

ARKANSAS COURT OF APPEALS

DIVISIONS I & IV

No. CV-13-297

STATE OF ARKANSAS SEX
OFFENDER RISK ASSESSMENT
COMMITTEE

APPELLANT

V.

MICHAEL G. WALLACE

APPELLEE

Opinion Delivered January 8, 2014

APPEAL FROM THE GARLAND
COUNTY CIRCUIT COURT
[NO. CV-11-58-1]

HONORABLE JOHN HOMER
WRIGHT, JUDGE

SUPPLEMENTAL OPINION ON
DENIAL OF REHEARING

KENNETH S. HIXSON, Judge

In his petition for rehearing, appellee Michael G. Wallace contends that our opinion in *State of Arkansas Sex Offender Risk Assessment Committee v. Wallace*, 2013 Ark. App. 654, contains errors of law or fact requiring rehearing. In that opinion, we affirmed the agency's decision to assess Wallace at a Level 2 notification to the public, reversing the circuit court's order setting the public notification at Level 1.

We deny Wallace's petition for rehearing to the extent that Wallace reargues the substantiality of evidence to support the agency decision, which we have heretofore considered and rejected. This is not a valid basis to support rehearing, as stated in Ark. Sup. Ct. R. 2-3(g) (2013).

Wallace's petition for rehearing also contends that we ignored and failed to address whether the agency decision was "arbitrary and capricious." We deny Wallace's petition on

this basis as well, although we provide this supplemental opinion upon denial of Wallace's petition to clarify our holding. See *Huth v. Div. of Soc. Servs. of Dep't of Human Servs.*, 287 Ark. 294, 700 S.W.2d 367 (1985). In short, we need not decide whether the agency's action was arbitrary and capricious because it automatically follows that where substantial evidence is found, a decision cannot be classified as unreasonable or arbitrary. See *Wright v. Ark. State Plant Bd.*, 311 Ark. 125, 842 S.W.2d 42 (1992); *Capitol Zoning Dist. Comm'n v. Cowan*, 2012 Ark. App. 619, 429 S.W.3d 267; *Lamar Co. v. Ark. State Highway & Transp. Dep't*, 2011 Ark. App. 695, 386 S.W.3d 670.

Petition for rehearing denied.

WALMSLEY, HARRISON, GRUBER, WHITEAKER, and BROWN, JJ., agree.

Dustin McDaniel, Att'y Gen., by: *Amy L. Ford*, Ass't Att'y Gen., for appellant.

Hurst, Morrissey & Hurst, PLLC, by: *Q. Byrum Hurst, Jr.*, for appellee.