

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR09-789

JEREMY LEONARD

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered May 26, 2010

APPEAL FROM THE DREW
COUNTY CIRCUIT COURT
[NO. CR2008-176-3]

HONORABLE BYNUM GIBSON, JR.,
JUDGE

REVERSED AND REMANDED

JOSEPHINE LINKER HART, Judge

Jeremy Leonard appeals from an order of the Drew County Circuit Court dismissing his appeal from district court to circuit court. The circuit court found that Leonard had filed the correct district court docket sheet, but the “wrong tickets, field notes, and accompanying documents as part of the record,” and therefore had failed to perfect his appeal. On appeal, Leonard argues that the circuit court erred in dismissing his appeal to circuit court. We agree and reverse and remand.

The question before us is whether the circuit court erred in deciding that Leonard had not taken the necessary steps to vest it with jurisdiction for Leonard’s trial de novo. Jurisdiction is a question of law, and we review questions of law de novo. *McKenzie v. State*, 2009 Ark. App. 712. Rule 36 of the Arkansas Rules of Criminal Procedure states:

(c) How Taken. An appeal from a district court to circuit court shall be taken by filing

with the clerk of the circuit court a certified record of the proceedings in the district court. Neither a notice of appeal nor an order granting an appeal shall be required. The record of proceedings in the district court shall include, at a minimum, a copy of the district court docket sheet and any bond or other security filed by the defendant to guarantee the defendant's appearance before the circuit court. It shall be the duty of the clerk of the district court to prepare and certify such record when the defendant files a written request to that effect with the clerk of the district court and pays any fees of the district court authorized by law therefor. The defendant shall serve a copy of the written request on the prosecuting attorney for the judicial district and shall file a certificate of such service with the district court. The defendant shall have the responsibility of filing the certified record in the office of the circuit clerk. Except as otherwise provided in subsection (d) of this rule, the circuit court shall acquire jurisdiction of the appeal upon the filing of the certified record in the office of the circuit clerk.

It is not disputed that Leonard timely filed the district court transcript, duly certified by the district court clerk, with the circuit clerk. This transcript contained the district court docket sheet and a copy of his supersedeas bond. It also contained the citation, arresting officer field notes, and a BAC evidence sheet from a different case, and omitted equivalent material from the case he was attempting to appeal. However, because the certified record contained the "minimum" documents needed to constitute the "record of proceedings"—the the correct docket sheet and Leonard's bond—we hold that Leonard did what was required by Rule 36 to perfect his appeal.

We are mindful that the State has found that the transcript prepared by the district court clerk contained some errors and omissions. These minor deficiencies can be corrected by the circuit court remanding the case back to the district court to settle the record. See *McKenzie v. State, supra*.

Reversed and remanded.

Cite as 2010 Ark. App. 447

BAKER, J., agrees;

PITTMAN, J., concurs.