

**\*\*\*EXECUTIONS SCHEDULED FOR OCTOBER 21, 2015\*\*\***

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
FIFTH DIVISION**

STACEY JOHNSON, JASON MCGEHEE,  
BRUCE WARD, TERRICK NOONER,  
JACK JONES, MARCEL WILLIAMS,  
KENNETH WILLIAMS, DON DAVIS and  
LEDELL LE

PLAINTIFFS

v.

No. 60CV-15-2921

WENDY KELLEY, in her official capacity  
as Director of the Arkansas Department of  
Correction, and the ARKANSAS  
DEPARTMENT OF CORRECTION

DEFENDANTS

**DEFENDANTS' NOTICE OF APPEAL**

The Arkansas Department of Correction (“ADC”) and Wendy Kelley, in her official capacity as Director of the Arkansas Department of Correction (collectively “Defendants”) hereby give notice of their appeal to the Arkansas Supreme Court pursuant to the Arkansas Rules of Civil Procedure.

1. **Appealing Parties.** The parties taking this appeal are the Arkansas Department of Correction (“ADC”) and Wendy Kelley, in her official capacity as Director of the Arkansas Department of Correction.

2. **Orders Being Appealed.** Defendants appeal from the Circuit Court’s Temporary Restraining Order that “operates to stay Plaintiffs’ executions pending a preliminary injunction hearing,” which was entered on October 9, 2015. Defendants also appeal from the Circuit Court’s Order Denying Defendants’ Motion to Dissolve Temporary Restraining Order, which was entered on October 13, 2015. (The Court has set the preliminary

injunction hearing for March 1-2, 2016, thus in practice issuing a long-term injunction under the guise of a temporary restraining order.)

3. **Designation of Record.** Defendants designate the entire record in this matter as the record on appeal—including all of the pleadings, amended pleadings, motions, exhibits to the motions, supporting briefs, responses, replies, and the transcript of the only hearing in this case, which was held on October 7, 2015.

4. **Certificate of Transcript.** Defendants have ordered the transcript of the only hearing in this matter, which was held on October 7, 2015, and have also made any financial arrangements required by the court reporter pursuant to Ark. Code Ann. § 16-13-510(c).

5. **Jurisdiction of the Arkansas Supreme Court.** Defendants take this appeal to the Arkansas Supreme Court, which has appellate jurisdiction in this important matter concerning the death penalty and the interpretation or construction of Amendment 80 of the Arkansas Constitution. *See* Ark. R. App. P. 2(a)(6) (allowing parties to take appeals of any orders granting injunctions and denying motions to dissolve injunctions); Ark. Sup. Ct. R. 1-2(a)(1) (requiring “[a]ll appeals involving the interpretation or construction of the Constitution of Arkansas” to be filed in the Supreme Court); Ark. Sup. Ct. R. 1-2(b) (providing that the Supreme Court has jurisdiction to hear issues of first impression, issues of substantial public interest, significant issues needing clarification or development of the law,

and appeals involving substantial questions of law concerning the validity, construction, or interpretation of an act of the General Assembly and a court rule).

6. **Abandonment of Claims.** Defendants have not asserted any claims against a party in this matter, and so Rule 3(e)(vi) of the Rules of Appellate Procedure—Civil does not apply to them. Moreover, an appealing party is not required to make this statement with regard to the interlocutory order at issue in this appeal. Ark. R. App. P.—Civil 3(e)(vi).

LESLIE RUTLEDGE  
Attorney General

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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I, Jennifer L. Merritt, do hereby certify that on this 13th day of October, 2015, I electronically filed the foregoing with the Clerk of Court using the eFlex electronic filing system, which shall send notification of the filing to any participants. In addition, I hereby certify that sent the foregoing document by **certified mail, return receipt requested**, to the following:

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*/s/ Jennifer L. Merritt*  
Jennifer L. Merritt