

ARKANSAS SUPREME COURT

PROCEEDINGS OF SEPTEMBER 9, 2021

PER CURIAM ORDERS

CR-19-380. Kyndra Lakiesha Ringo v. State of Arkansas, from Cleveland County Circuit Court. Entry of appearance of Eugene Clifford on behalf of petitioner is noted.

CR-19-380. Kyndra Lakiesha Ringo v. State of Arkansas, from Cleveland County Circuit Court. Petitioner's petition to reinvest jurisdiction in the circuit court to consider a petition for writ of error coram nobis is moot.

CR-19-380. Kyndra Lakiesha Ringo v. State of Arkansas, from Cleveland County Circuit Court. Petitioner's unopposed motion to withdraw petition in the trial court for writ of error coram nobis is granted.

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

CR-21-78. Demarcus Donnell Parker v. State of Arkansas, from Crittenden County Circuit Court. Appellee's motion to compel compliance with Ark. Sup. Ct. Rule 4-3(a) is granted.

CR-21-364. Marvin Stanton v. State of Arkansas, from Miller County Circuit Court. Appellant's motion to supplement the record is granted. Special Justice John Fogleman agrees. Kemp, C.J., not participating.

CR-21-416. John Leonard Ward v. State of Arkansas, from Benton County Circuit Court. Petitioner's emergency petition for writ of prohibition, writ of certiorari, writ of mandamus, and application for immediate temporary stay of circuit court orders and request for expedited response. Expedited review granted. Petition for writ of prohibition, writ of mandamus, and request for stay denied. Petition for writ of certiorari granted; the circuit court is ordered to amend the judgment of acquittal based on mental disease or defect and strike the following language from page 4, paragraph 6 stating "Defendant is ordered to appear at the Benton County Jail by 5 p.m. on August 23, 2021, to be committed to the custody of the Benton County Sheriff's Office until a bed becomes available at the Arkansas State Hospital. Benton County Sheriff's Office is ordered to transport defendant to the Arkansas State Hospital upon notice that a bed has become available." Also on page 4, paragraph 9 the following language shall be stricken "to appear at the Benton County Jail by 5 p.m. on September 7, 2021 to await commitment," and page 4, paragraph 11 shall be stricken from the order "Ankle monitor required; defendant permitted to leave for medical only." Kemp, C.J., and Womack, J., would deny petition for writ of certiorari. Request for expedited response moot. (Proceedings of September 3, 2021)

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CV-20-713. Ann Jenkins v. Mercy Hospital Rogers, from Benton County Circuit Court. Appellee's motion to reschedule oral argument is granted. Womack, J., would deny.

CV-20-714. Alexius Macklin v. Arkansas Department of Human Services, from Pulaski County Circuit Court, Eleventh Division. Appellant's motion to strike and/or dismiss petition for rehearing or, for rule on the clerk to unfile pleading due to untimeliness is moot.

CV-20-714. Alexius Macklin v. Arkansas Department of Human Services, from Pulaski County Circuit Court, Eleventh Division. Appellant's amended motion to strike and/or dismiss petition for rehearing or, for rule on the clerk to unfile pleading due to untimeliness is denied. Wynne, Womack, and Webb, JJ., would grant.

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. Appellees' motion to expand word-count limitation is granted.

CV-21-135. Matthew Burnside v. Arkansas Judicial Discipline and Disability Commission, an Original Action. Petitioner's pro se petition for writ of certiorari is denied. Wood and Womack, JJ., would dismiss. Webb, J., would take as a case.

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CV-21-242. Arkansas State Plant Board, a Division of the Arkansas Department of Agriculture; Arkansas State Plant Board Members in Their Official Capacities: Walter “Bruce” Alford; Kyle Baltz; Tommy Anderson; Reynold Meyer; Darrell Hess; Marty Eaton; Barry Walls; Terry Fuller; Mark Hopper; Brad Koen; Sam Stuckey; Terry Stephenson; Dr. Ken North; Dr. Nathan Slaton; Matthew Marsh; Jason Parks; Scott Milburn; Dennie Stokes; and Mark Morgan v. Glenn Hooks; Michael Dougan; Pratt Remmell; Reed Storey; Tim Fisher; Victor Gray; Bland Currie; Gladys Whitney; Frances Wilson Shackelford; Adam Fisher; Guy Fisher; Paden Ball; Gale Stewart; Coy’s Honey Farm, Inc.; OMP Farms, LLC; Ozark Mountain Poultry, Inc.; Freedom to Farm Foundation, Inc.; Jason McGee; Tim Gannon; Leslie Brown; Hollis Mankin; FarmVoice, Inc.; Timothy Pirani; Adam Henard; and Jarred Hopper, from Pulaski County Circuit Court, Sixteenth Division. Joint motion to dismiss appeal is granted.

CV-21-289. Cherokee Nation Businesses, LLC; and The Arkansas Racing Commission v. Gulfside Casino Partnership, from Pulaski County Circuit Court, Sixth Division. Motion of Pope County, Arkansas, for leave to file amicus curiae brief is denied. Special Justice Jim Spears agrees. Wynne and Webb, JJ., would grant. Kemp, C.J., not participating.

