



**LIST OF DECISIONS ANNOUNCED BY  
THE SUPREME COURT OF ALABAMA  
ON FRIDAY, FEBRUARY 13, 2009**

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**Lyons, J.**

1071178 Lowndes County v. Johnston, Barton, Proctor & Rose, LLP (Appeal from Jefferson Circuit Court: CV-06-6241).

**Affirmed. No Opinion.**

Circuit Judge, Joseph L. Boohaker, (205) 325-5753  
Apl. Atty., Collins - Pettaway, Jr, (334) 875-9264  
Aple. Atty., Robert E. Battle, (205) 397-8160  
Aple. Atty., Jon H. Patterson, (205) 251-3000  
Aple. Atty., Harlan F Winn, III, (205) 397-8164

1071246 Johnston, Barton, Proctor & Rose, LLP v. Lowndes County and Lowndes County Commission (Appeal from Jefferson Circuit Court: CV-06-6241).

**Affirmed. No Opinion.**

Circuit Judge, Joseph L. Boohaker, (205) 325-5753  
Apl. Atty., Robert E. Battle, (205) 397-8160  
Apl. Atty., Harlan F Winn, III, (205) 397-8164  
Aple. Atty., Collins - Pettaway, Jr, (334) 875-9264

1071603 Amanda Lee Walker, as administrator of the estate of Clinton Earl Walker, deceased v. Daniel W. Jones (Appeal from Elmore Circuit Court: CV-05-560).

**Affirmed. No Opinion.**

Circuit Judge, Sibley G. Reynolds, (205) 755-0311  
Apl. Atty., David Hodge, (205) 322-8880  
Aple. Atty., Alex L. Holtsford, Jr., (334) 215-8585  
Aple. Atty., Rick A. Howard, (334) 215-8585  
Aple. Atty., April Willis McKay, (334) 215-8585

1071617 Ex parte Henry Winder Webb et al. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Henry Winder Webb et al. v. City of Demopolis) (Marengo Circuit Court: CV-06-137; Civil Appeals : 2061087).

**Writ Quashed.**

Circuit Judge, Eddie Hardaway, Jr., (205) 652-6169  
Pet. Atty., Isaac P. Espy, (205) 758-5591  
Pet. Atty., Mark A. Scogin, (205) 758-5591  
Resp. Atty., Rick A. Howard, (334) 215-8585  
Resp. Atty., Richard S. Manley, (334) 289-1384  
Resp. Atty., April Willis McKay, (334) 215-8585

1071654 Ex parte Bobby Joe Harbin. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Bobby Joe Harbin v. State of Alabama) (Walker Circuit Court: CC03-290; Criminal Appeals : CR-05-1558).

**Writ Quashed. No Opinion.**

Circuit Judge, James C. Brotherton, (205) 384-7234  
Pet. Atty., Samuel Bentley, (205) 221-4777  
Pet. Atty., Thomas Lavon Carmichael, (205) 302-0099  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Dep. Atty. General, Nancy M. Kirby, (334) 242-7300  
Resp. Atty., Beth Slate Poe, (334) 242-7300

1080353 Ex parte Timothy Earl Mason. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Timothy Earl Mason v. State of Alabama) (Calhoun Circuit Court: CC-06-1828; Criminal Appeals : CR-07-0730).

**Writ Denied. No Opinion.**

1080374 Ex parte Lei Ann Nichols. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Lei Ann Nichols v. Greg D. Willis) (Marshall Circuit Court: DR-95-446.03; Civil Appeals : 2070676).

**Writ Denied. No Opinion.**

Circuit Judge, Howard G. Hawk, (256) 571-7776  
Pet. Atty., Joan Marie Kettell Dean, (256) 534-4557  
Resp. Atty., George M. Barnett, (256) 582-0133

1080375 Ex parte Bradley Neal Steele. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Bradley Neal Steele v. State of Alabama) (Morgan Circuit Court: CC-06-801; Criminal Appeals : CR-07-0922).

**Writ Denied.**

Circuit Judge, Sherrie W. Paler, (256) 351-4700  
Pet. Atty., Kevin Denver Teague, (256) 351-1265  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. General, Laura I. Cuthbert, (334) 353-9782

1080418 Ex parte Lettie Malone Anderson. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Lettie Malone Anderson v. Carl Anderson (In re: Estate of Mack Arthur Anderson, Deceased)) (Mobile Probate Court: No. 2006-710; Civil Appeals : 2070491).

**Writ Denied. No Opinion.**

Probate Judge, Don Davis, (251) 574-8461  
Resp. Atty., Alison Baxter Herlihy, (251) 433-0027

1080457 Ex parte James McConico, Jr. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: James McConico, Jr. v. Commissioner Richard Allen) (Montgomery Circuit Court: CV08-507; Criminal Appeals : CR-07-2093).

