

Cite as 2018 Ark. App. 321
ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-17-894

ALIM SHAKIR HAKIM		Opinion Delivered May 23, 2018
	APPELLANT	APPEAL FROM THE SEBASTIAN COUNTY CIRCUIT COURT, FORT SMITH DISTRICT [NO. 66CR-17-375]
V.		
STATE OF ARKANSAS	APPELLEE	HONORABLE JAMES O. COX, JUDGE
		REMANDED TO SETTLE AND SUPPLEMENT THE RECORD; REBRIEFING ORDERED

BRANDON J. HARRISON, Judge

A Sebastian County jury convicted Alim Shakir Hakim of one count of delivery of cocaine following an August 2017 trial. Hakim's sentence was enhanced because of his habitual-offender status and because the delivery was within 1000 feet of a public-housing development. Hakim appeals his conviction and his sentence. We cannot yet decide this appeal's merit because the record and the briefs contain important omissions. We therefore remand the case to the circuit court so it may settle and supplement the record; and we order rebriefing.

This case involved a controlled drug buy with an informant. State's exhibit 1 is a video of the buy, and State's exhibit 2 is a transcript. Both were admitted without objection. The problem is that the audio portion of the video recording was not transcribed during

the trial, and there is no indication that exhibit 2 was prepared at the direction of the circuit court in lieu of a transcription of the recording that was played during the trial. There is also no indication that the parties waived, on the record, the requirement that an official transcript be made contemporaneously with its playing for the jury.

Administrative Order No. 4 of the Arkansas Supreme Court provides: “Unless waived on the record by the parties, it shall be the duty of any circuit court to require that a verbatim record be made of all proceedings . . . pertaining to any contested matter before the court or the jury.” Ark. Sup. Ct. Admin. Order No. 4(a).

As we have done before, we remand the case to settle the record for a verbatim transcription of the recording that was played to the jury. *Dillard v. State*, 2012 Ark. App. 503. The supplemental record must be filed within thirty days of this opinion’s date. In his substituted brief, Hakim must include an abstract of the transcribed recording. *Copeland v. State*, 2013 Ark. App. 369. Arkansas Supreme Court Rule 4-2(a)(8)(A)(i) requires that the addendum contain exhibits, including DVDs and CDs, if they are essential to our understanding of the case. Hakim should also include a CD or DVD copy of State’s exhibit 1 in his substituted brief.

After the record is settled and the supplemental record has been filed with this court’s clerk, Hakim will have fifteen days to file a substituted brief. Ark. Sup. Ct. R. 4-2(b)(3). The State may revise or substitute its brief within fifteen days after Hakim files his substituted brief; or it may rely on its previously filed brief.

Remanded to settle and supplement the record; rebriefing ordered.

GRUBER, C.J., and BROWN, J., agree.

David L. Dunagin, for appellant.

Leslie Rutledge, Att'y Gen., by: *Jacob C. Jones*, Ass't Att'y Gen., for appellee.