CV-21-289. Cherokee Nation Businesses, LLC; and The Arkansas Racing Commission v. Gulfside Casino Partnership, from Pulaski County Circuit Court, Sixth Division. Appellee’s alternative motion for leave to file a brief in response to amicus curiae is moot. Special Justice Jim Spears agrees. Wynne and Webb, JJ., would grant. Kemp, C.J., not participating.

CV-21-319. Arkansas Department of Health; José Romero, M.D., in His Official Capacity as Secretary of Health/Arkansas Department of Health; Arkansas Board of Hearing Instrument Dispensers; and Stephanie Pratt, in Her Official Capacity as Executive Director/Arkansas Board of Hearing Instrument Dispensers v. Samuel Solomon, from Pulaski County Circuit Court, Seventeenth Division. Appellee’s motion for leave to file sur-reply is moot.

CV-21-319. Arkansas Department of Health; José Romero, M.D., in His Official Capacity as Secretary of Health/Arkansas Department of Health; Arkansas Board of Hearing Instrument Dispensers; and Stephanie Pratt, in Her Official Capacity as Executive Director/Arkansas Board of Hearing Instrument Dispensers v. Samuel Solomon, from Pulaski County Circuit Court, Seventeenth Division. Appellants’ motion to supplement the record is granted.

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CV-21-353. Jeffrey S. Underwood and Conway Precision Products, Inc. v. Jody Underwood, Individually and as a Shareholder and Member of Conway Precision Products, Inc., from Faulkner County Circuit Court. Petitioners' petition for permission to appeal is granted. Baker, J., would deny. Webb, J., would transfer to court of appeals.

CV-21-365. Asa Hutchinson, in His Official Capacity as Governor of Arkansas; and Charisse Childers, in Her Official Capacity as Director, Arkansas Division of Workforce Services v. Logan Armstrong; Emily Ball; Ronald Bates; Cynthia Eyiuche; and Kurt Johnsen, from Pulaski County Circuit Court, Fourth Division. Appellants' emergency motion to stay July 28, 2021 order, granting appellees' preliminary injunction and all other circuit court proceedings. Expedited consideration granted; motion to stay July 28, 2021 order and all other circuit court proceedings granted. Kemp, C.J., and Wynne, J., would deny. (Proceedings of August 5, 2021)

CV-21-365. Asa Hutchinson, in His Official Capacity as Governor of Arkansas; and Charisse Childers, in Her Official Capacity as Director, Arkansas Division of Workforce Services v. Logan Armstrong; Emily Ball; Ronald Bates; Cynthia Eyiuche; and Kurt Johnsen, from Pulaski County Circuit Court, Fourth Division. Appellees' emergency motion to expedite appeal. Expedited consideration granted; motion to expedite appeal is denied. Kemp, C.J., would grant and would take the mootness issue with the case. Wynne, Womack, and Webb, JJ., would order appellees to respond to mootness issue. Wood, J., not participating. (Proceedings of August 13, 2021)

CV-21-371. Gerald Pevey v. Bay Cities Container Corporation, from Benton County Circuit Court. Petitioner's petition for appeal of an order denying a motion for a protective order and compelling the production of privileged documents and information is granted. Webb, J., would deny. Kemp, C.J., not participating.

CV-21-376. Arthur Carson v. The Corporation d/b/a Envolve Communities; and Termeka Hubbard, The Cottage Apartment Manager, from Pulaski County Circuit Court, Eleventh Division. Petitioner's pro se petition for leave to proceed in forma pauperis is denied. Kemp, C.J., and Wynne, J., would grant.

D-21-200. Lisa C. Ballard, Executive Director of the Committee on Professional Conduct v. Todd A. Van Es, Attorney at Law, Arkansas Bar No. 2008202. Petition for disbarment is moot. Baker, Wood, and Womack, JJ., would take as a case.

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PER CURIAM ORDERS

D-21-200. Lisa C. Ballard, Executive Director of the Committee on Professional Conduct v. Todd A. Van Es, Attorney at Law, Arkansas Bar No. 2008202. Petitioner's motion for order of default judgment of disbarment is granted. Baker, J., would take as a case.

D-21-315. In Re Edward William Mizell, Arkansas Bar No. 2013121, an Original Action. Petition of Edward William Mizell, Arkansas Bar No. 2013121, for voluntary surrender of license (resignation) is granted.

D-21-316. In Re Joshua S. Bryant, Arkansas Bar No. 2008217, an Original Action. Petition of Joshua S. Bryant, Arkansas Bar No. 2008217, for surrender of license is granted. Kemp, C.J., and Webb, J., would deny.

D-21-326. In Re Robert Holt Freeman, Arkansas Bar No. 85056, an Original Action. Petition of Robert Holt Freeman, Arkansas Bar No. 85056, for voluntary surrender of license (resignation) is granted. Kemp, C.J., would deny.

CR-21-277. Michael Harris v. State of Arkansas, from Benton County Circuit Court. Petitioner's pro se petition for writ of mandamus. Response requested. Wood and Womack, JJ., would deny.

