official Capacity; Senator Bob Ballinger; Senator Alan Clark; Senator Terry Rice; Senator Gary Stubblefield; Senator Kim Hammer; Representative Mary Bentley; Representative Steven Meeks; Representative Josh Miller; Representative John Payton; Representative Marcus Richmond; Representative Laurie Rushing; Representative Brandt Smith; Representative Richard Womack; Representative Harlan Breaux; Representative Bruce Cozart; Representative Justin Gonzalez; and Representative Nelda Speaks, in Their Official Capacities and Each in Their Individual Capacities as Voters, Citizens, and Residents of the State of Arkansas; Iris Stevens, Jonesboro, Arkansas; James David Haigler, Jonesboro, Arkansas; Scott Gray and Angela Gray, Alexander, Arkansas; Mike Duke and Stephanie Duke, Benton, Arkansas; and Dave Elswick, Little Rock, Arkansas, as Voters, Citizens, and Residents of the State of Arkansas v. Jose Romero, M.D., Secretary of the Arkansas Department of Health, in His Official Capacity; and Asa Hutchinson, Governor of the State of Arkansas, in His Official Capacity, from Pulaski County Circuit Court, Fifth Division. Appellants' unopposed motion to dismiss the appeal and request for expedited consideration is granted. (Proceedings of April 2, 2021)

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CV-20-728. K.B.X., Inc.; Steven Michael Keith, Sr., Individually; Steven Michael Keith, Jr., Individually; and Jeffrey Shay Sebree, Individually v. Zero Grade Farms, a Partnership, also d/b/a Isbell Farms; Mark Isbell, Individually; Chris Isbell, Individually; Shane Isbell, Individually; Judy Isbell, Individually; Jeremy Jones, Individually; K & K Farm Service, Inc., also d/b/a K & K Farm Services; Edward Schafer & Sons, a Partnership; Ronald Schafer and Roger Schafer, as Trustees of the Edward Burnard Schafer Q-TIP Trust; Ronald Schafer, Individually; Dee Anne Schafer, Individually; Clifford Schafer, Individually; Rachel Schafer, Individually; Roger Schafer, Individually; Pamela Schafer, Individually; Donald Schafer, Individually; Donna Schafer, Individually; Gary Hardke Farms, a Partnership; Gary Hardke, Individually; Melodie Hardke, Individually; Bigfoot AG, Inc.; Agri-Petroleum Sales, LLC; Agribusiness Properties, LLC; Brinkley Truck Brokerage, LLC; Christopher Taylor, Individually; Dale Bartlett, Individually; Ivory Rice, LLC; Anna Hurst, Special Administrator of the Estate of Jason Coleman; LJTC, LLC; Turner Commodities, Inc.; Turner North, LLC; and Turner Grain, Inc., d/b/a Turner Grain, from Lonoke County Circuit Court. Motion of separate appellant K.B.X., Inc., for expansion of word-count limitations in brief is granted. Hudson and Wynne, JJ., would deny.

CV-20-728. K.B.X., Inc.; Steven Michael Keith, Sr., Individually; Steven Michael Keith, Jr., Individually; and Jeffrey Shay Sebree, Individually v. Zero Grade Farms, a Partnership, also d/b/a Isbell Farms; Mark Isbell, Individually; Chris Isbell, Individually; Shane Isbell, Individually; Judy Isbell, Individually; Jeremy Jones, Individually; K & K Farm Service, Inc., also d/b/a K & K Farm Services; Edward Schafer & Sons, a Partnership; Ronald Schafer and Roger Schafer, as Trustees of the Edward Burnard Schafer Q-TIP Trust; Ronald Schafer, Individually; Dee Anne Schafer, Individually; Clifford Schafer, Individually; Rachel Schafer, Individually; Roger Schafer, Individually; Pamela Schafer, Individually; Donald Schafer, Individually; Donna Schafer, Individually; Gary Hardke Farms, a Partnership; Gary Hardke, Individually; Melodie Hardke, Individually; Bigfoot AG, Inc.; Agri-Petroleum Sales, LLC; Agribusiness Properties, LLC; Brinkley Truck Brokerage, LLC; Christopher Taylor, Individually; Dale Bartlett, Individually; Ivory Rice, LLC; Anna Hurst, Special Administrator of the Estate of Jason Coleman; LJTC, LLC; Turner Commodities, Inc.; Turner North, LLC; and Turner Grain, Inc., d/b/a Turner Grain, from Lonoke County Circuit Court. Motion of separate appellants Steven Michael Keith, Sr., Steven Michael Keith, Jr., and Jeffrey Shay Sebree for expansion of word-count limitations is granted. Hudson and Wynne, JJ., would deny.

In Re Response to the COVID-19 Pandemic – Resumption of Jury Trials. See [per curiam](#) this date.

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MOTIONS SUBMITTED

PETITIONS FOR REHEARING:

CR-11-331. Ricky R. Anderson v. Dexter Payne, Director, Arkansas Department of Correction, from Washington County Circuit Court.

