

Christopher WARD *v.* Linda Mae Ward McCORD

CA 97-1122

957 S.W.2d 190

Court of Appeals of Arkansas  
Opinion delivered December 22, 1997

APPEAL & ERROR — MOTION TO RECONSIDER DENIAL OF MOTION TO CONSOLIDATE RECORD DENIED — APPELLANT NEED NOT HAVE MOVED FOR LEAVE OF COURT TO CONSIDER ENTIRE RECORD IN HIS APPEAL. — Under Ark. Sup. Ct. R. 4-2(a)(5), the abstract, on a second or subsequent appeal, must include a condensation of all pertinent portions of the record filed on any prior appeal; accordingly, appellant need not have moved for the appellate court's leave to include in his current abstract those portions of the record filed for a prior appeal, and the appellate court denied his motion to reconsider denial of his motion to consolidate the record.

Motion to Reconsider Denial of Motion; denied.

*James Howard Smith*, for appellant.

*Helen Rice Grinder*, for appellee.

PER CURIAM. Appellant Christopher Ward's motion to reconsider our denial of his motion to consolidate the record is denied because it was unnecessary for him to seek permission from this court to consider the entire record in his appeal.

This case involves a motion by Appellee Linda Mae Ward McCord to set aside the property settlement incorporated in the parties' 1986 divorce decree. This court had on March 8, 1995, dismissed Ward's prior appeal of the trial court's denial of his motion for summary judgment, CA94-1362. In his motion related to his current appeal, CA97-1122, Ward has moved to consolidate the record because the chancellor referred to the proceedings contained within the record lodged with this court for CA94-1362.

[1] Arkansas Supreme Court and Court of Appeals Rule 4-2(a)(5) expressly states in pertinent part: "On a second or subsequent appeal, the abstract shall include a condensation of all pertinent portions of the record filed on any prior appeal." Accordingly, the appellant need not have moved for leave of this court to include in his current abstract those portions of the record filed for CA94-1362. See *Marshall v. State*, 264 Ark. 34-D, 603 S.W.2d 393 (1979) (Per Curiam Order decided under prior rule).

It is so ordered.