

ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR10-1110

LEE JAMES OWENS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 18, 2011

APPEAL FROM THE MILLER
COUNTY CIRCUIT COURT
[NO. CR-08-512-1]

HONORABLE JOE E. GRIFFIN,
JUDGE

REMANDED FOR SUPPLEMENTAL
RECORD

WAYMOND M. BROWN, Judge

A Miller County jury found appellant Lee James Owens guilty of possession of a Schedule II controlled substance with intent to deliver. He was sentenced as a habitual offender to 101 years' imprisonment. Owens argues on appeal that the trial court erred (1) by denying his motion to disclose the identity of the confidential informant, (2) by denying his motion to suppress the evidence, (3) by admitting State's Exhibits five and eight into evidence, and (4) by denying his motion for directed verdict. We are unable to reach the merits of Owens's arguments because essential documents are missing from his record and addendum. Therefore, we remand.

Ark. Sup. Ct. R. 4-2(a)(8)¹ provides that jury-verdict forms are to be included in the addendum when there is a jury trial. The rule also states that any other documents essential for the court to understand the case and to decide the issue on appeal should be included. Here, Owens has failed to provide the jury-verdict forms in both his record and his addendum. He has also failed to include exhibits five and eight in both his record and addendum. Finally, Owens has failed to include any of the exhibits in his addendum, although, with the exception of exhibits five and eight, they are found in the record.²

This court can sua sponte direct parties to supply any omitted material by filing a certified, supplemental record.³ Accordingly, we remand the case to the circuit court to supplement the record. Owens has thirty days from today to file the supplemental record with our clerk's office. He has seven days after the record is supplemented to file a supplemental addendum.⁴ We strongly encourage appellate counsel, prior to filing the supplemental addendum, to review our rules as well as the record and addenda to ensure that no additional deficiencies are present.

Remanded to supplement the record.

ROBBINS and MARTIN, JJ., agree.

¹(2010).

²We note particularly the absence of the letter to which Owens refers in his argument pertaining to the sufficiency of the evidence.

³Ark. R. App. P.–Civ. 6(e) (as made applicable to criminal cases by Ark. R. App. P.–Crim. 4(a)); *see Moss v. State*, 2010 Ark. App. 721.

⁴Ark. Sup. Ct. R. 4-2(b)(4). *See In re 4-2(b)(4) of the Rules of the Supreme Court and Court of Appeals*, 2011 Ark. 141.