**Writ Denied. No Opinion.**

Circuit Judge, Eugene W. Reese, (334) 832-1360  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Atty., Bart Gregory Harmon, (334) 353-3881

**Stuart, J.**

1071300 Jim Brown Properties, Inc., Romar Villas, L.L.C., and Deck Investments, L.L.C. v. Patrick Thomas Whalen (Appeal from Baldwin Circuit Court: CV-06-301).

**Affirmed. No Opinion.**

Circuit Judge, James H. Reid, Jr., (251) 937-0299  
Apl. Atty., Daniel G. Blackburn, (251) 937-1750  
Apl. Atty., Rebecca Ann Gaines, (251) 937-1750  
Aple. Atty., Jessica M. McDill, (251) 937-2191

1071470 Michael J. Fotheringham et al. v. Clifford G. Weems et al. (Appeal from Shelby Circuit Court: CV-08-159).

**Affirmed. No Opinion.**

Circuit Judge, Hub Harrington, (205) 669-3810  
Apl. Atty., Ralph Jeffrey Bolen, (205) 879-9493  
Aple. Atty., Jay E. Tidwell, (205) 322-6060  
Aple. Atty., William C. Veal, (205) 326-4146

1080118 Ex parte Jerry Kenneth Glass. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Jerry Kenneth Glass v. State of Alabama) (Lauderdale Circuit Court: CC07-405; CC07-406; CC07-407; CC07-408; CC07-409; Criminal Appeals : CR-06-2058).

**Writ Denied. No Opinion.**

Circuit Judge, Michael T. Jones, (256) 760-5831  
Pet. Atty., Charlie A. Bottoms, Jr., (256) 764-8779  
Pet. Atty., Joe W. Morgan, III, (205) 945-8550  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. Gen., Jack William Willis, (334) 242-7326

1080162 Ex parte Danny Joe Phillips. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Danny Joe Phillips v. State of Alabama) (Cullman Circuit Court: CC04-183.60; Criminal Appeals : CR-07-1471).

**Writ Denied. No Opinion.**

Circuit Judge, Don L. Hardeman, (256) 739-3530  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. General, Marc Alan Starrett, (334) 353-8973

1080292 Ex parte Wesley Warren. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Wesley Warren v. State of Alabama) (Jefferson Circuit Court: CC95-3396; Criminal Appeals : CR-07-0994).

**Writ Denied. No Opinion.**

Circuit Judge, Teresa Tanner Pulliam, (205) 325-5329  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. General, Stephen Norwood Dodd, (334) 242-7378

1080381 Ex parte Mario Jiminez. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: State of Alabama vs. Mario Jiminez) (Lee Circuit Court: CC04-344.60; Criminal Appeals : CR-08-0267).

**Writ Denied. No Opinion.**

Circuit Judge, Jacob A. Walker, III, (334) 749-7156  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. District Atty., Nick Abbett, (334) 749-7148

**Smith, J.**

1080135 Ex parte Jimmy Darrell McCrary. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Jimmy Darrell McCrary v. State of Alabama) (Jackson Circuit Court: CC88-480.60; Criminal Appeals : CR-07-1491).

**Writ Denied. No Opinion.**

Circuit Judge, John Henninger Graham, (256) 574-9345  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. General, Audrey K. Jordan, (334) 353-4338

1080188 Ex parte J. W. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: J. W. v. R. S.) (Mobile Juvenile Court: CS-05-6080; Civil Appeals : 2070397).

**Writ Denied. No Opinion.**

1080190 Ex parte Charles Erastis Pigg. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Charles Erastis Pigg v. State of Alabama) (Morgan Circuit Court: CC02-559.60; Criminal Appeals : CR-07-2082).

**Writ Denied. No Opinion.**

Circuit Judge, Sherrie W. Paler, (256) 351-4700  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. General, Stephen Norwood Dodd, (334) 242-7378

1080211 Ex parte Danita Leane Henson. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Danita Leane Henson v. Steven Dale Henson) (Winston Circuit Court: DR-02-141.01; Civil Appeals : 2070270).

**Writ Denied. No Opinion.**

District Judge, Michael E. Newell, (205) 486-9554  
Pet. Atty., James Melvin Hasting, (256) 736-2230  
Resp. Atty., Jerry W. Jackson, (205) 486-3618

1080306 Ex parte Michael Mays, alias. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Michael Mays, alias v. State of Alabama) (Jefferson Circuit Court: CC06-2223; Criminal Appeals : CR-06-1556).

