

Cite as 2018 Ark. App. 623
ARKANSAS COURT OF APPEALS

DIVISION IV
No. CR-18-386

DONALD COLUMBUS CAGLE
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered December 12, 2018

APPEAL FROM THE SEBASTIAN
COUNTY CIRCUIT COURT, FORT
SMITH DISTRICT
[NO. 66FCR-16-1094]

HONORABLE STEPHEN TABOR,
JUDGE

SUPPLEMENTAL ADDENDUM
ORDERED

PHILLIP T. WHITEAKER, Judge

Appellant Donald Cagle appeals the Sebastian County Circuit Court’s judgment and commitment order sentencing him to ten years in the Arkansas Department of Correction with an additional ten years’ suspended imposition of sentence. Cagle contends that the circuit court erred in denying his motion to suppress evidence. Because of deficiencies in his addendum, however, we are currently unable to reach the merits of Cagle’s arguments.

Cagle was pulled over for alleged traffic violations by Officer Keith Shelby of the Fort Smith Police Department. Officer Shelby conducted a canine search and arrested Cagle on charges of possession of methamphetamine with purpose to deliver and possession of drug paraphernalia. Cagle subsequently filed a motion to suppress the evidence seized during that

traffic stop, arguing that the initial stop was invalid pursuant to Arkansas Rule of Criminal Procedure 3.1 and that the subsequent search of his vehicle by a canine officer followed an “unlawfully prolonged” delay. At the hearing on Cagle’s suppression motion, the circuit court watched a DVD of Officer Shelby’s dash-cam recording of the stop. The court then denied the motion to suppress, and Cagle entered a conditional plea of guilty, reserving the right to appeal the denial of his motion.

On appeal, Cagle argues that the circuit court erred in denying his motion to suppress because the initial traffic stop was invalid and the subsequent search of his vehicle was unlawful. We cannot reach the merits of these arguments because the addendum does not contain a physical copy of the DVD introduced at the suppression hearing.¹ Pursuant to Arkansas Supreme Court Rule 4-2(a)(8)(A)(i) (2017), the addendum must include “any other pleading or document in the record that is essential for the appellate court to . . . understand the case, and to decide the issues on appeal.” This rule expressly contemplates exhibits such as DVDs. *Id.* In its ruling denying Cagle’s motion, the circuit court made lengthy comments about the allegedly prolonged detention, basing its decision on “[c]ertain facts gleaned from a viewing of the video [which were] important in consideration of [Cagle’s] argument.” The DVD is thus crucial to this court’s consideration of the issues raised on appeal.

We must therefore order Cagle to submit a supplemental addendum that includes a physical copy of the DVD. *See Caldwell v. State*, 2018 Ark. App. 393, at 3, 557 S.W.3d 268,

¹Cagle’s addendum contains only a photocopy of a photograph of the DVD, not the disc itself.

270; *Fennell v. State*, 2015 Ark. App. 523, at 2. Cagle shall have seven calendar days to submit the supplemental addendum. Ark. Sup. Ct. R. 4-2(b)(4).

Supplemental addendum ordered.

VIRDEN and GLADWIN, JJ., agree.

Fuqua Campbell, P.A., by: *J. Blake Hendrix* and *Annie Depper*, for appellant.

Leslie Rutledge, Att'y Gen., by: *Kathryn Henry*, Ass't Att'y Gen., for appellee.