CV-19-287. Timothy Mack Clemmons v. Wendy Kelley, Director, Arkansas Department of Correction, from Chicot County Circuit Court.

CR-06-29. Justin Anderson v. State of Arkansas, from Miller County Circuit Court. Appellant's motion to reconsider denial of motions to recall the mandate and to take as a case.

CR-19-762. Randy William Gay v. State of Arkansas, from Garland County Circuit Court. Appellee's motion for extension of time for supplemental findings.

CR-20-505. Clarence Eugene Turnbo v. State of Arkansas, from Pulaski County Circuit Court, First Division. Motion of Lee Short to provide copy of brief to appellant.

CV-20-136. Arkansans for Healthy Eyes, a Ballot Question Committee; and Vicki Farmer, Individually and on Behalf of Arkansans for Healthy Eyes v. John Thurston, in His Official Capacity as Secretary of State of the State of Arkansas; Safe Surgery Arkansas, a Ballot Question Committee; and Laurie Barber, M.D., Individually and on Behalf of Safe Surgery Arkansas, an Original Action. Respondent's motion to exchange physical exhibits for electronic reproductions.

CV-20-643. Medicanna, LLC v. Arkansas Department of Finance and Administration, Arkansas Alcoholic Beverage Control Division; Arkansas Medical Marijuana Commission; and Nature's Herbs and Wellness of Arkansas, LLC, from Pulaski County Circuit Court, Fifth Division. Appellees' motion to dismiss appeal for lack of jurisdiction, to stay merits briefing, and incorporated memorandum of authorities.

CV-20-682. State of Arkansas *ex rel.* Leslie Rutledge, Attorney General v. Purdue Pharma L.P.; Purdue Pharma, Inc.; The Purdue Frederick Company, Inc.; Johnson & Johnson; Janssen Pharmaceutica, Inc., n/k/a Janssen Pharmaceuticals, Inc.; Ortho-McNeill-Janssen Pharmaceuticals, Inc., n/k/a Janssen Pharmaceuticals, Inc.; Endo Health Solutions, Inc.; Endo Pharmaceuticals, Inc.; and Does 1 through 100, Inclusive, from Pulaski County Circuit Court, Sixteenth Division. Appellant's motion for expansion of word-count limitation.

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CV-20-728. K.B.X., Inc.; Steven Michael Keith, Sr., Individually; Steven Michael Keith, Jr., Individually; and Jeffrey Shay Sebree, Individually v. Zero Grade Farms, a Partnership, also d/b/a Isbell Farms; Mark Isbell, Individually; Chris Isbell, Individually; Shane Isbell, Individually; Judy Isbell, Individually; Jeremy Jones, Individually; K & K Farm Service, Inc., also d/b/a K & K Farm Services; Edward Schafer & Sons, a Partnership; Ronald Schafer and Roger Schafer, as Trustees of the Edward Burnard Schafer Q-TIP Trust; Ronald Schafer, Individually; Dee Anne Schafer, Individually; Clifford Schafer, Individually; Rachel Schafer, Individually; Roger Schafer, Individually; Pamela Schafer, Individually; Donald Schafer, Individually; Donna Schafer, Individually; Gary Hardke Farms, a Partnership; Gary Hardke, Individually; Melodie Hardke, Individually; Bigfoot AG, Inc.; Agri-Petroleum Sales, LLC; Agribusiness Properties, LLC; Brinkley Truck Brokerage, LLC; Christopher Taylor, Individually; Dale Bartlett, Individually; Ivory Rice, LLC; Anna Hurst, Special Administrator of the Estate of Jason Coleman; LJTC, LLC; Turner Commodities, Inc.; Turner North, LLC; and Turner Grain, Inc., d/b/a Turner Grain, from Lonoke County Circuit Court. Appellants' unopposed motion to correct and supplement the record on appeal.

CV-21-140. Marsha G. Frazier v. Sameera Omar, R&T Insurance Agency, Imperial Fire and Casualty Insurance Company, and National General Insurance Company, from Jefferson County Circuit Court. Petitioner's pro se petition for extraordinary writ of certiorari.

D-21-113. In Re Justin Bradford Smith, Arkansas Bar No. 2011093, an Original Action. Petition of Justin Bradford Smith, Arkansas Bar No. 2011093, for voluntary surrender of license (resignation).

D-21-143. In Re Stayton L. Worthington, Arkansas Bar No. 2005006, an Original Action. Petition of Stayton L. Worthington, Arkansas Bar No. 2005006, for voluntary surrender of license (resignation).

D-21-144. In Re Garrett James Lowe, Arkansas Bar No. 2016064, an Original Action. Petition of Garrett James Lowe, Arkansas Bar No. 2016064, for voluntary surrender of license (resignation).

CR-93-1352. Austin Cooper v. State of Arkansas, from Miller County Circuit Court. Petitioner's pro se motion to recall the mandate.