**Writ Denied. No Opinion.**

Circuit Judge, Alfred Bahakel, (205) 325-5648  
Pet. Atty., James M Kendrick, (205) 252-3233  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. Gen., Yvonne A.H. Saxon, (334) 242-7376

1080337 Ex parte Demario Martez Moore. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Demario Martez Moore v. State of Alabama) (Jefferson Circuit Court: CC94-1671.61; Criminal Appeals : CR-07-1870).

**Writ Denied. No Opinion.**

Circuit Judge, J. William Cole, (205) 325-5290  
Resp. Atty. General, Troy R. King, (334) 242-7300  
Resp. Asst. Atty. General, Stephanie Elizabeth Reiland, (334) 242-7386

## **Bolin, J.**

1080192 Ex parte Richard Lee Ferguson. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Richard Lee Ferguson v. Xiaohe Ferguson) (Jefferson Circuit Court: DR-07-2172; Civil Appeals : 2070577).

**Writ Denied. No Opinion.**

Circuit Judge, J. Gary Pate, (205) 325-5022  
Pet. Atty., Anne Lamkin Durward, (205) 838-9000  
Pet. Atty., Randall Wayne Nichols, (205) 838-9002  
Resp. Atty., Robert Milton Echols, Jr, (205) 870-3700

1080254 Ex parte D. C. Tolver. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: D. C. Tolver v. Weyerhaeuser Company and James Harner) (Wilcox Circuit Court: CV-05-111; Civil Appeals : 2070707).

**Writ Denied. No Opinion.**

Circuit Judge, Thomas ap Roger Jones, (334) 874-2510  
Pet. Atty., Richard J Stockham, III, (205) 879-9954  
Resp. Atty., John F. Wymer, III, (404) 815-2374

## **Parker, J.**

1070189 T.S., a minor by and through his mother and next friend Eliza Simon; and Eliza Simon, individually and as mother and next friend of T. S., a minor v. Brenda Atcheson (Appeal from Autauga Circuit Court: CV-06-91).

**Affirmed. No Opinion.**

Circuit Judge, Ben A. Fuller, (334) 361-3766  
Apl. Atty., Collins - Pettaway, Jr, (334) 875-9264  
Aple. Atty., Alicia Fritz Bennett, (205) 669-8000  
Aple. Atty., Mark S. Boardman, (205) 678-8000  
Aple. Atty., Clay R. Carr, (205) 678-8000

## **Murdock, J.**

1060792 Barbara George v. Bobby Sims and Janice Sims (Appeal from Jefferson Circuit Court: CV-02-455).

**Affirmed. No Opinion.**

Circuit Judge, Dan C. King, III, (205) 481-4175  
Apl. Atty., Arthur Shores Lee, (205) 323-1600  
Aple. Atty., William A. Short, Jr., (205) 426-1463

1061064 Edwin Williams v. Limestone County Commission et al. (Appeal from Madison Circuit Court: CV-06-2369).

**Affirmed. No Opinion.**

Circuit Judge, Karen K. Hall, (256) 532-3455  
Aple. Atty., Bart Gregory Harmon, (334) 353-3881  
Aple. Atty., Charles Richard Hill, Jr., (334) 262-1850  
Aple. Atty., Daryl L. Masters, (334) 262-1850

1070276 Ex parte Robert Dale Landers. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Robert Dale Landers v. Lowe's Home Centers, Inc.) (Madison Circuit Court: CV-05-2023; Civil Appeals : 2060303).

**Writ Denied. No Opinion.**

Circuit Judge, James P. Smith, (256) 532-3394  
Pet. Atty., Robert H. McKenzie, (256) 757-3587

Resp. Atty., Claude E. Hundley, III, (256) 535-1100

- 1080054 Ex parte Scott Lamar Jennings. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Scott Lamar Jennings v. State of Alabama) (Jefferson Circuit Court: CC98-3563.63; Criminal Appeals : CR-07-0841).

**Writ Denied. No Opinion.**

Circuit Judge, J. William Cole, (205) 325-5290

Resp. Atty. General, Troy R. King, (334) 242-7300

Resp. Asst. Atty. General, John McGavock Porter, (334) 242-7420

- 1080116 Ex parte Alando McKenzie, alias. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Alando McKenzie, alias v. State of Alabama) (Jefferson Circuit Court: CC06-2556; CC06-2557; Criminal Appeals : CR-07-0246).

