

Cite as 2018 Ark. App. 482

ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-18-315

JAMES CAPLE

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: October 3, 2018

APPEAL FROM THE BAXTER
COUNTY CIRCUIT COURT
[NO. 03CR-17-299]

HONORABLE JOHN R. PUTMAN,
JUDGE

SUPPLEMENTAL ABSTRACT
ORDERED

WAYMOND M. BROWN, Judge

Appellant appeals from his convictions of possession of a firearm by certain persons and criminal use of prohibited weapon for which he was sentenced to eleven years in the Arkansas Department of Correction. Appellant's sole point on appeal is that the circuit court erred and abused its discretion in denying his timely motions for directed verdicts due to insufficiency of the evidence. We do not reach the merits of appellant's arguments and order a supplemental abstract.

Arkansas Supreme Court Rule 4-2(a)(5) states that "[t]he appellant shall create an abstract of the material parts of all the transcripts (stenographically reported material) in the record. 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." The rule goes on to state that "the abstract shall be an impartial condensation, without

comment or emphasis, of the transcript (stenographically reported material)” and that “[n]o more than one page of a transcript shall be abstracted without giving a record page reference.”

As written, the abstract does not include pertinent testimony, which includes testimony about the identifying characteristics of the subject gun in the case, as well as details of what appellant was wearing that might link him to the subject gun. Such information goes directly to appellant’s sufficiency argument before this court. Appellee cites this court to the record for this information; however, the proper method for appellee to remedy the deficiencies in the appellant’s abstract is to submit a supplemental abstract.¹

Accordingly, we order appellant to submit a supplemental abstract correcting the above-referenced deficiencies within seven days.² We encourage appellant’s counsel to review Rule 4-2 of the Rules of the Arkansas Supreme Court and Court of Appeals to ensure that the supplemental abstract complies with the rules and that no additional deficiencies are present.

Supplemental abstract ordered.

GRUBER, C.J., and WHITEAKER, J., agree.

¹“If the appellee considers the appellant’s abstract . . . to be defective, the appellee’s brief should call the deficiencies to the court’s attention and may, at the appellee’s option, contain a supplemental abstract[.]” Ark. Sup. Ct. R. 4-2(b)(1).

²“If the appellate court determines that deficiencies or omissions in the abstract or addendum need to be corrected, but complete rebriefing is not needed, then the court will order the appellant to file a supplemental abstract or addendum within seven calendar days to provide the additional materials from the record to the members of the appellate court.” Ark. Sup. Ct. R. 4-2(b)(4).

Potts Law Office, by: *Gary W. Potts*, for appellant.

Leslie Rutledge, Att’y Gen., by: *Jacob H. Jones*, Ass’t Att’y Gen., and *Brad Aldridge*, Law Student Admitted to Practice Pursuant to Rule XV of the Rules Governing Admission to the Bar of the Supreme Court under the Supervision of *Darnisa Evans Johnson*, Deputy Att’y Gen., for appellee.