

State of the Judiciary

Chief Justice John Dan Kemp, Arkansas Supreme Court

Message to the Bar and Judicial Council

June 14, 2024, at Arkansas Bar Association meeting, Hot Springs Convention Center, Hot Springs, Arkansas

I. Greetings

President Dobson, President-Elect Pawlik, Fellow Justices and Judges, Honorable Members of the Bar and Guests: It's always a pleasure to have the opportunity to address this joint meeting of the Arkansas Bar Association and the Arkansas Judicial Council. This 126th Annual Meeting was a perfect blend of timely CLE and social events that allow us to gather, learn from one another, and fellowship with friends, both old and new.

II. Acknowledgments

Congratulations to Karen Hutchins and her team at the Arkansas Bar Association for putting together such a wonderful program: job well done. Many thanks to Arkansas Bar Association President Margaret Dobson for inviting me today, and I commend her on an excellent year of service to the Bar Association. I also want to congratulate her on her recent appointment to the circuit bench. We know it has been an extremely busy year for you, and you have handled it with grace; we appreciate your service to our state.

III. Introduction

The state of the Arkansas Judiciary is strong, thanks to the good work of its circuit and district judges, its appellate judges, justices, the members of their staff, and the Administrative Office of the Courts. Accordingly, I would like to take a few minutes to share with you the progress that is being made within the judicial branch of our government and continue to provide transparency to the public we serve.

IV. Technology

First, our ongoing mission to enhance the accessibility and efficiency of our court system through the innovative use of technology has achieved remarkable progress over the last year. In January, we launched Search ARCourts, the replacement for CourtConnect. This user-friendly platform improves the way citizens and legal professionals access court records, providing a more streamlined interface to access case information. By making court records more accessible and easier to navigate, the judiciary can increase public awareness of court proceedings and judicial decisions. An improved interface ensures that all members of the public, regardless of their technical expertise, can access court records. Search ARCourts represents significant progress in our commitment to making justice accessible to all.

Last summer, our Administrative Office of the Courts received the first ever Amazon Web Services (AWS) State and Local Government Champion Award. The AWS Champion Award is a prestigious recognition given to organizations that demonstrate exceptional technical

proficiency and innovation, while driving digital transformation with cloud computing. Receiving this award showcases the judiciary's ability to leverage cutting-edge technology effectively, indicating a high level of expertise within the IT team. Achieving this award means the judiciary adheres to industry best practices in cloud computing, security, and data management. This commitment to excellence reassures the public that the judiciary is using reliable, secure, and efficient technology to manage and store critical information. By receiving the award, the judiciary demonstrates its technological advancements and the steps it is taking to improve services, which helps build public trust. Awards and recognitions contribute to a positive public perception of the judiciary. I am happy to share that Amazon Web Services recently announced that we have won the award again this year, becoming back-to-back winners, and I want to congratulate our team in the Court Information Systems Division of the AOC for their excellent work.

The AOC continues to progress in building a new court management system with a goal of replacing all our vendor-managed, disparate systems. We have set ambitious goals for the deployment of our new case management system. The first release is scheduled for December in our district courts, marking a significant milestone in our efforts to modernize court operations. A modern case management system streamlines workflows, reduces administrative burdens, and automates routine tasks. An intuitive and user-friendly interface will enable quicker processing times, reducing backlogs and ensuring timely justice. When the public sees cases being handled promptly, it reinforces their belief in the judiciary's efficiency and effectiveness. We plan to have at least five district courts using the system by the end of the year and hope to have an additional twenty five percent of district courts using the system by this time next year. We are committed to ensuring that this rollout is smooth and that it substantially enhances our user experience.

It is important to acknowledge that much of our progress in these technological advancements has been made possible through federal funding, particularly from the American Rescue Plan Act (ARPA). Additionally, we have been able to dedicate existing grants toward this critical effort, allowing us to make considerable strides in improving our court operations and integrating advanced technology into our judicial processes. Recognizing the importance of continuous improvement, we have proactively applied for several other grants aimed at further advancing our court technology. These grants, when awarded, will enable us to continue to expand and refine the system, ensuring that it meets the evolving needs of our judiciary in the 21st Century.

V. Access to Justice

Next, the Arkansas Judiciary is dedicated to improving access to justice by enhancing access to facilities, court information and resources, and legal representation. The judiciary's strategic plan outlines how technology can be used to meet these goals. The Access to Justice Commission has continued its efforts to embrace the use of technology to ensure access to Arkansas specific legal resources and information.

