
IN THE SUPREME COURT OF ARKANSAS

JOHN THURSTON, *et al.*

APPELLANTS

v.

Case No. CV-22-190

THE LEAGUE OF WOMEN VOTERS
OF ARKANSAS and ARKANSAS UNITED, *et al.*

APPELLEES

**JOINT MOTION REQUESTING THAT THIS COURT ENFORCE
ITS ISSUANCE OF A WRIT OF CERTIORARI
FOR COMPLETE ELECTRONIC RECORD**

Appellants John Thurston, Sharon Brooks, Bilenda Harris-Ritter, William Luther, Wendy Brandon, Jamie Clemmer, and J. Harmon Smith, in their official capacities as Secretary of State and members of the Arkansas State Board of Election Commissioners (“Appellants”), jointly with the Appellees the League of Women Voters of Arkansas, Arkansas United, Dortha Dunlap, Leon Kaplan, Nell Matthews Mock, Jeffery Rust, and Patsy Watkins (“Appellees”), for their Joint Motion Requesting the Court Enforce its Issuance of a Writ of Certiorari for Complete Electronic Record, state:

1. On March 24, 2022, the Circuit Court entered an Order declaring Acts 249, 728, 736, and 973 of the 93rd General Assembly unconstitutional under the Arkansas Free and Equal Elections Clause, Equal Protection Clause, Voter Qualifications Clause, Right to Assembly and Speech Clause, and Amendment 51's germaneness requirement, and permanently enjoining such acts.

2. On March 30, 2022, Appellants timely filed a notice of appeal and designated the entire record on appeal.

3. This Court granted an emergency motion for stay of injunction on April 1, 2022.

4. Appellants requested a complete transcript of the four-day bench trial held from March 15-18, 2022 and arranged for its preparation under Ark. R. App. P. Civil 6(b).

5. Nearly a year later, the record is incomplete and this appeal sits in limbo. Court Reporter Neva Warford repeatedly requested more time to complete the record. Appellants filed four Motions to Extend Time to Lodge the Record, each of which the Circuit Court granted, respectively.

6. On October 20, 2022, Appellants filed a Petition for Writ of Certiorari to Complete the Record.

7. On December 1, 2022, the Court entered its Order granting Appellants' Petition for Writ of Certiorari to Complete the Record. The Court issued a Writ of Certiorari for Complete Electronic Record on the same day.

8. The Writ of Certiorari to Complete the Electronic Record commanded the Clerk and Court Reporter to deliver an electronic transcript of the record and proceedings of Pulaski County Circuit Court Case No. 60CV-21-3138. The Court ordered that the Writ was returnable by December 31, 2022.

9. On January 6, 2023, Appellants filed a Motion Requesting that this Court Enforce its Issuance of Writ of Certiorari, advising that despite numerous efforts to contact Ms. Warford, Appellants' counsel was unable to communicate with Ms. Warford, and she had not complied with the Court's Writ.

10. On February 2, 2023, the Court granted Appellants' enforcement motion and ordered Ms. Warford to comply with the Court's order within 30 days, by March 4, 2023. That deadline has also now passed without any word from Ms. Warford or production of the transcript.

11. The Parties have since learned that Ms. Warford has also failed to timely complete the record in other civil and criminal matters.

12. On November 9, 2022, in a *per curiam* opinion, the Arkansas Court of Appeals removed Ms. Warford from all criminal appeals docketed in the Court of Appeals based on "repeated and unjustified delays in preparing the designated

material,” which the Court found “prejudiced the efficient administration of justice.” *Woolford v. Arkansas*, No. CR-22-3 (Ark. Ct. App. Nov. 9, 2022) (per curiam order finding Ms. Warford in contempt).

13. The Court of Appeals ordered Ms. Warford to “deliver to the clerk of this court all items in her possession necessary to complete the record in all currently docketed criminal appeals, including but not limited to all audio tapes, electronic recordings, and physical exhibits proffered or received in evidence.” *Id.* at 3.

14. On February 15, 2023, in a *per curiam* opinion, the Arkansas Court of Appeals held Ms. Warford in contempt and removed her from all civil appeals docketed in the Court of Appeals. *Arkansas Blue Cross and Blue Shield v. Freeway Surgery Center, et al.*, No. CV-22-515 (February 15, 2023) (per curiam finding Ms. Warford in contempt).

15. In *Arkansas Blue Cross and Blue Shield*, the Court of Appeals issued a Writ of Certiorari in September 2022 ordering Ms. Warford to complete the record within thirty days, which she did not do. *Id.* at 2. On the appellant’s third motion to enforce the writ, the Court of Appeals ordered Ms. Warford to appear and show cause why she should not be held in contempt for failing to comply with the original writ of certiorari or the extensions. *Id.*

16. At the show-cause hearing on February 7, 2023, Ms. Warford pleaded guilty to contempt and announced her intent to voluntarily surrender her official court-reporter license. *Id.* at 2-3.

17. The Court of Appeals subsequently removed Ms. Warford from all civil appeals docketed in the Court of Appeals and ordered her to “deliver to her current supervisor and presiding Circuit Judge Latonya Austin Honorable all record related items and information Warford possesses that may be needed to complete the records in any civil case in which she has been the court reporter,” which includes “all audio tapes, all electronic recordings, and all physical exhibits either proffered or received as evidence in any civil proceeding.” *Id.* at 3-4. The Court of Appeals further ordered Ms. Warford to “deliver the material to her supervising circuit judge by the end of business on 28 February 2023.” *Id.* at 4.

18. About an hour after the Court of Appeals released their opinion in *Arkansas Blue Cross and Blue Shield*, Special Prosecutor Barbara Halsey filed a Petition for Approval of Voluntary Surrender of Certificate Agreement and Order with this Court, seeking the Court’s approval of Ms. Warford’s voluntary surrender of her court reporting license. *See Arkansas Supreme Court Bd. Of Certified Court Reporter Examiners v. Neva Warford*, CCR No. 156, No. D-23-105. This Court granted the Petition and accepted Ms. Warford’s surrender of her license on March 2, 2023. *Id.*

19. Given Ms. Warford's failure to meet this Court's deadlines to certify the transcript as well as her surrender of her Certified Court Reporter license, the Parties jointly request that the Court exercise its discretion to order that all records in Ms. Warford's possession pertaining to this matter be produced to Circuit Judge LaTonya Austin Honorable for reassignment to another Certified Court Reporter so that the transcript can be completed.

WHEREFORE, the Parties respectfully request this Court exercise its discretion to enforce its Order and Writ of Certiorari of December 1, 2022, in this appeal by ordering Neva Warford to immediately produce whatever parts of the record of this matter remain in her possession to Circuit Judge LaTonya Austin Honorable and reassign the completion of the record to another Certified Court Reporter so that the record on appeal may be completed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2023, I electronically filed the foregoing using the Court’s electronic filing system, which shall send notification of such filing to all counsel of record.

/s/ Carl F Cooper III

Carl F. “Trey” Cooper, III