

Cite as 2023 Ark. App. 209  
**ARKANSAS COURT OF APPEALS**  
DIVISION III  
No. CR-22-460

BRYAN SMITH

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered April 12, 2023

APPEAL FROM THE CRAWFORD  
COUNTY CIRCUIT COURT  
[NO. 17CR-19-980]

HONORABLE MICHAEL MEDLOCK,  
JUDGE

REMANDED TO SETTLE AND  
SUPPLEMENT THE RECORD

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**RITA W. GRUBER, Judge**

A Crawford County jury convicted appellant Bryan Smith of attempted first-degree battery of a law enforcement officer and fleeing and sentenced him as a habitual offender to concurrent sentences of 480 months' and 180 months' imprisonment. On appeal, appellant challenges the sufficiency of the evidence to support the attempted-first-degree-battery conviction. In addition, he challenges three evidentiary rulings, arguing that the circuit court abused its discretion by allowing (1) the State to introduce proof of appellant's failure to appear as evidence of consciousness of guilt; (2) Trooper Roy Moomey to testify as to whether Trooper John Bass was justified in his actions; and (3) Trooper Roy Moomey to testify as to his opinion on appellant's guilt. We remand to settle and supplement the record.

At the conclusion of appellant's trial, the court read from the verdict forms handed by the jury foreperson to the bailiff in both the guilt and sentencing phases. Arkansas Supreme Court Rule 3-4(c)(2) (2022) states that when there is a jury trial, the verdict forms shall be inserted in the record. Those forms, however, are not included in the record of the proceedings. This court has stated that if anything material to either party is omitted from the record by error or accident, we may direct that the omission be corrected and that a supplemental record be certified and transmitted. *Perez v. State*, 2015 Ark. App. 561, at 1-2; Ark. R. App. P.-Civ. 6(e) (as made applicable to criminal cases by Ark. R. App. P.-Crim. 4(a)); *see also Lacy v. State*, 2017 Ark. App. 509. Accordingly, we remand to the circuit court to settle and supplement the record with the jury-verdict forms. Appellant has thirty days from the date of this opinion to file a supplemental record with this court.

Remanded to settle and supplement the record.

VIRDEN and BROWN, JJ., agree.

*Erin W. Lewis*, for appellant.

*Leslie Rutledge*, Att'y Gen., by: *Brooke Jackson Gasaway*, Ass't Att'y Gen., for appellee.