The Commission has continued the installation and upkeep of self-service kiosks in courthouses and law libraries throughout the state. To date, the Commission has installed 80 self-service kiosks, a number that has tripled since this time last year. These kiosks, which are provided to the counties for free, provide easy access to court information, automated forms, fact sheets,

explanatory videos, and applications for low- and moderate-income residents to receive online legal advice or representation by legal aid. With every kiosk installation, the Commission also builds a dedicated court webpage, with information specific to that court, such as phone numbers and location. Soon, every county in Arkansas should have at least one courthouse kiosk available to the public. The kiosks also support our strategic goal of improving access to the courts for Arkansans with Limited English Proficiency. The kiosk webpage is now available in both Spanish and English. The Kiosk program is a partnership of Arkansas Access to Justice, the Court Improvement Program, and the Administrative Office of the Courts.

Removing barriers to the court system requires a well-rounded and dynamic approach. Support for pro se litigants through programs, like the kiosk project, and court staff education, is just one piece of our strategic plan. Access to justice also means having access to legal representation, regardless of where you live or how much money you make. A citizen of Rison should be no less equipped to resolve their legal problems than someone in Little Rock. Rural communities are especially in need of additional resources.

The Court is also an advocate for resources necessary to provide legal representation for those who cannot afford an attorney, especially when life, health, or safety is at risk. This year the Access to Justice Foundation, which administers the Interest on Lawyers Trust Account program, was able to award grants totally nearly half a million dollars to legal aid providers that deliver critical civil legal help to Arkansans across the entire state. These grant funds will be used to represent survivors of domestic violence, victims of elder financial exploitation, veterans at risk of homelessness, and other vulnerable populations who, without this support would have to face the justice system alone. These initiatives are part of our ongoing effort to ensure that justice is accessible to all and strengthening the public's confidence and faith in the legal system

Rural counties in Arkansas lack local attorneys, and several have five or fewer, many of whom are nearing retirement or are not engaged in private practice. To help tackle this pressing issue, Dean Cynthia Nance of the University of Arkansas School of Law has proposed a scholarship program to encourage new attorneys to establish practices in rural areas. Bowen Law School will also participate in this project, which will launch next summer. This program will provide stipends to law students who clerk for judges over the summer in rural counties, those with few to no attorneys. The aim is to prepare and encourage the program participants to open practices in these underserved counties after law school. Bringing private attorneys to rural areas will increase access to legal representation for many Arkansans, and it also will help with business and economic development.

VI. Specialty Courts

Next, one of the most rewarding periods of my professional career was the time I spent as a drug court judge. As chair of the Specialty Court Program Advisory Committee, I'm proud to give an update on the work of drug courts and other specialty courts within our state.

Today, there are nearly 100 specialty court programs operating in Arkansas courts. We have 45 adult drug courts, 16 juvenile drug courts, 11 veterans' treatment courts, 12 DWI/sobriety courts, 6 (soon 7) mental health courts, and 3 family treatment courts.

If you've never seen a specialty court in action, please go visit one. Go to a graduation. Go to a regular court session or a staff meeting. You will be amazed at the work being done in these courts. Our specialty court judges, and their teams are expertly using three decades' worth of research and lessons learned from specialty courts around the country to provide evidence-based treatment and supervision of offenders. In doing so, they're not only making a difference in the lives of participants—they're also reducing recidivism and improving the safety of our communities. And, they're doing it in a more cost-effective way than sending folks to prison.

Never has the work being done in these courts been more important. Our state's drug courts and other treatment courts are meeting a critical need in addressing the cruel impact the ongoing opioid crisis is having in our communities. The Office of the Attorney General has provided a \$1 million grant from opioid-settlement funds, which has been distributed to the State's 45 adult drug-court programs. These grant funds are being used to support restorative services for drug court participants. The awards can be used to pay for transitional and chemical-free housing, substance abuse and mental health services, peer recovery services, childcare assistance, and educational services and programming. As I have visited our circuit courts throughout the state during the past few months, I have heard countless stories from drug court judges about the immediate impact these funds are having on participants' treatment and recovery.