CR-21-339. Jerrod Craven v. State of Arkansas, from Pulaski County Circuit Court, Seventh Division. Petitioner's pro se petition for writ of mandamus is denied.

CV-21-221. Wallace Gardner v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Petitioner's pro se motion for appointment of counsel is denied.

CV-21-271. Abraham Grant v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for extension of time to file brief is granted.

CV-21-272. Corey Johnson v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Appellant's pro se motion for extension of time to file brief is granted. Webb, J., would deny.

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CV-21-280. DeWayne Boykins v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se motion for belated appeal is granted.

CV-21-285. Michael Jackson v. Dexter Payne, Director, Arkansas Department of Correction, from Lee County Circuit Court. Petitioner's pro se petition for writ of mandamus. Response requested. Webb, J., would deny.

CV-21-341. Steven C. Hayes v. State of Arkansas, from Hot Spring County Circuit Court. Petitioner's pro se petition for writ of mandamus is denied.

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MOTIONS SUBMITTED

CR-21-27. Tacori Mackrell v. State of Arkansas, from Faulkner County Circuit Court. Appellee’s motion for extension of time to file writ of certiorari for supplemental electronic record.

CR-21-195. Robert Smith III v. State of Arkansas, from Faulkner County Circuit Court. Appellant’s motion for expansion of word-count limitations.

CR-21-202. Randy William Gay v. State of Arkansas, from Garland County Circuit Court. Appellee’s motion to file an enlarged brief.

CV-20-82. Stark Ligon, as Executive Director of the Supreme Court Committee on Professional Conduct v. Teresa Lynette Bloodman, Attorney at Law, Arkansas Bar No. 2005055, an Original Action. Respondent’s motion to withdraw filing.

CV-21-185. Nikita Lee Mahoney, Kimberly Ann Snodgrass, Christopher Snodgrass, Detrick Brandon, Tina Marie Phares, and Dazarious Braggs, Individually and on Behalf of All Others Similarly Situated v. Mark Derrick, in His Official Capacity as District Judge for the 23rd Judicial District of the State of Arkansas, from White County Circuit Court. Pro se motion of Don Hamrick for permission to file amicus curiae brief.

CV-21-263. Jordan Mason (Deceased) v. Wilson Brothers Lumber Company, LLC; Praetorian Insurance Co.; and Frank & Grady, LLLP, from the Arkansas Workers’ Compensation Commission. Appellant’s motion to transfer appeal to the Supreme Court.

CR-81-130. Luther X. Hall v. State of Arkansas, from Pulaski County Circuit Court, Fifth Division. Petitioner’s pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CR-00-1258. Wardell Green v. State of Arkansas, from Pulaski County Circuit Court, First Division. Petitioner’s pro se petition to reinvest jurisdiction in the trial court to consider a petition for writ of error coram nobis.

CR-20-60. Jerry W. McKee v. State of Arkansas, from Greene County Circuit Court. Petitioner’s pro se motion for discovery.

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

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MOTIONS SUBMITTED

CV-21-357. Saba K. Makkali v. State of Arkansas, from Jefferson County Circuit Court. Petitioner's pro se motion for completion, correction, and modification of the record.

CV-21-377. Versace Pooh a/k/a Kenneth Waller v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court. Petitioner's pro se motion for belated appeal.

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CASES SUBMITTED

CR-95-549. Timothy Wayne Kemp v. State of Arkansas, from Pulaski County Circuit Court, First Division. Orally argued.

CR-98-463. Timothy Wayne Kemp v. State of Arkansas, from Pulaski County Circuit Court, First Division. Orally argued.

CR-20-505. Clarence Turnbo v. State of Arkansas, from Pulaski County Circuit Court, First Division.

CR-21-3. Terry Marshall, Jr. v. State of Arkansas, from Cleburne County Circuit Court.

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.

CV-21-36. Arkansas Department of Finance and Administration; Larry Walther, Director; Marla McHughes; Darryl Hall; and Melony Turner, in Their Official Capacities v. Mark Lewis, from Washington County Circuit Court.

CR-20-520. Eric C. Burgie v. State of Arkansas; and Steve Oliver, Paul Norris Waterfield, and/or Their Successors, et al., from Garland County Circuit Court.

CV-20-525. Gary Fuller/Akbar v. Dexter Payne, Director, Arkansas Department of Correction, from Lincoln County Circuit Court.

CV-20-540. Malik Muntaqim v. Dexter Payne and Wendy Kelley, Directors, Arkansas Department of Correction; Anthony Jackson, Deputy Warden of the Ouachita River Correctional Unit; Steve Outlaw, Deputy Warden; Chris Menotti, Sergeant; Willie Moore, Chaplain; Dan Flora, Chaplain; James Gibson, Warden of Varner Supermax Unit; and Virginia Allen, Mailroom Supervisor, All in Their Individual and Official Capacities, from Hot Spring County Circuit Court.

CV-20-723. Douglas D. True v. Dexter Payne, Director, Arkansas Department of Correction, from Jefferson County Circuit Court.