

Cite as 2009 Ark. App. 712

## ARKANSAS COURT OF APPEALS

DIVISION II

No. CACR08-1447

BLAKE DOWELL MCKENZIE,  
APPELLANT

V.

STATE OF ARKANSAS,  
APPELLEE

**Opinion Delivered** 28 OCTOBER 2009

APPEAL FROM THE CARROLL  
COUNTY CIRCUIT COURT,  
[NO. CR-08-21-WD]

THE HONORABLE ALAN D. EPLEY,  
JUDGE

REVERSED

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**D.P. MARSHALL JR., Judge**

Did the circuit court have jurisdiction over Blake McKenzie's criminal appeal from district court? Several months ago, we ordered a supplemental record and rebriefing to help us answer this question. *McKenzie v. State*, 2009 Ark. App. 485 (unpublished). The State—in light of the expanded record—confesses error and agrees with McKenzie's argument that we should reverse the circuit court's order dismissing his appeal. Jurisdiction is a question of law; and we review questions of law *de novo*. *Pulaski County v. Arkansas Democrat-Gazette, Inc.*, 371 Ark. 217, 220, 264 S.W.3d 465, 467 (2007). We must also discharge our independent obligation to pass judgment on the circuit court's decision. *Burrell v. State*, 65 Ark. App. 272, 276, 986 S.W.2d 141,

143 (1999).

The district court tried McKenzie on 9 April 2008. The court found him not guilty of two driving-related offenses and guilty of three others. One of those three was a violation of Ark. Code Ann. § 5-65-205 (Supp. 2009), based on McKenzie's refusal to submit to a chemical test. The district court's judgment on this charge was entered on a "Court Session Worksheet"—a combination docket sheet and order. McKenzie filed a certified copy of the Court Session Worksheet with the circuit clerk on 8 May 2008—the twenty-ninth day after his trial and conviction. The district court, however, did not date the judgment section of the Court Session Worksheet. And the docket section of this paper did not show the trial date. So the circuit court remanded the case "for entry of the date of trial." On remand, the district court entered a separate order reflecting the April 9th trial/judgment date.

When the case returned to circuit court, it was opened under a new case number. The circuit court, on what appears to have been a less-than-complete file, dismissed McKenzie's appeal as untimely: "The District Court records/transcript were not filed in the Circuit Court within 30 days of the entry of judgment by the Dist[ri]ct Court."

We reverse. McKenzie complied with Rule of Criminal Procedure 36(b) & (c) by filing a certified copy of the district court's "Court Session Worksheet" with the

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circuit clerk within thirty days of the district court's entry of judgment. The Worksheet contained all the important information about, and events in, the case except the date of trial/judgment. This composite document included the docket sheet. It thus satisfied Rule 36. *Cf. McNabb v. State*, 367 Ark. 93, 98–99, 238 S.W.3d 119, 123 (2006) (construing the identical provisions of former Inferior Court Rule 9(b), which then governed criminal appeals from district court).

McKenzie's appeal was timely. The district court's June order was not a new judgment or some kind of effort to reopen the appeal window. That June order simply clarified the date of the district court's original disposition. The circuit court had jurisdiction to decide McKenzie's appeal on the merits. We therefore reverse for that court to do so.

VAUGHT, C.J., and GLADWIN, J., agree.