

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR11-1261

ROY DEAN SPRATT

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered September 19, 2012

APPEAL FROM THE DESHA
COUNTY CIRCUIT COURT,
[NO. CR-11-18-1]

HONORABLE SAM POPE, JUDGE

REMANDED TO SUPPLEMENT THE
RECORD; REBRIEFING ORDERED

WAYMOND M. BROWN, Judge

A Desha County jury found appellant Roy Spratt guilty of attempted residential burglary. He was sentenced to thirty years in the Arkansas Department of Correction and fined \$5,000. Spratt argues on appeal that the trial court erred by denying his motion for mistrial based on answers given by two prospective jurors during voir dire. We do not reach the merits of Spratt's argument due to deficiencies in the record and brief.

Although Spratt was found guilty of attempted residential burglary by a jury, the jury verdict form reflecting his guilt is not included in the record. This court can sua sponte direct that this omission be corrected by filing a certified, supplemental record.¹ Accordingly, we

¹Ark. 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.



remand the case to the circuit court to correct and supplement the record. Spratt has thirty days from today to file a supplemental record.

Ark. Sup. Ct. R. 4-2(a)(5)² provides that all material parts of a trial transcript must be abstracted. “Information in a transcript is material if the information is essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.”³ Here, after voir dire, the court offered to give a curative instruction to the jury. Spratt declined the instruction. He has also failed to abstract this portion of the hearing.

Ark. Sup. Ct. R. 4-2(a)(8) requires that an appellant’s brief include an addendum consisting of all documents essential to this court’s resolution of the issues on appeal. The court admitted the rejected curative instruction into evidence as Court’s Exhibit 1. Spratt has failed to include this exhibit in his addendum. Additionally, once the record is supplemented to include the missing jury verdict form, it, too, will need to be placed in Spratt’s addendum. Spratt has fifteen days after the record is supplemented to file a substituted abstract, brief, and addendum.⁴ We strongly encourage counsel, prior to filing the substituted abstract, brief, and addendum, to review our rules as well as the record and addenda to ensure that no other deficiencies are present.

Remanded to supplement the record; rebriefing ordered.

ABRAMSON and HOOFFMAN, JJ., agree.

B. Dale West, for appellant.

Dustin McDaniel, Att’y Gen., by: *Nicana C. Sherman*, Ass’t Att’y Gen., for appellee.

²(2011).

³*Id.*

⁴Ark. Sup. Ct. R. 4-2(b)(3).