

# ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR11-585

ANTONIO WRIGHT

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** November 30, 2011

APPEAL FROM THE COLUMBIA  
COUNTY CIRCUIT COURT  
[NO. CR 2009-100-5]

HONORABLE LARRY W.  
CHANDLER, JUDGE

REMANDED TO SETTLE THE  
RECORD; REBRIEFING ORDERED

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**RITA W. GRUBER, Judge**

A Columbia County jury convicted Antonio Wright of second-degree murder and possession of a firearm by a felon. He was sentenced to thirty years' imprisonment on the murder conviction with an enhancement of fifteen additional years for use of a firearm and to twenty years on the possession-of-a-firearm charge, the sentences to run consecutively for a total of sixty-five years. Wright asserted in a posttrial motion that he was entitled to a new trial because, during discovery, the State did not provide an informant's statement to him. He contends on appeal that the circuit court erred in denying his motion. We are unable to reach the merits of his argument.

At the hearing on Wright's motion for a new trial, a video CD of the informant's statement was admitted into evidence and at least a portion of it was played. Wright asserts that the informant discussed statements allegedly made by Wright containing exculpatory and



mitigating information that is germane to his case. Although the CD itself is in the addendum of Wright's brief, there is no transcript of the informant's statements.

Unless waived on the record by the parties, it is the duty of the circuit court "to require that a verbatim record be made of all proceedings . . . pertaining to any contested matter before the court or the jury." Admin. Order No. 4(a) (2011). We remand this matter to the trial court for settlement of the record; specifically, the parties are to settle the record regarding the portion of the informant's statement that Wright asserts was discoverable to him, which was played for the circuit court in his new-trial hearing. *See Williams v. State*, 362 Ark. 416, 208 S.W.3d 761 (2005). The parties are given thirty days from the date of this opinion to complete this task and to file the supplemental record with our court.

We order Wright to file, within fifteen days of entry of the supplemental record, a substituted abstract, addendum, and brief including the portions of the informant's statement that are the bases of Wright's motion for new trial. *See Ark. Sup. Ct. R. 4-2(b)(3)* (stating that a party who files a deficient brief is allowed an opportunity to file a conforming brief). If Wright fails to do so, the judgment and conviction he now appeals may be affirmed for noncompliance with Rule 4-2. *Id.*

Should Wright file a substituted abstract, brief, and addendum, the State may revise or supplement its brief within fifteen days of the filing of Wright's brief or may rely on the State's brief previously filed. *Id.* We note, however, that the State's present brief includes a supplemental abstract with testimony presented in question-and-answer form, which is in contravention of Rule 4-2(a)(5)(B). *See also* Rule 4-1 (governing style of briefs and font size).



Cite as 2011 Ark. App. 729

Should the State wish that a supplemental abstract be considered, it should file the supplemental abstract in proper form.

Remanded to supplement and settle the record; rebriefing ordered.

VAUGHT, C.J., and PITTMAN, J., agree.