In recognition of the important role our specialty courts serve within our communities, the Arkansas General Assembly this year appropriated \$4.5 million to support the specialty courts across the state. Part of that money—\$1.7 million—will allow the AOC to provide more and better treatment options for specialty court participants. That money will help meet a critical need for specialty courts and their participants, especially in rural parts of the state.

The legislature also appropriated \$2.8 million to allow the AOC to contract with defense attorneys to serve as treatment court team members for courts to which public defenders are not assigned. Research shows that specialty court teams that include a dedicated defense attorney are more effective, and more cost-effective, at reducing recidivism than those that do not include one.

Through our specialty courts, we became aware of the importance of having Naloxone (also known as Narcan) available for participants in the event of an overdose. Because all of our circuit and district court judges and their staff are coming in contact almost daily with those battling opioid addiction, we purchased Naloxone rescue kits for all our courts. The AOC has now provided every judicial circuit with enough Naloxone rescue kits—red boxes containing two doses of Naloxone that can be mounted to the courtroom wall—so that every single courtroom in the state has the lifesaving medication on hand. We've also provided thousands more individual doses of the medication to judges and court staff to distribute as they see fit.

I am grateful for the hard work of specialty court judges and teams across the state, and I am proud of the work the AOC has done to support them. As our specialty courts continue to fight on the frontlines of the opioid addiction crisis gripping our state, I have directed AOC to actively seek new and additional ways to provide them continued support.

I am also grateful for the work of so many in the state legislature—particularly Representatives Matthew Shepherd, Carol Dalby, Lane Jean and Andrew Collins, Jimmy Gazaway, and Senators Ben Gilmore, Jonathan Dismang, Clarke Tucker, Missy Irvin, and Bart Hester—who have all helped improve the administration of justice with their support over the years.

VII. *Civics Education Center*

Next, I am pleased to announce the expansion of the Justice Building in Little Rock will open on September 13th. This new expansion will be the crown jewel of the Capitol complex, featuring a mock courtroom, over 10,000 square feet of meeting space, and an additional 7,500 square feet, which will serve as a Capitol Grounds Visitor and Civics Education Center, and where Arkansans of all ages can go to learn about the three branches of government, the importance of civility, and how our state judiciary works. The Center will be an important facility for all three branches to gather, learn from each other, and illustrate why our republic is so special. I look forward to holding the grand opening, and I hope each of you will visit the Civics Education Center with your family.

For Arkansans who are not able to travel to the Justice Building for an in-person tour, the judiciary has created a video tour that takes the public through the building and explains the functions of the court system. After watching the video, teachers are invited to contact the public education coordinator to arrange a virtual question-and-answer session with a justice or judge.

Through our judicial outreach programs and our strategic effort to familiarize Arkansas students with the judicial system, hundreds of students from across Arkansas visited the Justice Building and met with me and my colleagues.

The court also held an oral argument in my hometown of Mountain View this spring through our Appeals on Wheels program. This allowed students in the Mountain View area the opportunity to see how the state's highest court works. It was a pleasure to visit with the students, which was a first for Stone County and the Ozark Folk Center. I'm incredibly proud of this program. It provides an opportunity for students to view how the Supreme Court functions up close. It also provides justices with the opportunity to meet with student groups to answer general questions about the law, how courts work, and the role of judges. We want Arkansans to see the work we do firsthand. It's a pleasure to visit with students and members of the community at these events. Having an opportunity to explain how the appellate process works is important. The questions that students ask at these events always renew my faith in the next generation. Today, I'm pleased to announce that the Arkansas Supreme Court will travel to Fayetteville this fall in recognition of the Law School's 100th year. If you are interested in having the Supreme Court visit your town, let me know, and we will do our best to make it happen in the future.

I have been mentioning the current state of the judiciary. Now, I would like to give my opinion on the future state of the judiciary and some things I would like to see done.

First, I would like to see the judiciary branch in Arkansas funded from General Revenues rather than from fines, fees, and cost. It is unseemly for a judge to impose fines and costs and expect the judge to enforce the payment of those fines and costs which are then used to fund operational

expenses for the courts and salaries for court staff. General revenues fund the executive and legislative branches and should be used to fund the judicial branch also. General revenues contributed by all taxpayers should support the judicial branch rather the cost and fees which are contributed only by those who use the court system.