**Writ Denied. No Opinion.**

Circuit Judge, Virginia A. Vinson, (205) 214-8683

Pet. Atty., Amber Lynn Ladner, (205) 251-6666

Pet. Atty., Erskine R. Mathis, (205) 252-1111

Resp. Atty. General, Troy R. King, (334) 242-7300

Resp. Asst. Atty. Gen., Jean Alexandra Therkelsen, (334) 242-7300

- 1080302 Ex parte Jeffrey W. Stephenson, Sr. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Jeffrey W. Stephenson, Sr. v. Sharon Stephenson) (Houston Circuit Court: DR-06-643; Civil Appeals : 2070550).

**Writ Denied. No Opinion.**

District Judge, M. John Steensland, Jr., (334) 677-4851

Pet. Atty., Richard E. Crum, (334) 677-3000

Resp. Atty., Matthew Lamere, (334) 793-2888

- 1080356 Ex parte Johnathan Long. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Johnathan Long v. State of Alabama) (Bessemer Division of Jefferson Circuit Court: CC-02-423.60; Criminal Appeals : CR-06-1485).

**Writ Denied. No Opinion.**

- 1080389 Ex parte Phillip Gay. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CRIMINAL APPEALS (In re: Phillip Gay v. State of Alabama) (Enterprise Division of Coffee Circuit Court: CC87-103; Criminal Appeals : CR-07-1726).

**Writ Denied. No Opinion.**

Circuit Judge, Robert W. Barr, (334) 566-1307

Resp. Atty. General, Troy R. King, (334) 242-7300

Resp. Asst. Atty. Gen., Andy Scott Poole, (334) 242-7300

**Shaw, J.**

- 1080231 Ex parte James McConico, Jr. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: James McConico, Jr. v. State of Alabama) (Montgomery Circuit Court: CV-07-1301; Civil Appeals : 2070554).

**Writ Denied.**

Circuit Judge, Tracy S. McCooey, (334) 832-1365

Resp. Atty., Albert S. Butler, (334) 353-4859

- 1080280 Ex parte Walter Busby. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Walter Busby v. Donna Lewis et al.) (Lauderdale Circuit Court: CV-06-176; Civil Appeals : 2070954).

**Writ Denied. No Opinion.**

Circuit Judge, James Harold Sandlin, Jr., (256) 760-5825

Pet. Atty., Mitchell D. Hays, (256) 383-9444  
Resp. Atty., Daniel E. Boone, (256) 760-1002  
Resp. Atty., David Kirby Howard, (256) 718-6040  
Resp. Atty., Kimberly E. Linville, (256) 718-6040

## **PER CURIAM**

1050739 Donald J. Ivey v. Joseph Baxter Justice (Appeal from Walker Circuit Court: CV 03-341).

### **Affirmed. No Opinion.**

Circuit Judge, Jerry Selman, (205) 384-7237  
Apl. Atty., Donald Herman Bevill, (205) 221-4646  
Apl. Atty., Ralph K Strawn, Jr, (256) 543-9790  
Aple. Atty., Charles R. Stephens, (205) 221-4383

1071325 Ex parte Simmie Murray Knight. PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CIVIL APPEALS (In re: Simmie Murray Knight v. Cassandra J. Knight) (Randolph Circuit Court: DR-01-178.02; Civil Appeals : 2060801).

### **Writ Denied .**

Circuit Judge, Ray D. Martin, (256) 825-1084  
Pet. Atty., Walden M. Buttram, (256) 547-3111  
Resp. Atty., S. Sanford Holliday, (334) 863-2717

## **ON REHEARING**

1050577 Gracie Van Voorst, individually and as mother and next friend of Cheyenne Van Voorst, a minor v. Federal Express Corporation and Diane M. Hyde (Appeal from Morgan Circuit Court: CV-04-715).

### **Application Overruled. No Opinion.**

Circuit Judge, Sherrie W. Paler, (256) 351-4700  
Apl. Atty., Milton E. Yarbrough, Jr.  
Aple. Atty., Stephen E. Brown, (256) 340-8038  
Aple. Atty., Judith E. Dolan, (205) 327-8376  
Aple. Atty., Stephen V. Hammond, (256) 353-7031  
Aple. Atty., Barnes F. Lovelace, Jr., (256) 340-8043  
Aple. Atty., Cynthia N. Williams, (205) 397-2900

1061041 Sharee Self, as successor trustee of the revocable trust of Georgia B. Slaughter v. Bruce Slaughter, individually and as personal representative of the estate of Georgia B. Slaughter, deceased, and Barbara Slaughter Jones (Appeal from Mobile Circuit Court: CV-06-2795).

### **Deny Motion; Application Denied. No Opinion.**

Circuit Judge, James C. Wood, (251) 574-8475  
Apl. Atty., I. David Cherniak, (251) 432-7682  
Apl. Atty., Rick Andrew La Trace, (251) 441-9255  
Aple. Atty., Joseph David Steadman, (251) 690-9300