

Cite as 2019 Ark. App. 127
ARKANSAS COURT OF APPEALS
DIVISION III
No. CR-18-500

RODERICK MONTGOMERY
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered: February 27, 2019

APPEAL FROM THE ASHLEY COUNTY
CIRCUIT COURT
[NO. 02CR-17-132]

HONORABLE SAM POPE, JUDGE

REBRIEFING ORDERED

RITA W. GRUBER, Chief Judge

This is a companion case to *Montgomery v. State*, 2019 Ark. App. 128 (Case No. CR-18-508), also handed down today. Appellant pleaded guilty to four crimes in Case No. CR-18-508 for events occurring in Drew County, and he pleaded guilty to three crimes in this case for events that occurred in Ashley County. With appellant's consent, the court held one sentencing hearing for all seven convictions. In this case, appellant Roderick Montgomery pleaded guilty in the Ashley County Circuit Court to two counts of delivery of methamphetamine, Class C felonies, and one count of delivery of methamphetamine, a Class B felony. After conducting the sentencing hearing before a jury, the court entered a sentencing order in accordance with the jury's verdict, sentencing appellant to three years' imprisonment on each of the Class C felony-methamphetamine convictions and ten years' imprisonment on the Class B felony-methamphetamine conviction, all to run consecutively to each other. Appellant brings four points on appeal alleging errors in the sentencing hearing. The points are

identical to the points on appeal in Case No. CR-18-508. Because of a deficient abstract, we order rebriefing.

Rule 4-2(a)(5)(B) of the Rules of the Arkansas Supreme Court and Court of Appeals provides that the abstract “shall be an impartial condensation, without comment or emphasis, of the transcript.” One of appellant’s points on appeal involves a challenge to statements in the prosecutor’s closing argument. Appellant contends that the State breached the plea agreement by alluding to additional crimes in closing argument and implying that appellant had sold drugs more than “five times” and had committed more crimes than those to which he pleaded guilty. In addition to refuting the merits of appellant’s argument, the State contends that appellant did not preserve this argument. Appellant’s abstract of the relevant pages of the record is incomplete and misleading and thus is not adequate to enable us to review this issue. Because this is in violation of Rule 4-2(a)(5)(B), we order rebriefing of this portion of the abstract.

Pursuant to Arkansas Supreme Court Rule 4-2(b)(3), we order appellant to file a substituted abstract, addendum, and brief within fifteen days from the date of this opinion. We encourage appellant to carefully review the rules and ensure that no other deficiencies exist before filing his substituted abstract and brief. If appellant fails to cure the deficiencies within the prescribed time, the orders appealed from may be affirmed for noncompliance with the rule. Ark. Sup. Ct. R. 4-2(b)(3). Finally, we are not authorizing appellant to modify his arguments.

Rebriefing ordered.

WHITEAKER and VAUGHT, JJ., agree.

Ben Motal, for appellant.

Leslie Rutledge, Att’y Gen., by: *Michael A. Hylden*, Ass’t Att’y Gen., for appellee.