

Lloyd E. CARROLL v. Deborah Sue CARROLL

CA 90-110

802 S.W.2d 932

Court of Appeals of Arkansas
En Banc

Opinion delivered February 6, 1991

1. **APPEAL & ERROR — WITHDRAWAL OF TRANSCRIPT NOT ALLOWED — TRANSCRIPT MAY BE OBTAINED FROM CLERK FOR THIRTY DAYS BY AN ATTORNEY.** — There is no rule for the withdrawal of the transcript; however, Sup. Ct. R. 25(1) does allow an attorney to obtain the record in a disposed case for thirty days by giving the Clerk a receipt.
2. **APPEAL & ERROR — PRACTICE OF COURT TO RETAIN TRANSCRIPT — PRACTICE GOVERNS IN ABSENCE OF STATUTE OR RULE.** — It is the practice of the appellate court to retain the transcript and only release it to an attorney for thirty days upon a receipt to the Clerk; Sup. Ct. R. 23 provides that in cases where no provision is made by statute, or covered by other rules, proceedings shall be governed in

accordance with the existing practice.

Motion for Withdrawal of Transcript; denied.

Loyd E. Carroll, pro se.

No response.

PER CURIAM. The appellant in this divorce case has requested that the original court transcript submitted to this Court for purposes of his appeal be returned to him for his use in other unspecified pending legal actions. We delivered our opinion in this case on December 19, 1990, and we treat his request as a motion to withdraw the transcript. We deny his motion.

[1] Arkansas Supreme Court Rule 25(2) provides for the withdrawal of certain exhibits filed but not attached to the transcripts filed in civil cases. There is no rule for the withdrawal of the transcript; however, Rule 25 (1) does allow an attorney to obtain the record in a disposed of case and give the Clerk a receipt enabling the attorney to retain the record for thirty days. We think that the appellant's proper course of action is to request his attorney to obtain the transcript upon receipt to the Clerk. His counsel can then copy the documents necessary for the other legal proceedings.

[2] Although this rule does not specifically address the appellant's motion, it is the practice of this court to retain the transcript and only release it to an attorney for thirty days upon a receipt to the Clerk. Arkansas Supreme Court Rule 23 provides that in cases where no provision is made by statute, or covered by other rules, then proceedings in this Court shall be in accordance with the practice heretofore existing.

Motion denied.