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CR-93-1352. Austin Cooper v. State of Arkansas, from Miller County Circuit Court. Petitioner's pro se motion to waive particulars.

CR-93-1352. Austin Cooper v. State of Arkansas, from Miller County Circuit Court. Petitioner's pro se motion to enter exhibits as evidence.

CR-93-1352. Austin Cooper v. State of Arkansas, from Miller County Circuit Court. Petitioner's pro se motion for appointment of counsel.

CR-93-1352. Austin Cooper v. State of Arkansas, from Miller County Circuit Court. Petitioner's pro se motion for appointment of private investigator.

CR-93-1352. Austin Cooper v. State of Arkansas, from Miller County Circuit Court. Petitioner's pro se motion for rule on clerk.

CR-98-1452. Elgin King v. State of Arkansas, from Pulaski County Circuit Court, Sixth Division. Petitioner's pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CR-01-1132. Dennis James Smith v. State of Arkansas, from Drew County Circuit Court. Petitioner's pro se motion for transcript at public expense.

CR-02-895. Dennis James Smith v. State of Arkansas, from Desha County Circuit Court. Petitioner's pro se motion for transcript at public expense.

CR-11-613. Danny Lee Ashley v. State of Arkansas, from Grant County Circuit Court. Petitioner's pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis and for clarification of certain dates.

CR-19-695. Jeffrey Marek v. State of Arkansas, from Saline County Circuit Court. Petitioner's pro se motion for belated appeal.

CR-19-695. Jeffrey Marek v. State of Arkansas, from Saline County Circuit Court. Petitioner's pro se motion for appointment of counsel.

CR-20-513. David Edward McLaughlin v. State of Arkansas, from Garland County Circuit Court. Appellant's pro se motion for extension of time to file brief.

CR-21-58. Eric Williams v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se petition for writ of mandamus.

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CR-21-59. Jeremy Turner v. State of Arkansas, from Columbia County Circuit Court. Petitioner's pro se petition for writ of mandamus.

CV-20-540. Malik Muntaqim v. Anthony Jackson, Deputy Warden, Ouachita River Unit; Arkansas Department of Correction; Steve Outlaw, Deputy Warden, Ouachita River Unit, Arkansas Department of Correction; Dexter Payne, Director, Arkansas Department of Correction; Chris Menotti, Sergeant, Ouachita River Unit, Arkansas Department of Correction; William Moore, Chaplain, Ouachita River Unit, Arkansas Department of Correction; Daniel Flora, Chaplain, Ouachita River Unit; Wendy Kelley, Director, Arkansas Department of Correction; Nurzuhul Faust, Warden, Arkansas Department of Correction; Kennie Bolden, Warden, Arkansas Department of Correction; James Gibson, Warden, Varner Unit, Arkansas Department of Correction; and Virginia Allen, Mailroom Supervisor, Varner Unit, Arkansas Department of Correction, in Their Official and Individual Capacities, from Hot Spring County Circuit Court. Appellant's pro se motion to file a belated reply brief.

CV-20-613. Reginald Dunahue v. Aundrea Culclager, Warden, Arkansas Department of Correction; Kennie Bolden, Security Warden; Captain Kenneth Starks; Sgt. Daryl James; and Marshall Reed, Deputy Director, from Lincoln County Circuit Court. Petitioner's pro se motion for rule on clerk.

CV-20-613. Reginald Dunahue v. Aundrea Culclager, Warden, Arkansas Department of Correction; Kennie Bolden, Security Warden; Captain Kenneth Starks; Sgt. Daryl James; and Marshall Reed, Deputy Director, from Lincoln County Circuit Court. Petitioner's pro se petition for writ of mandamus.

CV-20-724. Kendrick Story v. State of Arkansas, from Lincoln County Circuit Court. Appellant's pro se motion for extension of time to file brief.

CV-20-724. Kendrick Story v. State of Arkansas, from Lincoln County Circuit Court. Appellant's pro se motion for copy of record on appeal.

CV-21-89. Michael Hamilton v. State of Arkansas, from Lee County Circuit Court. Petitioner's pro se petition for writ of mandamus.

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CASES SUBMITTED

CR-20-245. Timothy Justin Joyner v. State of Arkansas, from Stone County Circuit Court.

CR-20-583. State of Arkansas v. Matthew Joseph Kirchner, from Pulaski County Circuit Court, Fourth Division.

CV-19-934. Larry Walther, in His Official Capacity as Cabinet Secretary of the Arkansas Department of Finance and Administration v. Welspun Tubular, LLC, from Pulaski County Circuit Court, Thirteenth Division.

CV-20-467. (In Re Application for Admission to the Bar of Arkansas) Michael Lawrence Bernoudy, Jr. v. Arkansas State Board of Law Examiners, an Original Action.

CV-20-420. Billy Wolfe v. Dexter Payne, Director, Arkansas Department of Correction, from Jefferson County Circuit Court.

CV-20-559. Randall T. McArty v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court.