Second, the ten-dollar (\$10) fee for time installment payments should be repealed. This fee places an unfair disadvantage on those who are least able to pay it. This fee should be eliminated entirely or reduced to no more than a dollar (\$1) per payment. I have mentioned this previously and it is time to eliminate or substantially reduce this fee.

Third, the restriction of forfeiting your retirement when a judge is elected at age 70 or older should be repealed. This would not benefit me because I am retiring pursuant to this law. There is no scientific evidence of a substantial decline in mental capacity when a person turns 70 years of age. This restriction applies only to circuit and appellate judges and not to district judges, who hear significantly more cases each year. The electorate should make the decision whether a judge over 70 should be re-elected to serve. In the case of mental incapacity the Judicial Discipline and Disability Commission can handle that situation.

VII. Conclusion

I would like to take a point of personal privilege to thank some people, I want to thank the presidents of the Arkansas Bar Association for inviting me to the annual meeting to swear them in and to give the State of the Judiciary Address each year. It is one of the highlights of the year for me.

I want to thank my chambers staff for the good work that they do for me. Kathy Kostopoulos and Kathryn Henry are my law clerks, who do a wonderful job as researchers, writers and editors for me. Nicole Locke is my administrative assistant and is very efficient and a delight to work with. Their good work for me allows me to accomplish all the administrative duties that I get to do.

I want to thank Marty Sullivan, the Director of the Administrative Office of the Courts, for the fantastic job he does for the court system in Arkansas. It's a pleasure to work with Marty day in and day out. We've accomplished several things that some people didn't think possible within the time that we've done it, including E-Filing and the addition to the Justice Building with the Civics Education Center, which has its Grand Opening scheduled for September 13th.

My thanks go out to Tim Holthoff, the IT director of AOC, and his staff for completing the E-Filing project two years ahead of schedule. Now that it's completed, Tim has told me that when I announced at my first State of the Judiciary Address in 2017 that my goal was to have E-filing statewide by 2025 he thought that was impossible. If it was by the old way we had been doing things, it would have been impossible. But the pandemic caused us to look to innovative ways to do things differently. Instead of three days of training in E-Filing in Little Rock for the clerk's office to set up the system it was changed to one day by Zoom. The system was initially set up with all the features except on-line payment which was added later. Tim's department was able to get E-Filing statewide in March of 2023, two years ahead of schedule.

I want to thank my daughter, Erin Borgdon and son-in-law, Jay Borgdon, who with myself comprised my campaign committee for Chief Justice. Erin served as my campaign manager, and it was a blessing to work with her and learn how efficient, organized, and tenacious she is.

Most of all I want to thank my wife Susan, for her love and support and for standing by me over the past 50 years of our marriage. Thanks for campaigning with me during that first run for Circuit Judge and then trekking around the state with me during the Chief Justice campaign. I wouldn't have wanted to do this without you.

Finally, as I wind down my last State of the Judiciary Address as Chief Justice of the State of Arkansas, I want to express how extremely proud I am of the Bench and Bar in Arkansas, and I want to leave you with a challenge that I know you are up to. I would like each of you to ask yourself what you can do to improve the Rule of Law in our communities.

I appreciate the support and thoughtfulness of my colleagues on the Supreme Court. I also want to acknowledge all of the staff of the Administrative Office of the Courts and the Supreme Court Clerk's Office. Their ability to step up when needed is much appreciated. They do a remarkable job serving all courts in our state. I thank you for your attention and I am grateful for the opportunity to serve as the Chief Justice for the great State of Arkansas. I find peace knowing that I have hopefully helped improve the judiciary in our state.

In just a few minutes I will be swearing in Kristin Pawlik as the new Bar Association President. In that oath of office, she will swear to support, protect and defend the United States Constitution. The Preamble to the Constitution states:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

One of the purposes in creating the Constitution is to “establish justice.” We as members of the Bar and as judicial officers are responsible for establishing justice. How do we do this? As lawyers, we do it day in and day out by protecting people's rights, by seeing that they are treated fairly under the law. As judges, we do it by deciding the cases according to the facts and the applicable law under the rules of evidence and the rules of procedure. We are instrumental in adhering to the Rule of Law on a daily basis. I urge all of us to be mindful of our role in maintaining the Rule of Law and in establishing justice. To that end, by establishing Justice, we can help to “secure the Blessings of Liberty to ourselves and our Posterity”—as the Founders suggest—for ourselves, our children and grandchildren, in the days ahead.

Thank you.