

**IN THE CIRCUIT COURT OF CRAIGHEAD COUNTY, ARKANSAS
2nd CIRCUIT DIVISION 2**

**CAROLYN JOHNSON, MICHAEL JOHNSON
and HALEY JOHNSON (now BOYD)**

PLAINTIFFS

v.

CASE NO. 16JCV-19-426

**MICHAEL TALLEY,
JONESBORO POLICE DEPARTMENT and
CITY OF JONESBORO, ARKANSAS**

DEFENDANTS

NOTICE OF INTERLOCUTORY APPEAL

Comes now the Defendant, Michael Talley, and hereby gives notice of his appeal to the Arkansas Court of Appeal pursuant to the Arkansas Rules of Appellant Procedure – Civil and Rules of the Arkansas Supreme Court and Court of Appeals.

1. Appealing Parties. Michael Talley.

2. Order Being Appealed. The Defendant appeals from the Circuit Court’s September 8th, 2024, Order Regarding Various Motions Filed by the Parties, which denied the Defendant’s Motion to Dismiss on the basis of immunity, including qualified immunity and statutory immunity under Ark. Code Ann. § 21-9-301 and § 21-9-303, and also addressed various other pending motions. Rule 2(a)(10) of the Arkansas Rules of Appellate Procedure–Civil permits an appeal from an interlocutory “order denying a motion to dismiss or for summary judgment based on the defense of sovereign immunity or the immunity of a government official.” The rationale behind this rule is that immunity from suit is effectively lost if the case is permitted to go to trial when an immunity argument can prevail. *Trammell v. Wright*, 2014 Ark. App. 439, 2, 439 S.W.3d 718, 719 (2014)(internal citation omitted).

3. Designation of Record. The Defendant designates as the record on appeal, the following:

- Complaint filed on May 2, 2019;
- Answer to Complaint filed by Defendants on September 13, 2019;
- Supplemental Complaint with Exhibit “A” filed on December 20, 2021;
- Answer to Supplemental Complaint filed by Separate Defendant City of Jonesboro on January 12, 2022;
- Answer to Supplemental Complaint filed by Separate Defendant Arkansas Municipal League (“AML”) on January 13, 2022;
- Amended Supplemental Complaint with Exhibits “A” – “F” filed on February 9, 2023;
- Amended Answer to Plaintiff’s Original Complaint filed by Defendants on April 11, 2024;
- Plaintiffs’ Motion to Declare Statute Unconstitutional filed on April 18, 2024;
- Brief in Support of Plaintiff’s Motion to Declare Statute Unconstitutional filed on April 18, 2024;
- Amended Complaint filed on April 29, 2024;
- Defendants’ Combined Response to Plaintiffs’ Motion to Declare Statute Unconstitutional and Motion to Strike Plaintiffs’ Motion with Incorporated Brief filed on May 7, 2024;
- Defendants’ Answer to Amended Complaint filed on May 20, 2024;
- Defendants’ Motion to Dismiss Amended Complaint filed on May 20, 2024;
- Brief in Support of Defendants’ Motion to Dismiss Amended Complaint filed on May 20, 2024;

- Counterclaim for Interpleader filed by Defendants on May 20, 2024;
- Answer to Counterclaim filed on May 28, 2024;
- Plaintiffs' Response to Motion to Dismiss and Brief in Support filed on May 29, 2024;
- Reply in Support of Defendants' Motion to Dismiss Amended Complaint filed on June 18, 2024;
- Order Regarding Motions Filed by the Parties, entered on September 8, 2024; and
- Transcript of August 29, 2024 Hearing.

4. Certificate of Transcript. The Defendant, by and through his undersigned counsel, has ordered from the Court Reporter the transcript of the hearing held on August 29, 2024, and has made financial arrangements required by the Court Reporter pursuant to Ark. Code Ann. § 16-13-510(c).

5. Jurisdiction of the Arkansas Court of Appeals. The Defendant is appealing to the Arkansas Court of Appeals.

6. Abandonment of Claims. As this is an interlocutory appeal, the Defendant is not required to provide a statement regarding abandonment of claims pursuant to Rule 3(e)(vi) of the Rules of Appellate Procedure-Civil.

7. Electronic Record. The Defendants request and will proceed with (absent a contrary order), an electronic record pursuant to In re Acceptance of Records on Appeal in Electronic Format and Elimination of the Abstracting and Addendum Requirements, 2019 Ark. 213.

8. Concise Statement of the Points on Appeal. Pursuant to Rule 3(g) of the Arkansas Rules of Appellate Procedure – Civil, the Defendant is providing the following concise statement of the points on which he intends to rely on appeal:

- The Circuit Court erred in denying immunity from this suit and damages, including qualified immunity and statutory immunity pursuant to Ark. Code Ann. § 21-9-301 and Ark. Code Ann. § 21-9-303, to Defendant Michael Talley.

Respectfully Submitted,

Michael Talley,
DEFENDANT

BY: /s/ R. Justin Eichmann

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CERTIFICATE OF SERVICE

I, R. Justin Eichmann, do hereby certify that on the 10th September, 2024, a true and correct copy of the above and foregoing was filed with the Clerk of the Court via electronic filing, which shall send notification of the same to all counsel of record listed below:

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/s/ R. Justin Eichmann

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